



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-2946-2025

Reserved on: 05.08.2025

Pronounced on : 17.09.2025

M/s Krishna Shree Concrete Udyog and others ...Petitioners

V/s

M/s Nohmi Bosai (India) Pvt. Ltd. ...Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Argued by: Mr. Shreenath A. Khemka, Advocate, for the petitioners.

Mr. Ashish Bansal, Advocate, for the respondent.

VIKRAM AGGARWAL, J

The instant revision petition, preferred under Article 227 of the Constitution of India read with Section 115 of the Code of Civil Procedure, 1908 (for short the "CPC"), assails order dated 18.02.2025 (Annexure P-8), passed by the Court of Civil Judge (Sr. Divn.), Gurugram, vide which the application (Annexure P-6) moved by the petitioner-defendant under Order 14 Rule 2(2) read with Order 7 Rule 10 CPC was dismissed.

2. The facts, as emanating from the revision petition, are that the respondent-plaintiff (M/s Nohmi Bosai (India) Pvt. Ltd. instituted a suit against the petitioners-defendants for recovery of Rs.2,38,997/- along with interest @ 24% per annum. The case set up was that the respondent-plaintiff was in the business of manufacturing and supplying of integrated fire protection systems and other fire protection services. Petitioner-defendant No.1 was a proprietorship firm dealing in manufacturing of RCC Hume Pipes and other specialized construction activities. In December 2021, the officials of the defendants approached the plaintiff and expressed their



willingness to work with the plaintiff. After discussion, a purchase order dated 17.12.2021 for supply of RCC Hume Pipes was issued by the plaintiff for its project at Gauriganj, CSM Nagar, Uttar Pradesh.

3. Certain issues arose between both sides as a result of which, the suit was instituted.

4. The suit was opposed by way of written statement (Annexure P-4) wherein, apart from other preliminary objections, it was averred that the Courts at Gurugram did not have the jurisdiction to entertain the suit since defendants were residents of and worked for gain at Allahabad and the contract had to be performed at CSM Nagar, Uttar Pradesh. It was also averred that in the invoice, it had specifically been mentioned that any litigation would be subject to the jurisdiction at Prayagraj.

5. On the basis of pleadings of the parties, issues were framed on 25.09.2024 and while the matter was pending for evidence of the plaintiff, an application (Annexure P-6) was moved by the petitioners-defendants under Order 14 Rule 2(2) read with Order 7 Rule 10 CPC making the following prayer:-

“(a) Determine/adjudicate on the issue No.3 re jurisdiction which have been framed on 25.09.2024 as per Order 14 Rule 2(2) of the CPC;

(b) Return the plaint to be filed in the correct forum as per the provisions of Order 7 Rule 10 of the CPC.

(c) Any other direction which this Hon’ble Court deems appropriate and suitable may also very kindly be passed in favour of the defendants and against the plaintiff, in the facts and circumstances of the present case.”

6. The aforesaid application was opposed by way of reply (Annexure P-7) wherein, the assertions made in the application were controverted and it was averred that in terms of the provisions of Section



20(c) CPC, the suit had rightly been instituted at Gurugram. It was also averred that the cause of action had arisen within the jurisdiction of Gurugram Court as the purchase order had been given from Gurugram, a sum of Rs.2,99,531/- had been transferred in the defendant's account from Gurugram and legal notice etc., were also issued from Gurugram.

7. By way of the impugned order, the application was dismissed leading to filing of the instant revision petition.

8. Learned counsel for the parties were heard.

9. It was strenuously urged by learned counsel representing the petitioners-defendants that the impugned order is not sustainable. Learned counsel referred to the purchase order (Annexure P-1), invoice (Annexure P-2) and other documents on record and contended that no cause of action had arisen at Gurugram. It was submitted that the defendants resided and worked for gain in Allahabad and the materials were to be supplied at CSM Nagar, Uttar Pradesh, which was clear from the purchase order (Annexure P-1). Learned counsel also submitted that the tax invoice (Annexure P-2) also clearly mentioned that it was subject to Prayagraj jurisdiction. Learned counsel submitted that no part of cause of action had arisen at Gurugram as even the account of the defendants was in Allahabad, wherein the amount transferred by the plaintiff, had been received. As regards the contract having been executed, it was submitted that no contract in writing was executed and a communication of a proposal is complete only when it comes to the knowledge of the person to whom it is made. In support of his contentions, learned counsel placed reliance upon the judgments in ***Shridhar Vyapaar Private Limited vs. Gammon India Limited (CS-31-2016, GA-44-2018, decided on 09.08.2018 by the Calcutta High Court)*** and ***Faith***



Constructions vs. N.W.G.E.L Church (ARB.P.1318/2024, decided on 20.03.2025 by the Delhi High Court).

10. *Per contra*, it was submitted by learned counsel representing the respondent-plaintiff that there is no illegality in the impugned order and that the printed tax invoice, mentioning the jurisdiction of Prayagraj, is not legal and cannot be relied upon. It was further submitted that since the contract had been executed at Gurugram, the amount had been transferred from Gurugram and the legal notice had also been issued from Gurugram, the Court at Gurugram only had the jurisdiction. It was stated that this issue of territorial jurisdiction cannot be treated as a preliminary issue and that it would be decided when the suit is decided. In support of his contentions, he placed reliance upon the judgments in *M/s Mahesh Edible Oil Industries Ltd. vs. Ranjit Kr. Modak & others, 2012 (11) All India Cases 0339*, *Aglowmed Ltd. vs. Shell Life Sciences Pvt. Ltd, 2013(3) Civil Court Cases 0237* and *BCI Optical Disc. Ltd. vs. M/s Spinks India, 2018(1) Civil Court Cases 0382*.

11. I have considered the submissions made by learned counsel for the parties.

12. Order 7 Rule 10 CPC deals with return of plaint and lays down as under:

“10. Return of plaint.—(1) Subject to the provisions of rule 10A, the plaint shall at any stage of the suit be returned to be presented to the Court in which the suit should have been instituted.

Explanation.— For the removal of doubts, it is hereby declared that a Court of appeal or revision may direct after setting aside the decree passed in a suit, the return of the plaint under this sub-rule.”

13. Order 14 Rule 2 CPC lays down that a Court is to pronounce judgment on all issues. Order 14 Rule 2(2) CPC lays down as under:-

“2. Court to pronounce judgment on all issues—



(1) xxx xxx xxx

(2) Where issues both of law and of fact arise in the same suit, and the Court is of opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if the issue relates to—

(a) the jurisdiction of the Court, or

(b) a bar to the suit created by any law for the time being in force, and for that purpose may, if it thinks fit, postpone the settlement of the other issues until after that issue has been determined, and may deal with the suit in accordance with the decision on that issue.”

14. A perusal of the provisions of Order 7 Rule 10 CPC shows that a plaint can be returned at any stage of the suit for presentation to the Court in which such a suit should have been instituted. It is well settled that even after a decree having been passed, a plaint can be returned if the Court in which it had been instituted, is not the proper Court and it should have been instituted in some other Court.

15. In the considered opinion of this Court, there was no requirement for the defendants to move an application under Order 14 Rule 2(2) CPC and the application could very well have been moved under Order 7 Rule 10 CPC only. In any case, the non-mention of a provision or the wrong mentioning thereof, does not make any difference. The application, for all intents and purposes, was an application under Order 7 Rule 10 CPC.

16. Before proceeding further, it would be appropriate to notice the provisions of Section 20 CPC as well, which read as under:-

“20. Other suits to be instituted where defendants reside or cause of action arises.—Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction—

(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or



(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally works for gain, as aforesaid, acquiesce in such institution; or

(c) The cause of action, wholly or in part, arises.

Explanation.—A corporation shall be deemed to carry on business at its sole or principal office in [India] or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.”

17. Reverting to the facts of the case, there is no written contract, which was executed between the parties. There is only a purchase order which mentions that the respondent-plaintiff is based in Gurugram, the petitioners-defendants are based in Allahabad, the material was to be supplied at Gauriganj, CSM Nagar, Uttar Pradesh and the invoices were issued to the respondent-plaintiff at its Gurugram address.

18. Admittedly, a dispute arose between the parties as regards supply of materials and making of payments etc. The amount paid by the respondent-plaintiff from Gurugram was deposited in the account of the petitioners-defendants in Allahabad. Communications were through e-mail. Under the circumstances, it emerges that practically nothing had been done at Gurugram, except for the fact that the respondent-plaintiff was based at Gurugram. Here, the provisions of Section 20 CPC would be attracted. The suit could have been instituted within the jurisdiction of Allahabad, where the defendants reside and work for gain or at CSM Nagar, where the material was supplied or where the payments were received, which was again Allahabad. Clearly, no cause of action arose at Gurugram.

19. Still further, the tax invoice clearly mentioned that the jurisdiction would be at Prayagraj. Even if that is not considered because it



was a unilateral act on the part of the defendants and there is nothing on record to show that it had been consented to by the plaintiff, though, as per the settled law, parties could have mutually agreed upon one place out of several places having jurisdiction, as already observed, it emerges that no cause of action arose at Gurugram. Under the circumstances, the trial Court erred in rejecting the application.

20. I have gone through the judgments relied upon by both sides. Since the matter is being decided on first principles, I do not feel the need to refer to the judgments relied upon by both sides.

21. That being so, the instant revision petition is allowed. The impugned order dated 18.02.2025 (Annexure P-8), passed by the Court of Civil Judge (Sr. Divn.), Gurugram is set aside and the application (Annexure P-6) moved by the petitioners-defendants under Order 14 Rule 2(2) read with Order 7 Rule 10 CPC is allowed. The trial Court is directed to return the plaint and fix a date for appearance before the appropriate Court in terms of the provisions of Order 7 Rules 10 and 10A CPC.

(VIKRAM AGGARWAL)
JUDGE

Pronounced on 17.09.2025

vchgarg

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No