

12 CS (COMM) 1051/22

UFLEX LIMITED Vs. M/S KESHAR PRINT LLP AND ORS

24.09.2024

Present: Ms. Sushma, Ld. Counsel for plaintiff through VC.
Sh. Deepak Gupta, Ld. Counsel for defendant.

An application has been filed on behalf of defendants u/o VII Rule 11 CPC for rejection of plaint. It is submitted by Ld. Counsel for the defendants that suit filed on behalf of the plaintiff is not maintainable and the same is liable to be dismissed being false, frivolous and concocted. It is further submitted that plaintiff has not approached this Court with clean hands and has suppressed material facts from this Court.

It is further submitted that suit of the plaintiff is not maintainable per Section 6 of the Commercial Courts Act, 2015 as the commercial dispute shall be considered to arise over which a commercial court has been vested territorial jurisdiction or the same has been instituted as per provisions of Section 16 to 20 CPC. It is further submitted that as per Section 16 CPC, the suit of recovery and movable properties by instituting the Court within the local limit of who jurisdiction the defendant actually and voluntarily resides or carries on business or personally work for gain. It is submitted that in the present suit, no cause of action has arisen within the territorial jurisdiction of this Court and accordingly, this Court has no territorial jurisdiction to try and entertain the present suit.

Ld. Counsel for the defendants further submitted that purchase order No.86 dated 25.11.2019 was issued by the defendants to the plaintiff company at Bengaluru and the plaintiff company admits to have received the purchase order at Bengaluru as per annexure-4 (Page No. 56 of the plaint). It is further argued that plaintiff company sent goods to the defendants from Jammu and Kashmir. It is further submitted that payment made by the defendant to the plaintiff at its branch in Noida, Uttar Pradesh which is also outside the territorial jurisdiction of this Court. It is argued that merely the fact that plaintiff has its registered office within the territorial jurisdiction of this Court cannot be a ground to confirm the jurisdiction of this Court over the suit.

On the other hand, Ld. Counsel for the plaintiff has vehemently opposed the application and submitted that plaintiff has its registered office at 305, Third Floor, Bhanot Corner, Pamposh Enclave, GK-I, New Delhi-110048. It is argued that the application filed on behalf of the defendants is liable to dismissed and defendants should be burdened with heavy cost for wasting the precious time of the Court. No formal reply is sought to be filed.

Arguments heard. Record perused carefully.

The present application has been filed by the defendant under Order VII Rule 11 of the Code of Civil Procedure (CPC) for the rejection of the plaint on the grounds that the suit filed by the plaintiff is not maintainable. It is argued that the plaintiff has not approached this Court with clean hands and has

suppressed material facts. Further, the plaintiff's suit is allegedly barred by the provisions of the Commercial Courts Act, 2015 (hereinafter referred to as the "CC Act"), particularly in light of the territorial jurisdiction of this Court.

Ld. Counsel for defendant has contended that the suit is not maintainable under Section 6 of the CC Act, as the commercial dispute does not fall within the territorial jurisdiction of this Court. According to Section 6 of the CC Act, a commercial dispute must be instituted in a court that has been vested with territorial jurisdiction as per the provisions of Sections 16 to 20 of the CPC. The argument of the defendant is based on the fact that no part of the cause of action has arisen within the jurisdiction of this Court, and hence, the present suit cannot be entertained by this Court.

Section 16 of the CPC mandates that a suit for the recovery of movable property shall be instituted in the court within the local limits of whose jurisdiction the property is situated, or the defendant resides, carries on business, or personally works for gain. In the present case, the defendant has its office in Bangalore, Karnataka and further demonstrated that the purchase order in question was issued to the plaintiff at Bengaluru, the goods were dispatched from Jammu and Kashmir, and the payment was made at Noida, Uttar Pradesh, none of which falls within the territorial jurisdiction of this Court.

The plaintiff has opposed the application by asserting that it has its registered office within the territorial limits of this Court, and thus the suit is maintainable. However, it is a well-settled legal principle that the mere fact that the plaintiff has its registered office in a particular jurisdiction does not automatically confer territorial jurisdiction on that court unless a part of the cause of action arises within that jurisdiction. This position is fortified by the Hon'ble Supreme Court's ruling in *Patel Roadways Ltd. v. Prasad Trading Company (1991) 4 SCC 270*, where it was held that the place of business or registered office of the plaintiff is not sufficient to confer jurisdiction unless a part of the cause of action has arisen within that territory.

In the present case, as highlighted by the defendant, no part of the cause of action, whether it be the issuance of the purchase order, the dispatch of goods, or the payment for those goods, occurred within the territorial jurisdiction of this Court. All relevant transactions and communications took place either in Bangalore, Jammu and Kashmir, or Noida. Therefore, in the absence of any part of the cause of action arising within the jurisdiction of this Court, the plaintiff cannot rely solely on its registered office location to claim jurisdiction.

As per Section 20 of the CPC, a suit must be instituted where the defendant resides or where the cause of action arises. Since the defendant neither resides nor carries on business within the jurisdiction of this Court and no part of the cause of action

arose within its jurisdiction, the suit is clearly barred by law. The plaintiff has failed to show any legal basis for invoking the jurisdiction of this Court.

In light of the above discussion and the facts presented, it is clear that the suit is barred under the provisions of the CPC and the Commercial Courts Act, 2015. The plaintiff has not established any part of the cause of action arising within the jurisdiction of this Court, and the mere presence of its registered office within this jurisdiction is insufficient to confer jurisdiction. The application filed by the defendant under Order VII Rule 11 CPC is **allowed**. The plaint is hereby rejected on the grounds of lack of territorial jurisdiction. No order as to costs.

File be consigned to record room after due compliance.

(NEELAM SINGH)
District Judge
(Commercial Court-02)
South-East, Saket Courts, ND
24.09.2024^{AD}