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

% **Date of Decision: 16<sup>th</sup> May, 2025**

+ CM(M) 1433/2023 & CM APPL. 45725/2023

GOURAV SAMSUKHA

.....Petitioner

Through: Mr. Nikhil Malhotra and Ms. Poorna,  
Advocates.

versus

M/S RAJ PLASTIC

.....Respondent

Through: Mr. Ankit Tandan and Mr. Ram Kr.  
Soni, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ JAIN**

**J U D G M E N T (oral)**

1. Defendant has taken exception to order dated 24.08.2023 whereby his application moved under Order VII Rule 10 CPC has been dismissed.
2. Mr. Nikhil Malhotra, learned counsel for petitioner/defendant submits that the purchase order, in no uncertain terms, specifies that the *disputes, if any, would be subject to Tirupur jurisdiction only* and the plaintiff has filed the suit, merely, on the basis that his office is situated in Delhi.
3. According to him, no cause of action has taken place in Delhi.
4. This Court has seen impugned order dated 24.08.2023. It seems that the application has been disposed of, merely, for the reason that the issue of jurisdiction has already been framed by the Court and, that, therefore, such aspect would be considered, after completion of recording of evidence of the parties.
5. Any such application moved under Order VII Rule 10 CPC, which goes



to the very jurisdiction of the Court, needs to be decided at the first available opportunity.

6. Even if the case was at the stage of evidence, since the jurisdictional aspect needed to be answered, primarily, on the basis of the legal position and the abovesaid clause in the backdrop of the averments made in the pleadings, there was, truly speaking, no requirement of postponing the decision of the application.

7. The learned Trial Court has not given any finding, either way with respect to the jurisdictional aspect and has, merely, disposed of the application by holding that the issue of jurisdiction would be decided after completion of the evidence.

8. Apparently, in the case in hand, the issue of jurisdiction being pure question of law and interpretation, is not dependent upon the recording of the evidence.

9. Learned counsel for the parties have also no objection if the learned Trial Court is requested to take up and consider the abovesaid application afresh.

10. In view of the above, without prejudice to the rights and contentions of either of the parties and without making any observation with respect to the jurisdictional aspect, the present petition is disposed of with request to learned Trial Court to consider the abovesaid application moved under Order VII Rule 10 CPC afresh and to dispose that of in accordance with law, after giving due opportunity of hearing to both the sides.

11. The matter is, reportedly, fixed before the learned Trial Court on 26<sup>th</sup> instant. The learned Trial Court, depending upon its Board position, would be at liberty to either hear the arguments same day or would, after ascertaining



the availability of the counsel of the parties, fix up another date for said purpose.

12. The petition stands disposed of in aforesaid terms.

13. Needless to emphasis, this Court has not given any observation with respect to the aspect of jurisdiction and, therefore, the present order would not prejudice the mind of the learned Trial Court.

**(MANOJ JAIN)**  
**JUDGE**

**MAY 16, 2025/ss/SS**