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

Date of decision: 31st AUGUST, 2026

IN THE MATTER OF:

\# **CNR No. DLHC011098652025**

I.A. 17356/2026

IN

\+ **CS(COMM) 161/2026 & I.A. 4500/2026, I.A. 4501/2026, I.A. 4502/2026, I.A. 4503/2026, I.A. 16979/2026, I.A. 16982/2026, I.A. 17384/2026**

VIKRANT KAPOOR .....Plaintiff

Through: *Appearance not given.*

versus

ANUJ KOHLI & ORS. .....Defendants

Through: Mr. Pulkit Thareja and Mr. Sumukh Valimbe, Advs.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

I.A. 17356/2026

1. The present Application under Order VII Rule 10 has been filed on behalf of the Defendants No.1 and 5 for return of the Plaint on the ground that this Court has no territorial jurisdiction.

2. The present Suit has been filed by the Plaintiff seeking recovery of Rs.3,34,46,537/- along with other reliefs.

3. The Plaintiff is a jeweller engaged in the business of trading and manufacturing gold ornaments through his proprietorship firm, operating from City Sarafa, Ghantaghar, Meerut, Uttar Pradesh and the present dispute

arises out of a series of commercial transactions between the Plaintiff and the Defendants, who had been engaged in a longstanding business relationship for about 10–12 years, dealing in gold and jewellery on the basis of mutual trust and approval/credit arrangements.

4. Facts, as stated in the Plaint, are stated as under:

a. In January 2024, the Defendants approached the Plaintiff and obtained approximately 640 grams of 24-karat fine gold, valued at about Rs. 40,96,000/-, on approval basis, assuring that the same would either be returned or paid for within one month. Despite expiry of the stipulated period, the Defendants neither returned the gold nor made payment and, upon repeated follow-ups by the Plaintiff, the Defendants represented that they were expecting the gold to be sold shortly. It is stated that in March 2024, despite the earlier default, the Defendants again approached the Plaintiff and induced him to further supply 551 grams of 24-karat fine gold. It is stated that the Defendants assured the Plaintiff that the entire quantity of 1,191 grams of gold would be returned along with interest at 5% per month, and that the earlier outstanding dues would also be cleared.

b. In October 2024, the Defendants again approached the Plaintiff and represented that they were expecting a large customer order and the proceeds from that order would enable them to clear the outstanding dues. It is stated that relying upon these representations and the longstanding business relationship, the Plaintiff supplied 3,185 grams of 18-karat gold ornaments on 14.10.2024 against an invoice of Rs. 2,00,52,295/-, followed by a further supply of 1,836 grams of 18-karat gold ornaments on 16.10.2024 against an invoice of Rs. 1,15,64,325/-. It is stated that the Defendants failed to make the promised payments and thereafter, stopped responding to the Plaintiff's calls and messages, compelling Plaintiff to make repeated visits to their Delhi premises for recovery of dues.

c. In March 2025, after several months of avoiding the Plaintiff, the Defendants contacted him and supplied jewellery worth approximately Rs. 1.79 crores, representing the same to be a partial settlement of the outstanding dues. However, shortly thereafter, on 02.04.2025, the Defendants again requested the Plaintiff to supply fine gold on behalf of one Alia Jewellers, representing that the gold would be processed into premium ornaments and the sale proceeds would enable them to clear the remaining dues and return the earlier gold. It is stated that acting upon the said representations, the Plaintiff supplied a TT gold bar weighing 2,109 grams on 03.04.2025 against an invoice of Rs. 1,97,29,917/-, duly signed by Defendant No. 1, Anuj Kohli.

d. To reinforce the assurance of repayment, Defendant No. 1 handed over to the Plaintiff two cheques of Rs. 5,00,000/- each. It is stated that the Plaintiff deposited the cheques on 12.04.2025, but both cheques returned as dishonoured on 14.04.2025. Thereafter, when the Plaintiff approached the Defendants to seek an explanation, the Defendants denied having received the fine gold supplied in January and March

2024. It is averred that the Defendants relied upon manipulated books, bills and transaction records containing altered dates, billing entities and purported credits in an attempt to dispute and evade their liability.

e. On 02.06.2025, the Plaintiff lodged a complaint against the Defendants pursuant to which an FIR No. 131/2025 came to be registered at Police Station Civil Lines, Meerut, Uttar Pradesh, concerning allegations of cheating, criminal breach of trust and forgery. It is stated that despite the criminal proceedings and repeated efforts for recovery, the Defendants failed to discharge their outstanding liabilities.

f. It is stated that after registration of the above FIR, the Defendants began to alienate their assets attempting to defeat the claim of the Plaintiff. For instance, on 25.08.2025, the Defendant No. 3 executed a Sale Deed in respect of his commercial property in favour of a third party. Further, on 26.08.2025, the Plaintiff received a communication from the office of the Sub-Registrar, Central District, Delhi, informing him that the said Sale Deed had been presented for registration. The Plaintiff states that he thereafter received a credible information that the Defendants were attempting to dispose of their other movable and immovable assets, including the shop premises at Karol Bagh, New Delhi and the residential property at Gurugram, in order to frustrate recovery proceedings.

g. Plaintiff has, thereafter, instituted the present commercial Suit seeking recovery of the outstanding amount, return of 1,191 grams of fine gold with interest, compensation and damages, and protective/permanent injunctions against alienation of the Defendants' assets.

5. Summons in the present Suit were issued on 18.02.2026.

6. The present Application under Order VII Rule 10 has been filed on behalf of the Defendants No.1 and 5 for return of the Plaint on the ground that this Court has no territorial jurisdiction, as the invoices raised by the Plaintiff, which is the contract entered into between the parties, clearly mentions that any dispute arising out of the said receipt would be subject to Meerut jurisdiction. It is, therefore, stated that the parties by an agreement had agreed to confer jurisdiction to the courts at Meerut only, from where the goods were sent and, therefore, the present Suit is not maintainable.

7. A reply to the Application has been filed by the Plaintiff, wherein it is stated that the goods were delivered at Delhi and, therefore, this Court will have jurisdiction. It is also stated that Section 20 of CPC confers jurisdiction upon a Court where the defendant resides, carries on business or personally works for gain, as well as where the cause of action wholly or in part arises and, since the goods were delivered at Delhi, this Court will have the jurisdiction to entertain the present Suit.

8. The principal contention of the Plaintiff is that the recital "*SUBJECT TO MEERUT JURISDICTION*" contained in the invoice does not contain the word "only", "alone", "exclusive" or any equivalent word of exclusion. Reliance has been placed on the Judgment of the Apex Court in A.B.C. Laminart (P) Ltd. v. A.P. Agencies, Salem, **(1989) 2 SCC 163,** wherein it was observed that as regards construction of the ouster clause when words like *'alone'*, *'only'*, *'exclusive'* and the like have been used there may be no

difficulty and even without such words in appropriate cases the maxim '*expressio unius est exclusion alterius*' - expression of one is the exclusion of another may be applied. It is contended that the Apex Court has held that what is an appropriate case shall depend on the facts of the case. Reliance has also been placed on the Judgment passed by this Court in Baldev Steel Ltd. v. Empire Dyeing and Manufacturing Co. Ltd., **2001 SCC OnLine Del 477,** wherein it has been held that merely because one of the standard printed terms of the quotation, mentioned, subject to "Bombay Jurisdiction", it cannot exclude the Delhi Jurisdiction as it was not an exclusionary clause.

9. Heard the learned Counsels for the parties and perused the material on record.

10. There is no written contract between the parties. The invoice is the only contract. The invoices clearly stipulate "SUBJECT TO MEERUT JURISDICTION". The short question which arises for consideration in the present Application is as to whether this recital would exclude jurisdiction of this Court or not.

11. Issues have yet not been framed and, therefore, the Suit is at a nascent stage. The objection of jurisdiction has been taken at the first instance. It is well settled that objection of territorial jurisdiction has to be taken at the earliest opportunity. The Apex Court in Harshad Chiman Lal Modi v. DLF Universal Ltd. & Anr., **(2005) 7 SCC 791,** has observed 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 a nullity."*

(emphasis supplied)

12. Since the Defendants No.1 to 5 have raised the objection of territorial jurisdiction at the first opportunity, this Court is inclined to proceed further to adjudicate the present Application.

13. It is well settled that a decree passed by a court acting without jurisdiction is a nullity. It is equally well settled that parties can, by agreement, confine themselves to more than one court, if more than one courts have jurisdiction. The Apex Court in EXL Careers v. Frankfinn Aviation Services (P) Ltd., **2020 (12) SCC 667,** has observed as under:-

*"**12**. It is no more res integra that in a dispute between parties where two or more courts may have jurisdiction, it is always open for them by agreement to confer exclusive jurisdiction by consent on one of the two courts. Clause 16-B of the agreement extracted above leaves us in no doubt that the parties clearly indicated that it was only the court at Delhi which shall have exclusive jurisdiction with regard to any dispute concerning the franchise agreement and no other court would have jurisdiction over the same. In that view of the matter, the presentation of the plaint at Gurgaon was certainly not before a court having jurisdiction in the matter. This Court considering a similar clause restricting jurisdiction by consent in Swastik Gases (P) Ltd. v. Indian Oil Corpn. Ltd.*

[Swastik Gases (P) Ltd. v. Indian Oil Corpn. Ltd., (2013) 9 SCC 32 : (2013) 4 SCC (Civ) 157] , observed as follows: (SCC pp. 47-48, para 32)

> *"32. … It is a fact that whilst providing for jurisdiction clause in the agreement the words like "alone", "only", "exclusive" or "exclusive jurisdiction" have not been used but this, in our view, is not decisive and does not make any material difference. The intention of the parties—by having Clause 18 in the agreement—is clear and unambiguous that the courts at Kolkata shall have jurisdiction which means that the courts at Kolkata alone shall have jurisdiction. It is so because for construction of jurisdiction clause, like Clause 18 in the agreement, the maxim expressio unius est exclusio alterius comes into play as there is nothing to indicate to the contrary. This legal maxim means that expression of one is the exclusion of another. By making a provision that the agreement is subject to the jurisdiction of the courts at Kolkata, the parties have impliedly excluded the jurisdiction of other courts. Where the contract specifies the jurisdiction of the courts at a particular place and such courts have jurisdiction to deal with the matter, we think that an inference may be drawn that parties intended to exclude all other courts. A clause like this is not hit by Section 23 of the Contract Act at all. Such clause is neither forbidden by law nor it is against the public policy. It does not offend Section 28 of the Contract Act in any manner."*

14. Further, the Apex Court in <u>Swastik Gases Private Limited v. Indian Oil Corporation Limited</u>, **2013 (9) SCC 32**, has observed as under:-

*"**32**. For answer to the above question, we have to see the effect of the jurisdiction clause in the agreement which provides that the agreement shall be subject to jurisdiction of the courts at Kolkata. It is a fact that*

whilst providing for jurisdiction clause in the agreement the words like "alone", "only", "exclusive" or "exclusive jurisdiction" have not been used but this, in our view, is not decisive and does not make any material difference. The intention of the parties—by having Clause 18 in the agreement—is clear and unambiguous that the courts at Kolkata shall have jurisdiction which means that the courts at Kolkata alone shall have jurisdiction. It is so because for construction of jurisdiction clause, like Clause 18 in the agreement, the maxim expressio unius est exclusio alterius comes into play as there is nothing to indicate to the contrary. This legal maxim means that expression of one is the exclusion of another. By making a provision that the agreement is subject to the jurisdiction of the courts at Kolkata, the parties have impliedly excluded the jurisdiction of other courts. ***Where the contract specifies the jurisdiction of the courts at a particular place and such courts have jurisdiction to deal with the matter, we think that an inference may be drawn that parties intended to exclude all other courts.*** *A clause like this is not hit by Section 23 of the Contract Act at all. Such clause is neither forbidden by law nor it is against the public policy. It does not offend Section 28 of the Contract Act in any manner."* (emphasis supplied)

15. In the opinion of this Court, the matter stands squarely covered by the aforementioned judgments of the Apex Court.

16. Though the Plaintiff has placed reliance on the Judgment of the Apex Court in A.B.C. Laminart (supra), in the opinion of this Court, the said Judgment actually goes against the Plaintiff. Undoubtedly, in para 21 of the said Judgment, the Apex Court has held as under:

"***21***. *From the foregoing decisions it can be reasonably deduced that where such an ouster clause occurs, it is pertinent to see whether there is ouster of jurisdiction* *of other courts. When the clause is clear, unambiguous and specific accepted notions of contract would bind the parties and unless the absence of ad idem can be shown, the other courts should avoid exercising jurisdiction. As regards construction of the ouster clause when words like "alone", "only", "exclusive" and the like have been used there may be no difficulty. Even without such words in appropriate cases the maxim "expressio unius est exclusio alterius" — expression of one is the exclusion of another — may be applied. What is an appropriate case shall depend on the facts of the case. In such a case mention of one thing may imply exclusion of another. When certain jurisdiction is specified in a contract an intention to exclude all others from its operation may in such cases be inferred. It has therefore to be properly construed."*

17. However, in view of the judgments passed by the Apex Court after A.B.C. Laminart (supra), it is now settled that the words 'only', 'exclusive', etc. are of no consequence. The invoices were raised in Meerut, and stipulate that the disputes will be subject to Meerut jurisdiction. The Defendants accepted the goods with this stipulation and, therefore, in the opinion of this Court, the jurisdiction of this Court stands clearly excluded. Accordingly, the present Application stands allowed.

18. In view of the law laid down by the Apex Court, this Court is not discussing the other judgments passed by the Co-ordinate Benches of this Court, on which reliance has been placed by the Plaintiff, as the law laid down by the Apex Court would bind all the courts.

19. Accordingly, the Plaint is returned under Order VII Rule 10 of the CPC. It is open for the Plaintiff to file the Suit in the court of competent jurisdiction.

20. The Suit stands disposed of, along with pending application(s), if any.

21. It is made clear that this Court has not made any observations on the merits of the case.

SUBRAMONIUM PRASAD, J

AUGUST 31, 2026
Rahul