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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 570/2024**

S S D ENTERPRISES

.....Plaintiff

Through: Mr. Sudev Singh Juneja, Adv.

versus

JANHAVI CONSTRUCTION AND ANR

.....Defendants

Through: Mr. Avinash Trivedi & Mr. Rahul Aggarwal, Advs for D1
Mr. Varun Nischal & Ms. Urvi Johri, Advs. for D2.

CORAM:

HON'BLE MR. JUSTICE AVNEESH JHINGAN

ORDER

% **29.07.2026**

I.A. 12428/2026

1. The application under Order VII Rules 10 and 10A read with Section 151 of the Code of Civil Procedure, 1908 (for short 'CPC') is filed by the applicant/plaintiff seeking return of the plaint.

2. The brief facts are that the plaintiff/SSD Enterprises instituted the suit under Order XXXVII CPC read with Section 2(1)(c) of the Commercial Courts Act, 2015 seeking recovery of Rs.3,48,58,813/- against the defendants.

2.1 Defendant No.2 executed an Agreement dated 18.08.2021 with defendant No.1 for construction of buildings and ROB & FOB for balance works of Package-II in connection with the construction of a private railway siding for NMDC's integrated steel plant at Nagarnar, Jagdalpur,



Chhattisgarh (for short 'the agreement'). Defendant No.1 vide Work Order dated 07.10.2021 (for brevity 'work order') awarded a sub-contract to the plaintiff for fabrication of structural steel work and supply of fabricated steel products.

2.2 The plaintiff claims to have completed the work in terms of the work order and that a principal amount of Rs.2,59,05,777/- remained due from defendants. The suit was instituted claiming recovery of the principal amount along with interest.

2.3 Defendant No.1 while contesting the suit raised a preliminary objection to the territorial jurisdiction of this Court on the ground that the invoices forming the basis of the suit contain a jurisdiction clause conferring jurisdiction upon the Courts at Jagdalpur, Chhattisgarh and that no part of the cause of action arose within the territorial jurisdiction of this Court.

3. Learned counsel for the plaintiff submits that the entire cause of action arose within the territorial jurisdiction of the Courts at Jagdalpur, Chhattisgarh and the jurisdiction clause contained in the invoices is to the similar effect.

4. Learned counsel for defendant no.1 has no objection to the present application being allowed.

5. Learned counsel for defendant no.2 contends that the plaintiff has specifically pleaded in the plaint that this Court has territorial jurisdiction to entertain the suit. The submission is that the plaintiff to implead defendant no.2 has relied upon clause 62.4 of the agreement entered between defendant nos.1 and 2 and in that agreement jurisdiction vests in this Court. Further, the plaintiff being the *dominus litis* can institute the suit and it is for the Court to determine whether it lacks territorial jurisdiction.



6. In rebuttal, learned counsel for the plaintiff contends that the cause of action is against defendant no.1 and the suit is to recover the amount due for structural steel work and supply of fabricated steel products to defendant no.1. It is submitted that the jurisdiction clause agreed upon between defendant nos.1 and 2 is not binding upon the plaintiff.

7. Heard learned counsel for the parties.

8. The suit is instituted for recovery of Rs.3,48,58,813/- against the defendants. The present application is filed after defendant no.1 raised a preliminary objection to the territorial jurisdiction of this Court in its written statement. The relevant portion of the written statement is reproduced below:

“1. That the suit of the plaintiff is liable to be dismissed on the ground of the same being filed in Court which is not a competent Court of jurisdiction since the invoices which form the basis of the claim made in the instant suit contain a jurisdiction clause thereby conferring jurisdiction on Jagdalpur Courts and admittedly the supplies have been made by the Plaintiff to the defendant at Jagdalpur in the state of Chhattisgarh and no part of cause of action has arisen within the territorial jurisdiction of this Hon'ble Court. Hence the suit of the plaintiff is liable to be returned under the provisions of order VII Rule 10 of CPC.”

9. The submission of learned counsel for defendant no.2 that the plaintiff could not have filed the present application as it is for the Court to determine the issue of territorial jurisdiction and the plaintiff has pleaded in the plaint that this Court has jurisdiction does not merit acceptance. Order VII Rule 10 of CPC is reproduced below:

“10. Return of plaint.—(1) [Subject to the provisions of rule 10A, the plaint shall] at any stage of the suit be returned to be presented to the Court in which the suit should have been



instituted.

[Explanation.— For the removal of doubts, it is hereby declared that a Court of appeal or revision may direct after setting aside the decree passed in a suit, the return of the plaint under this sub-rule.]

(2) Procedure on returning plaint. —On returning a plaint, the Judge shall endorse thereon the date of its presentation and return, the name of the party presenting it, and a brief statement of the reasons for returning it.”

9.1 Order VII Rule 10 CPC provides for return of plaint for presentation before the Court having jurisdiction. If the Court lacks territorial jurisdiction, it shall return the plaint. Order VII Rule 10 CPC does not restrict the plaintiff from seeking return of the plaint. The intent of the provision is clear that the plaint can be returned at any stage. The plaintiff *bona fide* believing that this Court had territorial jurisdiction and pleading so in the plaint is not precluded from praying that plaint be returned.

The contention of learned counsel for defendant no.2 that the agreement between defendant nos.1 and 2 dated 18.08.2021 be considered and that jurisdiction thereunder vests in the Courts at Delhi is ill-founded. The pleadings in the suit are that the plaintiff was the sub-contractor appointed by defendant no.1 and the agreement between defendant nos.1 and 2 permitted sub-contracting of the work. The amount is due from defendant no.1 and defendant no.2 is impleaded as a party relying upon clause 62.4 of the agreement whereby on the failure of the defendant no.1, defendant no.2 can directly release the payment to the sub-contractor. The basic agreement from which cause of action arises is between the plaintiff and the defendant no.1 in respect of which it is pleaded in the application the jurisdiction vests



with the commercial Courts at Raipur, Chhattisgarh. The terms of the agreement between defendant nos.1 and 2 do not arise for consideration at this stage.

10. The application is allowed and the suit is returned under Order VII Rules 10 of the CPC.

AVNEESH JHINGAN, J

JULY 29, 2026
Ch/KP