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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RFA(OS)(COMM) 32/2025, CM APPL. 63552/202, CM APPL. 63553/2025, CM APPL. 63554/2025 & CM APPL. 63555/2025

VIKRANT CHEMICO INDUSTRIES LIMITEDAppellant
Through: Mr. Nitin Sharma, Mrs. Deepika Pokharia and Mr. Abhinav Bhalla, Adv.

versus

SHRI GOPAL ENGINEERING AND CHEMICAL WORKS
PVT LTD & ORS.Respondents
Through: Mr. Peeyoosh Kalra, Mr. Yashwant Singh Baghel and Ms. Meghna Nair, Adv.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

ORDER
% **10.10.2025**

CM APPL. 63555/2025 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

RFA(OS)(COMM) 32/2025 & CM APPL. 63554/2025 (for additional documents)

3. In the judgment under challenge in the present appeal, the learned Single Judge framed 10 issues as arising for consideration.



4. Of these, Issue 8 was as to whether the learned Single Judge had territorial jurisdiction to entertain the suit.

5. The learned Single Judge has proceeded to decide Issue 8 first and has held, in para 40 of the impugned judgment, thus:

“40. Even though the plaint is liable to be returned on the ground of lack of territorial jurisdiction, in terms of the mandate of Order XIV Rule 2 of the CPC and the judgment passed by the Supreme Court in *Sathyanath v Sarojamani*¹, I proceed to adjudicate the remaining issues framed in the suit.”

6. *Prima facie*, the view adopted in para 40 of the impugned judgment is unsustainable in law. Order XIV Rule 2 of the CPC does not empower a court to decide a matter over which it has no territorial jurisdiction.

7. Once the Court holds that it has no territorial jurisdiction to deal with the suit, the court would, *prima facie*, be rendered *coram non judice*, in respect of the *lis*. A court cannot simultaneously state that it has no jurisdiction to entertain the suit and proceed to decide the issues between the parties on merits.

8. The issue in *Sathyanath*, on which the learned Single Judge has relied, is *prima facie* distinct from that of the present case.

9. *Sathyanath* was a case in which the challenge before the Supreme Court was against a judgment passed in a revision petition by the High Court of Madras, directing an issue of *res judicata* to be

¹ (2022) 7 SCC 644



treated as a preliminary issue. The Supreme Court has referred to Order XIV Rule 2 of the CPC and has in this context, held as under:

“21. The provisions of Order XIV Rule 2 are part of the procedural law, but the fact remains that such procedural law had been enacted to ensure expeditious disposal of the lis and in the event of setting aside of findings on preliminary issue, the possibility of remand can be avoided, as was the language prior to the unamended Order XIV Rule 2. *If the issue is a mixed issue of law and fact, or issue of law depends upon the decision of fact, such issue cannot be tried as a preliminary issue.* In other words, preliminary issues can be those where no evidence is required and on the basis of reading of the plaint or the applicable law, *if the jurisdiction of the Court or the bar to the suit is made out*, the Court may decide such issues with the sole objective for the expeditious decision. Thus, *if the Court lacks jurisdiction or there is a statutory bar, such issue is required to be decided in the first instance so that the process of civil court is not abused by the litigants, who may approach the civil court to delay the proceedings on false pretext.*”

(Emphasis supplied)

10. The requirement of deciding all issues together operates only where the issues do not pertain to the jurisdiction of the Court. If there is an issue pertaining to the jurisdiction of the Court, the Supreme Court has in **Sathyanath** itself clarified that that issue has to be decided in the first instance, “so that the process of civil court is not abused by the litigants who may approach the civil court to delay the proceedings on false pretext”.

11. *Prima facie*, therefore, a court which has no jurisdiction cannot proceed to adjudicate on merits.

12. As such, we are of the *prima facie* opinion that, in adjudicating all issues other than Issue 8, the learned Single Judge has acted



without jurisdiction.

13. As such, issue notice on the appeal as well as on CM Appl. 63554/2025.

14. Notice is accepted, on behalf of the respondents, by Mr. Peeyoosh Kalra.

15. As this is a regular first appeal, the court dispenses with the requirement of exchange of pleadings.

16. List for disposal in the Supplementary List on 10 December 2025.

17. Both sides are directed to place on record short notes of their respective submissions not exceeding four pages each after exchanging copies with each other at least a week in advance of the next date of hearing.

18. We make it clear that we would, in the first instance, examine the issue of whether the learned Single Judge could have proceeded to decide other issues on merits having held, apropos Issue 8, that the suit was without territorial jurisdiction.

CM APPL. 63552/2025 (Stay application)

19. Issue notice. Notice is accepted, on behalf of the respondents, by Mr. Peeyoosh Kalra.



20. List for disposal in the Supplementary List on 10 December 2025.

21. Till the next date of hearing, the operation of the impugned judgment, to the extent it adjudicates on issues other than Issue 8, shall remain stayed.

CM APPL. 63553/2025

22. Let the record of the learned Single Judge be requisitioned before the next date of hearing and electronic copies thereof be placed on both the files.

23. The application stands disposed of.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

OCTOBER 10, 2025/dsn