



\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Judgment Reserved on: 20.07.2026

Judgment delivered on: 28.07.2026

Judgment uploaded on: 28.07.2026

+

CM(M) 1936/2025 & CM APPLs. 62657/2025, 62659/2025

SUDHIR KUMAR

.....Petitioner

Through: Mr. Rakesh Mittal, Mr. Ajay Harshana and Ms. Yamini Mittal, Advs.

versus

MONIKA MAKKAR & ORS.

.....Respondents

Through: Mr. Vikas Kakkar, Mr. Charanjeet Khatana, Mr. Abhishek Baghel, Mr. Sanskar Nagaich, Ms. Anchal Kakkar, Mr. Bharat Kumar and Mr. Arijeet Barooah, Advs. for R-1 and 2
Mr. Chaitanya, Mr. Shubhanshu Gupta, Mr. Kartik Pant and Mr. Srijan Sonkar, Advs. for R-3

+

FAO (COMM) 279/2025 & CM APPL. 61177/2025

SUDHIR KUMAR

.....Appellant

Through: Mr. Rakesh Mittal, Mr. Ajay Harshana and Ms. Yamini Mittal, Advs.

versus

MONIKA MAKKAR & ORS.

.....Respondents

Through: Mr. Vikas Kakkar, Mr. Charanjeet Khatana, Mr. Abhishek Baghel, Mr. Sanskar Nagaich, Ms. Anchal Kakkar, Mr. Bharat Kumar and Mr. Arijeet Barooah, Advs. for R-1 and 2



Mr. Chaitanya, Mr. Shubhanshu
Gupta, Mr. Kartik Pant and Mr. Srijan
Sonkar, Advs. for R-3

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMEET PRITAM SINGH ARORA, J.

1. These connected proceedings arise out of order(s) passed in CS (COMM) No. 379/2025 instituted by the Appellant/Petitioner for recovery of outstanding dues under two (2) purchase orders pertaining to the execution of structural fabrication and installation works for the construction of a studio project at FC-7, Sector-16A, Film City, Noida, Uttar Pradesh.
2. *Vide* order dated 07.08.2025, the learned District Judge (Commercial-06), South-East District, Saket Courts, ['Trial Court'] held that the Courts at Delhi lacked territorial jurisdiction to entertain the suit over the transaction pleaded in the suit. Consequent thereto, by a subsequent order dated 23.08.2025, while dealing with the Appellant's application under Order VII Rule 10A of the Code of Civil Procedure, 1908 ['CPC'] seeking fixing of date of appearance of parties before the Court of District Judge (Commercial Court), South District, Saket Courts ['South District, Saket'] the Trial Court rejected the said application and directed return of the plaint under Order VII Rule 10 CPC.
3. Aggrieved thereby, the Appellant instituted FAO (COMM) 279/2025 under Order XLIII Rule 1(a) CPC read with Section 13 of the Commercial



Courts Act, 2015 [‘Act of 2015’] assailing the order dated 07.08.2025 [‘impugned order dated 07.08.2025’], and CM(M) 1936/2025 under Article 227 of the Constitution of India challenging the consequential order dated 23.08.2025 [impugned order dated 23.08.2025].

Noticing that both proceedings emanate from the same suit and involve interrelated questions concerning the correctness of the finding on territorial jurisdiction and the consequential return of the plaint, this Court, *vide* order dated 08.12.2025, directed that the appeal and the petition be listed and heard together.

FACTS

4. The facts, as set out in the appeal and relevant to adjudicate the present dispute is as under: -

4.1 The Appellant is the proprietor of M/s Vijay Iron Works, carrying on business from Sangam Vihar, New Delhi. Respondent No. 3 entrusted the work of construction of a studio project at FC-7, Sector-16A, Film City, Noida, Uttar Pradesh to Respondents No. 1 and 2. In connection with the said project, it is contended that Respondents No. 1 and 2 issued two purchase orders, both dated 12.08.2021, in favour of the Appellant for supply of structural material and execution of installation and fabrication works. The Appellant claims that Respondents No. 1 and 2 represented themselves to be acting jointly and assured payment of the amounts due under both purchase orders.

4.2 According to the Appellant, the purchase orders were issued from Delhi, the materials were supplied from Delhi, and payments towards the



executed work were remitted by Respondent No. 1 through RTGS into the Appellant's bank account maintained at HDFC Bank, Saket Branch, New Delhi ['HDFC Bank, Saket']. The Appellant further asserts that the invoices raised upon the Respondents contained a clause stipulating that disputes would be subject to the jurisdiction of the Courts at Delhi.

4.3 The Appellant alleges that after completing the contracted works, including certain additional works undertaken on the instructions of the Respondents, substantial amounts towards the principal dues remained unpaid. It is also alleged that certain tools, machinery and scrap belonging to the Appellant continued to be retained by the Respondent No. 3. Consequently, after issuance of a legal notice, the Appellant instituted CS (Comm) No. 379/2025 before the Trial Court, seeking recovery of Rs. 32,80,065/, comprising the alleged principal outstanding together with interest.

4.4 The Respondents contested the maintainability of the suit, inter alia, on the ground that no part of the cause of action had arisen within the territorial jurisdiction of the Courts at Delhi. Respondent No. 1 further contended that it has already instituted a suit for recovery of money against the Appellant before South District, Saket and the Appellant suppressed the details of the said suit in its plaint.

4.5 As noted above, by impugned order dated 07.08.2025, the Trial Court held that the Courts at Delhi lacked territorial jurisdiction to entertain the suit. Thereafter, by order dated 23.08.2025, the Trial Court rejected the Appellant's application under Order VII Rule 10A CPC seeking fixing of a



date of hearing before the South District, Saket and directed return of the plaint under Order VII Rule 10 CPC.

GROUND OF CHALLENGE RAISED BY THE APPELLANT

5. Appellant submitted that the Trial Court exceeded its jurisdiction by not only holding that it (i.e., South-East District) lacked territorial jurisdiction but also recording a finding that no Court in Delhi possessed territorial jurisdiction to entertain the suit. It is submitted that once the Trial Court concluded that it lacked jurisdiction, it could neither adjudicate upon the jurisdiction of other competent courts nor reject the Appellant's application under Order VII Rule 10A CPC. It is argued that Rule 10A does not empower the returning Court to determine whether the Court before which the plaint is proposed to be presented possesses territorial jurisdiction.

5.1 The Appellant further submitted that multiple circumstances gave rise to a part of the cause of action within Delhi. It is submitted that the purchase orders were issued from Delhi, the contracts were entered into at Delhi, the goods were supplied from Delhi, and substantial payments amounting to approximately Rs. 66.26 lakhs were remitted by Respondent No. 1 through RTGS directly into the Appellant's bank account at HDFC Bank, Saket. The invoices also stipulated that disputes would be subject to Delhi jurisdiction.

5.2 The Appellant also assailed the factual findings recorded in the impugned orders as being contrary to the record. It is submitted that the Trial Court incorrectly observed that the Appellant had concealed the pendency of the earlier commercial suit, although the said fact had been disclosed in the application under Section 20(b) CPC filed before service of



summons. Similarly, the Trial Court is stated to have erroneously recorded that none of the defendants resided in Delhi despite acknowledging Respondent No. 2's Sarita Vihar address. The Appellant further submits that the application under Section 20(b) CPC was filed merely as a matter of abundant caution pursuant to the Trial Court's observations and not as an admission that Delhi lacked jurisdiction.

5.3 The Appellant contended that receipt of payments at Delhi constitutes part of the cause of action, and that the scheme of Order VII Rules 10 and 10A CPC does not permit the returning Court to adjudicate upon the jurisdiction of the Court before which the plaint is proposed to be presented. It is contended that due to the receipt of the payments in the HDFC Bank account, the South District, Saket has the requisite territorial jurisdiction.

SUBMISSIONS BY RESPONDENTS

6. The Respondents contended that the Appellant has suppressed material facts and is attempting to improve upon the original plaint through the appeal. The Respondents pointed out that while Respondent No. 2 was shown as having a Noida address in the suit before the Trial Court, the Appellant has altered the address to Delhi in the appeal proceedings, thereby attempting to create an artificial basis for jurisdiction.

6.1 The Respondents further submitted that the Trial Court had expressly kept the issue of territorial jurisdiction open from the inception of the suit, as reflected in the order dated 07.05.2025 and after considering the pleadings and objections raised by the defendants, the Trial Court correctly examined the question of territorial jurisdiction and, upon finding that no jurisdiction



lay in Delhi, returned the plaint under Order VII Rule 10 CPC.

6.2 According to the Respondents, the entire cause of action arose in Noida, Uttar Pradesh. The Appellant himself pleaded that he was engaged for work at the site of Respondent No. 3 in Noida, that the work was executed there, and that the purchase order required billing at the Noida address of Respondent No. 2; therefore, any alleged default and the corresponding cause of action could only arise in Noida. It was further argued that Respondent No. 1 is based in Gurugram, Respondent No. 2 has its relevant subordinate office in Noida, and Respondent No. 3 is situated in Noida; consequently, even under Section 20(a) and (b) CPC, jurisdiction would lie only in Noida.

6.3 It is further submitted that while considering an application under Order VII Rule 10 CPC, the Court is confined to the averments contained in the plaint; the Appellant, after conclusion of arguments on territorial jurisdiction, sought to rely on bank statements annexed to written submissions in an attempt to establish Delhi jurisdiction of South District Saket. It is submitted that the Trial Court rightly refused to consider such material, as it constituted an impermissible attempt to improve the plaint and create jurisdiction after arguments had concluded.

6.4 The Respondents contended that the Trial Court correctly appreciated the pleadings and documents and recorded findings that the work was performed in Noida, none of the defendants resided in Delhi, the purchase order was issued from the Noida office, and no part of the cause of action arose in Delhi.



FINDINGS AND ANALYSIS

7. This Court has heard the learned counsel for the parties and perused the record.

8. The Trial Court *vide* the impugned order dated 07.08.2025 held that it (i.e., South-East District) lacked territorial jurisdiction to entertain the suit and further proceeded to record a finding that no Courts in Delhi possessed territorial jurisdiction to adjudicate the dispute. This finding was returned by the Court in exercise of its jurisdiction under Order VII Rule 10 CPC.

The Trial Court passed a detailed order on 07.08.2025 wherein at paragraphs 1, 2, 29 and 30 it returned the following findings: -

“1. Vide this order, I shall decide if this Court has territorial jurisdiction in the present case to try the present suit.

2. Vide order dated 07.05.2025, while directing for issuing summons of the suit, this Court had specifically observed that the issue of territorial jurisdiction is left open.

.....

29. As Courts in Delhi have no jurisdiction over the transaction in question, jurisdiction clause mentioned in the invoices is of no avail to the Plaintiff.

30. In light of these observations, it is held that that this Court lacks territorial jurisdiction to entertain the present suit.”

[Emphasis Supplied]

The Trial Court by a separate order dated 07.08.2025, granted liberty to the Appellant to file an appropriate application under Order VII Rule 10A CPC. The relevant portion of the order reads as under: -

“Vide separate order, it has been held that this Court lacks territorial jurisdiction to entertain the present suit. In view of holding that this court lacks territorial jurisdiction to entertain the present suit, prayer of plaintiff for granting leave to sue Defendant no. 1 and 3 in this court is



not maintainable. Therefore, application of the Plaintiff under Section 20 (b) is dismissed.

Further, in view of holding that this court lacks territorial jurisdiction to entertain the present suit, the plaint is liable to be returned under Order VII Rule 10 CPC. The Plaintiff may, if it so desires, move an appropriate application under Order VII Rule 10 A CPC within a week from today with copy to opposite counsel.

List for further proceedings on 23.08.2025.”

[Emphasis Supplied]

8.1. The Appellant in terms of the aforesaid liberty filed an application under Order VII Rule 10A CPC stating that the plaintiff proposes to present the plaint, after its return, before the South District, Saket and accordingly sought a direction for fixing a date of appearance. This application was however dismissed by the Trial Court vide order dated 23.08.2025 and this order has been impugned in CM(M) No. 1936/2025. The Trial Court, on 23.08.2025, issued a simplicitor direction for return of the plaint, along with the original documents and court fees under Order VII Rule 10 CPC.

Though, it is not expressly recorded in the order dated 23.08.2025, it appears on perusal of the contents of said order that the Trial Court was of the opinion that since, as per the averments in the plaint and the documents filed in support thereof, no part of the cause of action had arisen in Delhi, therefore the prayer seeking fixing a date of appearance before the South District, Saket was not maintainable. Learned counsel for the Respondents also confirm this conclusion drawn by this Court.

9. Before us, learned counsel for the Appellant has submitted that the Appellant is not disputing the finding of the Trial Court, in order dated 07.08.2025, that the Court of the learned District Judge (Commercial-06), South-East District, Saket Courts, lacked territorial jurisdiction to entertain



the suit. The limited grievance urged is that the Trial Court exceeded the scope of its jurisdiction under Order VII Rule 10 CPC by recording a conclusive finding that *no* Court in Delhi possessed territorial jurisdiction. It is contended that once the Trial Court concluded that it (i.e., South-East District) lacked territorial jurisdiction, it ought to have confined itself to returning the plaint, leaving the question whether any other Court in Delhi possessed territorial jurisdiction to be examined, if necessary, by the Court before which the plaint was subsequently presented.

The Appellant contends that in view of the fact that payments were received by it from Respondent No. 1 at HDFC Bank, Saket, part of cause of action has arisen within the territorial limits of South District, Saket.

10. Respondents have disputed the submissions of the Appellant and contended that no pleading with respect to receipt of payments in the bank account at HDFC Bank, Saket were pleaded in the plaint and this plea was sought to be raised, for the first time on the date when the impugned order was pronounced on 07.08.2025. Respondent No. 3 has averred that Appellant has no cause of action at all against it and it has been dragged into the suit malafide to arm twist the Respondent No. 1 to settle the claims raised in the separate suit filed by Respondent No. 1.

11. As noted above, the finding of the Trial Court in its order dated 07.08.2025 that suit was not maintainable within the territorial jurisdiction of South-East District, Saket is not being contested by the Appellant and has thus, attained finality. The only issue, in these proceedings, is with respect to the effect of the impugned order dated 07.08.2025 on the territorial jurisdiction of the Court at South District, Saket or any other Court in Delhi.



12. We find merit in the limited contention of the Appellant that Trial Court, on 07.08.2025, was competent to return a finding *only* on its territorial jurisdiction (South-East District) and *not* the jurisdiction of the other Courts at Delhi.

Before we return a finding on this submission, we, however, have a caveat on the conduct of the Appellant herein, which itself invited the finding of lack of jurisdiction of Courts at Delhi, from the Trial Court. The said finding was returned by the Trial Court on the basis of the facts placed before it in the plaint, by the Appellant, and the documents filed along with the plaint. The pleadings and the documents filed before the Trial Court led it to conclude that no cause of action had arisen with the jurisdiction of Courts at Delhi. The fact of the receipt of payments at HDFC Bank, Saket was not pleaded in the plaint and no document filed before the Court when this issue was decided. It was in these facts that the Trial Court returned its findings on the lack of territorial jurisdiction of Courts at Delhi, in its order dated 07.08.2025.

13. At the same time, we are also unable to overlook the mischievous conduct of the Appellant. The Appellant had been served with summons in the commercial suit¹ filed by Respondent No. 1 before learned District Judge (Commercial Court)-05 South District, Saket. The Appellant, as per his own case, could have instituted its claims by filing a suit in the same district on the basis of the averments of having an account with the HDFC Bank, Saket. However, Appellant consciously elected to not rely on the existence of its bank account and filed the suit in the different district, i.e.,

¹ CS(COMM) 476/2024



South-East and also failed to disclose the receipt of the summons of Respondent No. 1's suit. The finding of suppression drawn by the Trial Court in its order dated 07.08.2025 is therefore meritorious. This conduct of the Appellant gives the distinct impression that it was seeking to delay adjudication of the suit filed by Respondent No. 1.

14. However, reverting to the legal issue raised by the Appellant as regards the modification of the finding in the impugned order dated 07.08.2025 to be limited to the Courts at South-East District, Saket, we hold that the legal enquiry before the Court while considering return of a plaint under Order VII Rule 10 CPC is confined to determining whether the said Court before which the suit is instituted possesses territorial jurisdiction or not. Upon arriving at a conclusion that it lacks such jurisdiction, the said Court is required to return the plaint, to the plaintiff, for presentation before the proper Court and it cannot render a conclusive adjudication on the territorial jurisdiction of every other Court to which the Plaintiff proposes to approach. To that limited extent, the observation in the impugned order dated 07.08.2025 that no Courts in Delhi has territorial jurisdiction cannot be sustained and is hereby modified to be read as Courts at South-East District, Saket has no territorial jurisdiction in this case.

15. The Appellant contends that in view of the fact that Respondent No. 1 made part payments to it in its bank account held with HDFC Bank, Saket, the Appellant can institute the returned plaint before South District, Saket. It is submitted that the Appellant therefore proposes to present the plaint before South District, Saket. Respondents have contested that even the said Courts does not have territorial jurisdiction.



16. In view of our finding that the order of the Trial Court can only be construed as a binding opinion as regards to the territorial jurisdiction of the Courts at South-East District, Saket, FAO (COMM) 279/2025 is allowed to the limited extent that the finding recorded by the Trial Court in the impugned order dated 07.08.2025 to the effect that no Court in Delhi possesses territorial jurisdiction to entertain the suit is hereby modified to be read as Courts at South-East District, Saket. It is clarified that the finding that the Court of the learned District Judge (Commercial-06), South-East District, Saket Courts lacked territorial jurisdiction to entertain the suit is affirmed.

17. We find no ground to interfere in the impugned order dated 23.08.2025. The plea of the Petitioner that Courts at South District, Saket would have territorial jurisdiction on the plea that payments were received by the Petitioner in its bank account held in HDFC Bank, Saket is not set out in the plaint as it stands. The Petitioner would necessarily have to amend its pleadings to make this averment before it can file the plaint before the said Court. We therefore, find no ground to interfere in the impugned order dated 23.08.2025 passed by the Trial Court. The said order does not affect the ability of the Petitioner to file the plaint in the Court of appropriate jurisdiction.

18. It is clarified that this Court has expressed no opinion on the question whether any other Courts in Delhi, including South District, Saket possesses territorial jurisdiction. The question whether the Court in South District, Saket or any other Court before which the plaint is proposed to be presented by the Appellant/Petitioner possesses territorial jurisdiction shall be



determined independently by that Court in accordance with law.

19. The rights and contentions of the Respondents on the issue of territorial jurisdiction of Courts at Delhi are left open.

20. The appeal FAO (COMM) 279/2025 is allowed partially in terms of the clarification given at paragraph nos. 14 and 16 of this judgment.

21. CM(M) 1936/2025 is hereby dismissed.

22. Pending applications, if any, stand disposed of.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

JULY 28, 2026/hp/AM