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

% Reserved on : 13.02.2026
Pronounced on : 25.03.2026
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\+ **FAO 290/2022**

HANUMAN PRASAD SHARMA @ H.P. SHARMA .....Appellant
Through: Mr. Mridul Jain and Ms. Ruby Sharma, Advocates

versus

J. MITHYLESHWAR .....Respondent
Through: Mr. Rohit Rattu, Advocate

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The present appeal has been preferred by the appellant/plaintiff, being aggrieved by the impugned order dated 23.07.2022, whereby the application filed by the respondent/defendant under Order VII Rule 10 CPC came to be allowed.

2. The facts in a nutshell are that the appellant preferred the underlying civil suit for recovery of Rs.10 lacs along with interest, claiming that he had provided a friendly loan of Rs.10 lacs to the respondent. It was averred that the said sum was transferred from the appellant's account maintained with *Karnataka Bank Ltd., Savita Vihar Branch, Delhi*. The appellant had further claimed that towards discharge of its liability to pay the said amount, the respondent had issued cheque no. 000072 dated 03.03.2016 for Rs.10 lacs

drawn on *HDFC Bank*, *Bellari Branch*, *Karnataka*. The said cheque, when presented by the appellant at his bank in *Delhi*, got dishonoured. Claiming jurisdiction at *Delhi*, the appellant had sought recovery of the aforesaid amount.

3. While contesting the impugned order, Mr. Jain, learned counsel for the appellant, contended that the Trial Court erred in allowing the respondent's application under Order VII Rule 10 CPC without appreciating that the respondent had not taken any objection to the territorial jurisdiction of the Trial Court in the written statement; as such, no issue was framed on the said aspect. The application under Order VII Rule 10 CPC came to be filed subsequently, and moreover, while there were a total of four suits filed by the appellant with respect to four different loan transactions, in the remaining suits where the loan was extended through cash/RTGS, similar applications under Order VII Rule 10 CPC came to dismissed; however, in the present case, for no good reason, such an application was allowed. Learned counsel has further referred to Section 21 CPC to claim jurisdiction at *Delhi*.

4. Learned counsel for the respondent, while contesting the above submissions, contended that the respondent is located in *Karnataka* and no cause of action had arisen within the jurisdiction of this Court. As per the averments, the loan amount was received by the respondent in his bank account in *Karnataka*. The promissory note and the receipt were also executed at *Ballari* and thus, merely because the appellant is located in *Delhi*, without any part of the cause of action arising within the jurisdiction of this Court, it does not confer territorial jurisdiction upon the Courts at *Delhi*.

5. The plea of lack of territorial jurisdiction of the Trial Court to entertain the suit was raised by the respondent *vide* his application under Order VII Rule 10 CPC. The underlying suit was filed on 12.02.2019, the written statement came to be filed on 02.05.2019, and the issues were settled on 18.02.2021. Concededly, in the written statement, the respondent had not raised any objection to the territorial jurisdiction of the Courts at *Delhi*. In the suit, the appellant/plaintiff had claimed jurisdiction in paragraph 15, which is reproduced hereunder:-

> "*15. That Delhi courts has jurisdiction to try and adjudicate the present case as the defendant contacted the plaintiff and his family in Delhi, at C-185, East Gokalpur, Wazirabad Main Road, Shahdara, Delhi where the request was acceded to and Promissory note along with receipt were delivered by the defendant and for repayment of the amount the cheque was handed over by the defendant to the plaintiff at the same address and this Hon'ble Court has territorial jurisdiction to entertain and try the present suit as the plaintiff provided money to the defendant through his bank account maintained at Karnataka Bank Ltd., Savita Vihar, Delhi - 110092 by way of RTGS, the cheque given by the defendant was also presented for encashment in the same bank account which was returned unpaid and dishonoured with the remarks 'Account Blocked' which is within the territorial jurisdiction of this Hon'ble Court.*"

6. Pertinently, in the written statement filed by the respondent, it was stated that the same is a matter of record and needs no reply, and no objection to the territorial jurisdiction was raised. As such, no issue was framed by the Trial Court on the aforesaid aspect. The law pertaining to the institution of a suit within the jurisdiction of a particular Court where part of the cause of action has arisen is well settled. It is also well settled that for considering an application under Order VII Rule 10 CPC, the Court has to confine itself to the pleadings made in the plaint. A perusal of the plaint would show that the plaintiff has claimed that the respondent had contacted the appellant at *Delhi*, where his request was accepted and the promissory

note, as well as the receipt, were delivered for the payment of the loan amount. It is further claimed that the dishonour of the repayment cheque occurred at *Delhi*. No doubt, the application under Order VII Rule 10 CPC empowers and enables a Court to return the plaint "at any stage of suit" to be presented to the Court in which the suit ought to have been instituted. The words "at any stage of the suit" would mean even after the trial has begun and concluded, but before the judgment is delivered. Neither consent nor waiver can cure the defect of inherent lack of jurisdiction, and consent of parties cannot operate to confer jurisdiction on a Court which has no competence to try it; whereas territorial jurisdiction can always be assumed by the Court when such an objection is waived by the party on the principles laid down in Section 21 CPC. Independently of Section 21 CPC, a defendant may also waive the objection as regards a defect in territorial jurisdiction and will be subsequently precluded from taking the objection (Ref: *Bank of India Vs. U.A.N. Raju & Anr.*[1]). In *Harshad Chiman Lal Modi Vs. DLF Universal Ltd. & Anr.*[2], the Supreme Court has held as under:-

> "*30. We are unable to uphold the contention. The jurisdiction of a court may be classified into several categories. The important categories are (i) Territorial or local jurisdiction; (ii) Pecuniary jurisdiction; and (iii) Jurisdiction over the subject matter. So far as territorial and pecuniary jurisdictions are concerned, objection to such jurisdiction has to be taken at the earliest possible opportunity and in any case at or before settlement of issues. The law is well settled on the point that if such objection is not taken at the earliest, it cannot be allowed to be taken at a subsequent stage. Jurisdiction as to subject matter, however, is totally distinct and stands on a different footing. Where a court has no jurisdiction over the subject matter of the suit by reason of any limitation imposed by statute, charter or commission, it cannot take up the cause or matter. An order passed by a court having no jurisdiction is nullity.*"

[1] MANU/AP/0895/2003
[2] (2005) 7 SCC 791

7. The Coordinate Bench of this Court in Vijay Kumar Ojha Vs. Samsung India Electronics Pvt. Ltd.[3], while seized of a similar issue, concluded that the defendant, having not taken any objection to the territorial jurisdiction of the Court earlier and no issue on the said aspect having been settled, was precluded from taking the said objection subsequently.

8. To the same effect is the decision of another Coordinate Bench of this Court in *Shyam Sunder Kalra Vs. Ravinder Kumar Jain & Anr.*[4], wherein this Court held as under:-

> "*10. Also, it is settled law in terms of Section 21 of CPC that all objections as to territorial jurisdiction or pecuniary jurisdiction, have to be taken in a suit before framing of issues, and if not taken, such objections are waived i.e issues of pecuniary and territorial jurisdiction do not go to the root of the matter unlike the issue of lack of inherent jurisdiction or the lack of subject matter jurisdiction, when a decree cannot be passed by the Court lacking the subject matter/inherent jurisdiction.*"

9. A gainful reference can also be made to Bahrein Petroleum Company Ltd. Vs. Pappu & Ors.[5], wherein it has been held as under:-

> "*3. Counsel for the plaintiff-respondent also submitted that it was open to the defendants to waive this objection, and if they did so, they could not subsequently, take, the objection. This submission is well-founded. As a general rule, neither consent nor waiver nor acquiescence can confer jurisdiction upon a Court, otherwise incompetent to try the suit. But Section 21 of the Code provides an exception, and a defect as to the place of suing, that is to say, the local venue for suits cognizable by the Courts under the Code may be waived under this section. The waiver under Section 21 is limited to objections in the appellate and Revisional Courts. But Section 21 is a statutory recognition of the principle that the defect as to the place of suing under Sections 15 to 20 may be waived. Independently of this section, the defendant may waive the objection and may be subsequently precluded from taking it, see Seth Hira Lal Patni v.*

[3] MANU/DE/2921/2025
[4] 2012:DHC:6477
[5] MANU/SC/0012/1965

Sri Kali Nath."

10. On a cumulative reading of the aforesaid decisions, this Court notes that no objection having been taken to the territorial jurisdiction at the first instance, including at the stage of framing of issues, the said objection is deemed to have been waived. Consequently, the present appeal succeeds, the impugned order is set aside, and the suit is restored to its original number. Let the matter be listed before the concerned Trial Court on 30.03.2026.

11. The present appeal is disposed of in the above terms.

12. A copy of this judgment be communicated to the concerned Trial Court.

MANOJ KUMAR OHRI
(JUDGE)

MARCH 25, 2026
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