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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA 444/2025**

M/S SOUTH INDIA KRISHNA OIL AND FATS PVT LTD

.....Appellant

Through: Mr. S.K. Bhaduri, Mr. Prem Prakash,
Ms. Neetu Gupta and Ms.
Shreyangana Bag, Advocates.

versus

GEETA RANI BAJAJ & ANR.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **16.05.2025**

CM APPL. 30023/2025 (exemption)

Exemption allowed, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed-of.

RFA 444/2025

By way of the present appeal filed under section 96 of the Code of Civil Procedure 1908 ('CPC'), the appellant impugns judgment and decree dated 03.02.2025 passed by the learned District Judge-03, South-East District, Saket Courts, New Delhi in suit bearing CS DJ No.187/2024, whereby the learned trial court has *dismissed* the suit filed by the appellant, based solely on the decision of the preliminary issue as to whether the court had territorial jurisdiction to try the suit; and holding that the learned trial court did not have such jurisdiction.



2. Mr. S.K. Bhaduri, learned counsel appearing for the appellant submits, that to begin with the learned trial court dealt-with an application under Order VII Rule 11(d) CPC, which was subsequently treated as an application under Order VII Rule 10 CPC; and the learned trial court held as follows :

“5.4 At this stage, the court has to consider only the plaint and the documents filed along with it. The averments made in the plaint show that cause of action has arisen within the territorial jurisdiction of this court. Plaintiff has filed copies of bank statements and defendants no. 1 & 2 have not denied that payments were made in the bank accounts at Delhi. The place where the payment is to be received, has jurisdiction in case of dispute. The bank guarantee furnished by the defendants at the Delhi address of the plaintiff. The clause on the invoice which is relied upon by the defendants does not state that the courts in Andhra Pradesh shall have exclusive jurisdiction. Things would have been different if the clause stated that the Andhra Pradesh Courts have exclusive jurisdiction. In the present case the courts at Delhi as well as Andhra Pradesh have jurisdiction and the clause mentioned on the invoice does not confer exclusive jurisdiction on the Andhra Pradesh courts.

“5.5 In view of above discussion, it is held that prima facie this court has territorial jurisdiction to entertain the suit and the plaint is not liable to be returned. Accordingly application of the defendants is dismissed.”

(emphasis supplied)

3. Counsel submits however, that thereafter the court proceeded to frame a preliminary issue, which has now been decided against the appellant, with the court *holding that it had no territorial jurisdiction*; but what is under challenge is the fact that the court has proceeded to *dismiss the suit*, thereby leaving the appellant with no recourse to having its case decided on merits.



4. Mr. Bhaduri draws attention to the following conclusion arrived at by the learned trial court on the preliminary issue as to territorial jurisdiction :

“66. *In view of the above discussion, the preliminary issue, “Whether this Court has territorial jurisdiction to try this suit?” is decided against the plaintiff and in favour of the defendants.*

“67. **The present suit, accordingly, stands dismissed.**”

(emphasis supplied)

5. Mr. Bhaduri argues, that if after framing a preliminary issue the learned trial court had come to the conclusion that it had no territorial jurisdiction, the correct course of action for the court was to have *returned the plaint* but it could not have *dismissed* the suit.
6. Issue notice.
7. Upon the appellant taking steps, let notice be sent to the respondents by all permissible modes, returnable for the next date.
8. Let trial court record be requisitioned in electronic form; and copy of TCR be supplied to counsel on request.
9. Re-notify on 02nd September 2025 before the learned Joint-Registrar for completion of service.
10. List before court thereafter.

ANUP JAIRAM BHAMBHANI, J

MAY 16, 2025/ak