



2025:DHC:2971



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

Date of decision: 22.04.2025

+ CS(OS) 362/2018 & I.A. 12133/2023 I.A. 14543/2023 I.A. 8187/2025
I.A. 8227/2025 I.A. 10047/2025 O.A. 63/2023

VIJAY KUMAR OJHA

....Plaintiff

Through: Mr. Abhimanyu Sharma, Advocate
(through VC) with plaintiff in person

versus

SAMSUNG INDIA ELECTRONICS PVT. LTD.Defendant

Through: Mr. Darpan Wadhwa, Sr. Adv., Mr.
Aditya Nayyar, Mr. Tarang Agarwal,
Ms. Aastha Bansal, Advocates

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

IA 10047/2025 (Application under Order VII Rule 10 by defendant)

1. The present application has been filed by the Defendant under Order VII Rule 10 read with Section 151 of the Code of Civil Procedure, 1908 ('CPC') seeking return of the plaint on the ground that this Court lacks territorial jurisdiction to adjudicate the present plaint.

2. The present suit has been instituted by the Plaintiff seeking a declaration that his termination by the Defendant Company is illegal and bad in law, inter-alia the Plaintiff seeks a decree for damages to the tune of Rs.



5,00,00,000/- (Five Crores) on account of loss of reputation, pecuniary loss, and consequential damages arising out of the alleged wrongful termination.

2.1. As per the plaint the Plaintiff joined the Defendant Company on 01.10.2003 as an Engineer (Service Dept.) under probation and was confirmed vide letter dated 31.03.2004. Thereafter, he worked with Defendant Company for over 13 years with multiple promotions.

2.2. Further it is stated that a forensic audit initiated by the Defendant Company on 10.12.2015 led to harassment and undue pressure on the Plaintiff, culminating in his termination on 09.06.2017, purportedly under Clause '7' of the appointment letter dated 01.10.2003. The Plaintiff contends that no allegations were communicated in the termination letter, and the termination was stigmatic in nature.

Brief Facts

3. It is stated in the captioned application that the sole basis for invoking the jurisdiction of this Court, as set out in paragraph '41' of the plaint by the Plaintiff, is that the registered office of the Defendant Company is situated in Delhi.

3.1. It is stated that the Plaintiff has not pleaded that any part of the cause of action has arisen within the territorial jurisdiction of this Court.

3.2. It is further stated that the entire cause of action, including the issuance of the termination letter dated 09.06.2017, final settlement and character certificate dated 26.09.2017, and all acts related to the Plaintiff's employment, took place at Noida, Uttar Pradesh.

3.3. It is stated that as per the Explanation to Section 20 of the CPC, when a corporation has a subordinate office in a place where the cause of action arises, the suit must be instituted at such place and not at the location of the



registered/principal office.

3.4. It is stated that the above-mentioned principle has been reaffirmed by Coordinate Bench of this Court in **Piccadily Agro Industries Ltd. v. Ashok Narwal¹**, and **Jain Irrigation Systems Ltd. v. Pragyawan Technologies Pvt. Ltd.²**

Submissions on behalf of the parties

4. The Plaintiff is present in person and submits that he was working in the Delhi office of the Defendant company from 2003 to 2010 and thereafter he was working in the Gurgaon office of the Defendant Company.

4.1. He states that the documents placed on record in the underlying suit records that the Plaintiff herein was a Head Office employee of the Defendant Company.

4.2. He further states that during his employment with the Defendant Company from 2003 till 2010 the Head Office was in Delhi at Nehru Place and at the time of his termination from the Defendant Company i.e., on 09.06.2017 he worked out of the Gurgaon Office.

5. In reply, learned senior counsel for the Defendant Company states that he is presently unable to assist this Court with respect to the fact as to whether the Head Office of the Defendant Company was in Delhi at the contemporaneous time due to lack of instructions in that regard. He states that the legal officer present in Court is unable to clarify the position as to whether between 2003 to 2010 the Head Office was at Delhi.

5.1. In the alternative, he places reliance on the recent decision of the Supreme Court in **Manishi Saxena Bansal v. EXL Services.Com (India)**

¹ 2016 SCC OnLine Del 1542

² MANU/DE/6461/2024



Pvt. Ltd.³, wherein the Court returned the plaint under similar circumstances holding that the presence of a registered office in Delhi, without any part of the cause of action arising therein, does not confer territorial jurisdiction to the concerned Court.

5.2. He also refers to the judgment of the Supreme Court in **Patel Roadways Ltd. v. Prasad Trading Co.**⁴, wherein it was held that where a subordinate office exists at the place where cause of action has arisen, suit must be filed at that location.

5.3. He states that he is conscious that no issue qua lack of territorial jurisdiction has been framed in these proceedings on 16.07.2019 and no objection has been raised in the written statement either while responding to paragraph 41 of the plaint. He states, however, even as per Section 21(1) CPC the objection qua place of suing can be raised even after issues are settled. He states that the said Section has no application to suits and is only attracted to appellate and revisional proceedings. He refers to the judgment of a coordinate Bench in **Ansal Housing & Construction Ltd. v AJB Developers (P) Ltd.**⁵ and Judgment of the **Bank of India v. U.A.N Raju & Anr.**⁶.

Findings and Analysis

6. This Court has considered the submission of the parties and perused the record.

7. The captioned application has been filed by the Defendant Company on 19.04.2025 raising the plea of lack of territorial jurisdiction as per

³ MANU/DE/7399/2024

⁴ (1991) 4 SCC 270,

⁵ 2012 SCC OnLine 3148 (Para 38)

⁶ 2003 SCC OnLine AP 1071 (Para 10)



Section 20 of the CPC.

8. The summons in the underlying suit were issued on 27.07.2018. Further this Court vide order dated 16.07.2019 framed the issues in the underlying suit, which was done in presence of the Counsel for the Defendant Company. Admittedly the issue of lack of territorial jurisdiction was not raised and/or pressed by the Defendant Company at the time of framing of issues.

9. So also, in its written statement, the Defendant Company did not raise any objection to the territorial jurisdiction of this Court and while responding to paragraph 41 of the plaint, stated that the said paragraph requires no reply. Paragraph 41 of the plaint and the defendant's para-wise reply in its written statement reads as under:

“41. That this Hon'ble Court has territorial Jurisdiction to try and decide the present suit as the registered office of the defendant company is situated within territorial jurisdiction of this Hon'ble Court and value of the suit is Rs. 5 crores.”

“43-45. (Wrongly numbered as para 41 - 43) That the contents of paras 43 - 45 of the Plaint needs no reply being legal submission.”

10. The law pertaining to the institution of suit within the jurisdiction of the Court where a cause of action has arisen in case the company has the subordinate office in the said jurisdiction, is well settled. Thus, the judgments relied upon by the defendant in support of the said proposition are correct however, that is not the issue arising in this matter. First, on facts it appears that part of cause of action did arise in Delhi. Second, the defendant having elected not to object to the jurisdiction of Delhi in its written statement and at the stage of framing of issues is precluded from raising the said objection as per the statutory mandate of Section 21 CPC.



11. In light of the facts above this Court is of the opinion that the said plea of lack of territorial jurisdiction, which was not raised in the written statement and even at the stage of framing of issues is barred under Section 21(1) CPC.

11.1. In this regard, it would be appropriate to refer the Judgment of the Supreme Court in the case of **Harshad Chiman Lal Modi v. D.L.F Universal Ltd. and Anr.**⁷, wherein the Supreme Court reiterating the aforesaid settled the position of law with regards to the Section 21 of CPC held 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. Similarly, it would be relevant to refer to the judgment passed by the Coordinate Bench of this Court in **Shri Shyam Sunder Kalra vs. Shri Ravinder Kumar Jain & Anr.**⁸, whereby, in para 10 it was held that as under:

“10. Also, it is settled law in terms of Section 21 of CPC that all

⁷ (2005) 7 SCC 791

⁸ 2012 SCC Online Del 5464



objections as to territorial jurisdiction or pecuniary jurisdiction, have to be taken in a suit before framing of issues, and if not taken, such objections are waived i.e. issues of pecuniary and territorial jurisdiction do not go to the root of the matter unlike the issue of lack of inherent jurisdiction or the lack of subject matter jurisdiction, when a decree cannot be passed by the Court lacking the subject matter/inherent jurisdiction.”

(‘Emphasis Supplied’)

13. The reliance placed by the defendants on the judgment of the Division Bench of Andhra Pradesh in **Bank of India v. U.A.N. Raju** (supra) is misconceived. In the said case as set out in paragraph 1 of the judgment, the defendant therein had raised the objection of territorial jurisdiction in the written statement and an issue had also been framed thereon. The subject matter of the said judgment was as to whether the said issue of jurisdiction could be treated as a preliminary issue. This judgment does not advance the proposition of the defendants that Section 21(1) CPC is inapplicable to suits.

14. Similarly, the reliance place on the judgment of **Ansal Housing v. A.J.B Developers** (supra) by defendants is also misconceived. In the said judgment as well the coordinate Bench observed at paragraph 39 that since issues had not been settled, the defendant was entitled to raise the objection of jurisdiction and therefore the Court held that Section 21 CPC was not attracted in the facts of the case. This judgment does not advance the proposition of the defendants that Section 21(1) CPC is inapplicable to suits.

15. Section 21(1) CPC reads as under:

“21. Objections to jurisdiction. —(1) No objection as to the place of suing shall be allowed by any Appellate or Revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, and unless there has been a consequent failure of justice.”



16. The said section unequivocal contemplates that the objection as to the place of suing (lack of territorial jurisdiction) has to be raised at the earliest and at or before settlement of issues. The exception carved out is that unless there has been a consequent failure of justice. In the facts of the case, the defendant does not plea any consequent failure of justice and therefore does not seek to invoke the exception stipulated in Section 21(1) CPC. The defendant has its registered office in Delhi and therefore no inconvenience is being caused to the defendant in defending these proceedings and therefore it has rightly not pleaded any failure of justice. The juristic principle underlying Section 21(1) CPC is that, the objections qua territorial jurisdiction can be waived by the parties and even a court which has no competence to try a suit can do so if such an objection has been waived by the party. This has been explained by the Division Bench in the judgment relied upon by the defendant itself in **Bank of India v. U.A.N. Raju** (supra) at paragraph 12 therein, which reads as under:

“12. Order VII, Rule of the Code of Civil Procedure empowers and enables a Court to return the plaint “at any stage of the suit” to be presented to the Court in which the suit ought to have been instituted. The words “at any stage of the suit” would mean even after the trial has begun and concluded but before the Judgment is delivered. Thus, while answering the question of law referred that neither consent nor waiver can cure the defect of inherent lack of jurisdiction and consent of parties cannot operate to confer jurisdiction on a Court which has no competence to try it, whereas territorial jurisdiction can always be assumed by the Court when such an objection is waived by the party on the principles as laid down in Section 21 of the Code of Civil Procedure. Independently of Section 21 of Code of Civil Procedure defendant may also waive the objection as regards defect in territorial jurisdiction and will be subsequently precluded from taking the objection.”

17. In the facts of this case the applicant/defendant has pleaded at



paragraph 6 as under to maintain this application:

“6. Further it is also not the case of the Plaintiff that any part of cause of action wholly or even in part has arisen within the territorial jurisdiction of this Hon’ble Court. Therefore, and in the circumstances this Hon’ble Court would not have the territorial jurisdiction to entertain the present Suit in view of the Explanation to Section 20, given the following:

a. The Defendant has a subordinate office in NOIDA, where the Plaintiff was employed all throughout his tenure with the Defendant Company.

b. The termination letter dated 09.06.2017 (at page no. 64 of the documents filed by the Plaintiff) was issued from Noida office and the Plaintiff was last working as senior manager at the NOIDA office of the Defendant Company.

c. Full and Final Settlement was issued from the Noida office. As per the Full and Final Settlement and the Character Certificate dated 26.09.2017, the Plaintiff from 01.10.2003 to 29.06.2017 worked at the NOIDA office of the Defendant Company. The relevant excerpt of the excerpt Certificate reads as under:

“This is to certify that Mr. Vijay Kumar Ojha (03672580) has worked with us from October 01, 2003 to June 09, 2017 as Senior Manager (Customer Satisfaction) at our Noida Office.

We wish you success in all your future endeavours.”

d. In the entire Complaint, there is no whisper of any part of cause of action having arisen in Delhi. In fact, there is no averment made in the Complaint that the Plaintiff was employed or posted at the Defendant’s registered office address at Delhi or his services were terminated at Delhi.

Therefore, it is an admitted fact (which is borne out from the Complaint) that no part of cause of action has arisen within the territorial jurisdiction of this Hon’ble Court.”

18. The assertion at paragraph 6(a) is ex-facie incorrect. The plaintiff has submitted that he worked at the Head Office of the defendant during his employment and for the period 2003-2010 the Head Office was in Delhi. He has drawn this Court’s attention to the documents filed with the complaint, which shows that he was appointed to work at the Head Office. The letters



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dated 01.10.2003, 15.04.2006, 24.04.2006, 23.04.2007, 23.04.2008, 14.04.2009 on record show that defendant had its Head Office at Delhi. Upon perusing the said documents, learned senior counsel for the defendant fairly stated that the said documents do indicate that defendant had a Head Office at Delhi. These documents further belie the assertions made in the application and show that defendant has no basis for filing this application.

19. The intent of the defendant in moving this application six years after the issues were framed is only intended at delaying the trial.

20. Accordingly, the application under Order VII Rule 10 CPC is found to be devoid of merit and is hereby dismissed with cost of Rs. 1,00,000/- payable to DHCLSC.

CS(OS) 362/2018

21. In the facts of this case, the plaintiff is directed to attend the proceedings through video conferencing link and not to remain personally present in this Court.

22. List before Court on 10.09.2025.

23. Interim order dated 07.08.2023 to continue.

MANMEET PRITAM SINGH ARORA, J

APRIL 22, 2025/mt/akp

Click here to check corrigendum, if any