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

% Judgment delivered on: 12th January, 2022

+ FAO 48/2020

M/S DORO DESIGNS PVT LTD Appellant

versus

M/S RADIUM CREATION LTD Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Avtar Singh, Advocate

For the Respondent : Mr. Rahul Kumar, Advocate

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J.

1. The hearing was conducted through video conferencing.
2. Appellant impugns order dated 30.10.2019 whereby the plaint has been returned under Order 7 Rule 10 CPC, on an application filed by the respondent under Order 7 Rule 11 CPC.
3. The plaint has been returned on the ground of alleged lack of territorial jurisdiction by the trial court. It has been held that the averments in the plaint that discussion and negotiation had taken place

in the Delhi office were bald and vague averments without the same being substantiated by any material. In these circumstances, the plaint has been returned.

4. Learned counsel appearing for the appellant submits that the trial court has erred in not appreciating that apart from the discussion that had taken place in the office at Delhi the arrangement between the parties was that work was undertaken by the appellant at Delhi which clearly showed that part of the cause of action arose in Delhi and the Courts at Delhi would have jurisdiction.

5. He submits that the business transactions between the parties were that the respondent used to send raw material or semi-finished articles to Delhi on which the appellant was supposed to do certain additions and fabrication work after which the finished articles were sent back to the respondent in Mumbai.

6. He submits that since admittedly the articles were received in Delhi for processing and further fabrication and then sent back to Mumbai and the ground for non-payment by the respondent of the invoices of the appellant is that the job work undertaken by the appellant in Delhi was not up to the mark and the goods were rejected by the buyer.

7. He submits that part cause of action accordingly arose in Delhi

and as such the Courts at Delhi would have the territorial jurisdiction in terms of Section 20 of the Code of Civil Procedure.

8. Learned counsel appearing for the respondent admits that the nature of business was such that the articles were sent to Delhi for fabrication and finishing and then shipped to Mumbai. He, however, submits that on merits, the appellant has no case and respondent had suffered substantial loss because of the deficient job work of the appellant.

9. The dispute in the present case with regard to the merits of the claim of the appellant and the defence of the respondent. However, it is not in dispute that articles were sent by respondent to Delhi for fabrication and finishing and they were processed in Delhi and then sent back to Mumbai to the respondent. The dispute is with regard to the quality of the work done by the appellant on the articles at Delhi.

10. Clearly part of the cause of action for filing the subject suit has accrued in Delhi and in view thereof the impugned order dated 30.10.2019 holding that no part of cause of action has arisen in Delhi is erroneous and is not sustainable.

11. In view of the above, the impugned order dated 30.10.2019 is set aside. The matter is remitted to the concerned trial court for adjudication in accordance with law.

12. Parties shall appear before the concerned Court on 21.02.2022. Trial court shall thereafter dispose of the Suit in accordance with law.

13. The appeal is allowed in the above terms.

14. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.

JANUARY 12, 2022
'rs'

SANJEEV SACHDEVA, J

सत्यमेव जयते