



2025:DHC:5010



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

% Judgement delivered on: 25.06.2025

+ **FAO 93/2025 and CM APPL. 75246/2024**

R.K. JAIN

.....Appellant

Versus

SURAJ SUNAR & ORS.

.....Respondents

Advocates who appeared in this case

For the Appellant : Appellant in person.

For the Respondents : None.

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

INTRODUCTION:

1. The present appeal has been filed by the Appellant challenging the orders dated 30.04.2022, 14.02.2024 and 10.05.2024, passed by the learned District Judge-04, Shahdara District, Karkardooma Courts, Delhi ('**Trial Court**') in CS No. 201/21 titled '*R.K. Jain v. Suraj Sunar and Ors.*' ('**Suit**')

2. The learned Trial Court, *vide* order dated 10.05.2024, returned the plaint of the Appellant for lack of territorial jurisdiction to try the Suit



2025:DHC:5010



(‘**Impugned Order**’). The Appellant has also challenged the orders dated 30.04.2022 and 14.02.24, whereby the application of the Respondents to enter appearance was allowed (‘**Appearance Orders**’).

FACTUAL BACKGROUND:

3. The Appellant states that he lent ₹8,00,000/- to the Respondents at the rate of 2% interest per month, along with 2% penal interest on the outstanding amount, for the purpose of purchasing an immovable property. A promissory note dated 01.02.2016 was executed between the parties to this effect, with the last date of repayment of the loan amount along with interest, being 31.01.2018.

4. The promissory note was admittedly signed and executed in Jind, Haryana and accordingly, the Appellant initially filed a suit before the learned District Court in Jind, Haryana. However, the said suit was dismissed as withdrawn.

5. The Appellant then, on 04.03.2021, filed the Suit before the learned Trial Court seeking recovery of ₹23,45,300/- along with the applicable interest.

6. *Vide* the Appearance Orders, the learned Trial Court allowed the Respondents to enter their appearance, allegedly beyond the prescribed period of limitation.

7. Thereafter, upon affording an opportunity to the Appellant to address arguments on the point of territorial jurisdiction, the learned Trial Court proceeded to dismiss the Suit instituted by the Appellant on the ground of lack of territorial jurisdiction.

8. The learned Trial Court returned the plaint with the finding that the Appellant’s contention that the permission granted to file court fees and



2025:DHC:5010



original/ certified copies of documents pursuant to an application under section 151 of the Civil Procedure Code, 1908 ('CPC') amounted to an acknowledgement of jurisdiction was unsustainable, and further observing that the jurisdiction of a Civil Court must be determined in accordance with the provisions of Section 16 to Section 20 of the CPC.

SUBMISSIONS OF THE APPELLANT:

9. The Appellant, appearing in-person, submitted that the Respondents had entered appearance beyond the period of limitation as laid down under Order XXXVII of the CPC, and therefore, the Application filed by the Respondents to enter appearance ought not to have been allowed by the learned Trial Court.

10. It was further submitted that the Respondents committed perjury in the Affidavit dated 09.02.2022, wherein they claimed to have received the summons on 31.01.2022, whereas the postal tracking reports indicated that the summons were delivered on 20.01.2022.

11. With respect to the issue of territorial jurisdiction, the Appellant submitted that he is a resident of New Delhi, and accordingly, the Courts in New Delhi shall have the jurisdiction to try the Suit. It was further submitted that the plaint was returned after a period of three years from the date of filing of the Suit, however, the issue of territorial jurisdiction ought to have been decided at the first instance.

12. In support of his contention, the Appellant relied upon the decision in the case of *Shoreline Infrastructure Developers Ltd. v. State*, 2012 SCC OnLine Del 1063 and *Harshad Chiman Lal Modi v. DLF Universal Ltd.*, (2005) 7 SCC 791, to submit that the objection regarding the lack of



2025:DHC:5010



territorial jurisdiction shall be raised at the first instance and such objection cannot be taken at a subsequent stage.

13. The Appellant relied upon the decision in *Copenhagen Hospitality and Retails v. A.R. Impex*, 2021 SCC OnLine Del 3899, to submit that the averments and documents relied upon in the plaint shall be considered for determining the territorial jurisdiction of the Court. It was submitted that, in the present case, the record indicates that the Appellant is a resident of Dilshad Garden, New Delhi and, therefore, the learned Trial Court had the territorial jurisdiction to adjudicate the Suit.

14. The Appellant submitted that the fact that he was temporarily residing at his mother's residence in Jind, Haryana and that the promissory note contained his Delhi address would confer jurisdiction over the Court in Delhi.

15. The Appellant relies on *Atul Anand v. Nanak Food Industries*, 2006 SCC OnLine Del 851, to submit that as he was residing at a temporary address, his permanent address shall be construed as the one in which repayment of loan would be assumed and, accordingly, the learned Trial Court had jurisdiction to try the Suit, as part of cause of action arose in its jurisdiction.

16. The Appellant submitted that he is a *bona fide* litigant and, in good faith, believed that the cause of action arose in Delhi. Accordingly, he filed the Suit before the learned Trial Court in Delhi and contended that Suit ought not to be dismissed on the ground of lack of jurisdiction. The appellant relied on *ONGC v. Utpal Kumar Basu*, (1994) 4 SCC 711, to submit that *bona fide* litigants should not be harassed over jurisdiction issues.



2025:DHC:5010



17. The Appellant further submitted that a plaintiff has the right of choice of Court when the jurisdiction to try the suit lies before more than one Court. The Appellant relied upon *Kusum Ingots & Alloys Ltd. v. Union of India*, (2004) 6 SCC 254 to assert his right to file the suit in Delhi rather than in Jind, Haryana.

ANALYSIS AND REASONING:

18. Heard the Appellant appearing in-person and perused the material placed on record.

19. The first issue raised by the Appellant is whether the learned Trial Court erred in allowing the applications filed by the Respondents to enter appearance.

20. The Suit was filed by the Appellant on 04.03.2021, and summons were served on the Respondents- according to the Appellant on 20.01.2022 and according to the Respondents on 31.01.2022 by granting 10 days to appear before the learned Trial Court.

21. During this timeframe, the directions of the Supreme Court for excluding the limitation in the wake of the pandemic were still in place. The Supreme Court in *In Re: Cognizance for Extension of Limitation* (2022) 3 SCC 117 had directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings. These directions were issued considering the spread of the new variant of the COVID-19 and the drastic surge in the number of COVID cases across the country.



2025:DHC:5010



22. It is apparent from the records that the summons were served during the timeframe excluded by the Supreme Court. In compliance with the said directions, the learned Trial Court was right in allowing the Respondents to enter appearance. Hence, there was no infirmity with the Appearance Orders.

23. With respect to the Impugned Order, the Appellant has contended that the learned Trial Court had the jurisdiction to adjudicate the Suit as the Appellant is a resident of New Delhi. However, it is an admitted fact that the Respondents reside in Jind, Haryana and the promissory note was also executed in Jind, Haryana.

24. As per Sections 16 to 21 of the CPC the territorial jurisdiction of the Court is determined for the purpose of filing of suits. Sections 16, 17 and 18 of CPC deal with the cases relating to immovable properties. Section 19 of CPC deals with compensation for wrongs to persons or movables.

25. Since the Suit relates to recovery of money, Section 20 of CPC would be applicable, which reads as under:

“Section 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



2025:DHC:5010



business, or personally work for gain, as aforesaid, acquiesce in such institution; or

c) the cause of action, wholly or in part, arises."

26. The predominant factors under this provision are - the place of residence, or activity of the defendant, and the place where the cause of action in its entirety, or a part, has arisen. Admittedly, the Respondents are residents of Jind, Haryana and does not reside within the territorial jurisdiction of the learned Trial Court. The basis for the Appellant to institute the Suit before the learned Trial Court was that the Appellant had a permanent residence in Delhi and also works for gain at Delhi.

27. The Appellant has wrongly interpreted Section 20 of the CPC and sought the jurisdiction of the learned Trial Court on the ground that he is a resident of Delhi. The CPC does not confer the jurisdiction on a Court based on the place of residence of the plaintiff. It is trite law that the territorial jurisdiction as per Section 20 of the CPC lies with the Court where the defendant either resides or works for gain or where the cause of action arises. None of the conditions are satisfied in the present case.

28. The mere fact that the promissory note mentions the address of the Appellant in Delhi would not confer jurisdiction upon the Courts in Delhi. The Appellant's assertion that it was implicit that the part payment would have to be made in Delhi is unsubstantiated and not evident from the evidence on record. Since the promissory note was executed in Jind, Haryana, it cannot be assumed that the Respondents would have to return the amount in Delhi. It is also clear that the promissory note does not mention that the money shall be returned in Delhi. The cause of action arose at the place where the promissory note was signed and executed. Therefore,



2025:DHC:5010



Appellant's place of residence is immaterial in determining the territorial jurisdiction of the Court concerned.

29. The Appellant contends that any objection to the territorial jurisdiction of the Court was to be raised at the first instance or at the earliest opportunity. Although the Impugned Order was passed after two years of filing of the Suit, the same was passed at the earliest opportunity.

30. The reliance on *Copenhagen Hospitality* (supra), is also misplaced in the present factual matrix. While it is well-established that the issue of jurisdiction is to be determined based on the averments and documents filed in the suit, there is no evidence on record that satisfied that the learned Trial Court had the territorial jurisdiction to entertain and decide the Suit. Admittedly, the promissory note was executed in Jind, Haryana, and there is no averment or evidence produced by the Appellant to show that the part of cause of action arose in Delhi.

31. Even though the Appellant has the right to choose his choice of Court when the jurisdiction lies before more than one Court, in the present case, there is a lack of inherent jurisdiction with the learned Trial Court. As there was no cause of action within the territorial jurisdiction of the learned Trial Court, merely because the Appellant resides within the jurisdiction of the learned Trial Court, it would not confer the jurisdiction to the learned Trial Court if the Respondents do not reside, work for gain or if no part of the cause of action arose within the jurisdiction of the learned Trial Court.

32. Therefore, there is no merit in the present Appeal as there is no infirmity with the Impugned Order. Accordingly, this Appeal is dismissed. All pending Application(s) stand disposed of. It is, however, clarified that if the Appellant chooses to file the suit before an appropriate court having



2025:DHC:5010



jurisdiction to decide the suit, the time spent before this Court in this Appeal shall be excluded from computation of period of limitation.

JUNE 25, 2025

NS

TEJAS KARIA, J

Click here to check corrigendum, if any