



IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE AVANINDRA KUMAR SINGH

ON THE 2nd OF MAY, 2025

CIVIL REVISION No. 903 of 2024

RISHAB TRADING COMPANY

Versus

AA YISHA TEXTILES

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Appearance:

Shri M.K. Tripathi - Advocate for the applicant.

Shri Y.M. Tiwari - Advocate for respondent.
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JUDGMENT

This civil revision has been filed against the order dated 12.9.2024 passed by learned IInd Civil Judge, Senior Division, Burhanpur, district Burhanpur, M.P. in RCS-B No.48 of 2020, whereby application of the applicant filed by the applicant under Order 7, Rule 11 of CPC was dismissed by the trial court holding that the jurisdiction lies with his court, i.e. original civil court.

2. This revision was heard and reserved for order on 24.2.2025.

3. Perused the civil revision. Looking to the application under Order 7, Rule 11 of CPC, it is seen that dispute is regarding payment of Rs.5,05,000/-. Both the parties seem to be commercial entity. Cheque has been given for buying cotton yarn. The rate of interest is @ 2% p.a. normally applicable in commercial transaction.

4. It is seen that by way of reply, the plaintiff stated that he had filed civil suit before the Commercial Court but that was returned, vide order of the District Judge.

5. Learned Court in last paragraph recorded this fact that although as per plaintiff's submission suit was filed under the commercial jurisdiction



but on perusal of the record, it is seen that the suit was filed in the Court of IIIrd Civil Judge, Class – I and then even after giving a finding that suit was not filed under the commercial jurisdiction, learned trial court proceeded to record that since it has been filed before his court, therefore, he has jurisdiction. But this reasoning is not justified. Prima facie, this court is of the view that the matter relates to commercial transaction under the definition of commercial dispute under Commercial Courts Act, 2015, which is reproduced below:-

"2. Definitions.- (1) In this Act, unless the context otherwise requires,-

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(b) "Commercial court" means the Commercial Court constituted under sub-section (1) of Section 3;

(c) "commercial dispute" means a dispute arising out of-

(i) ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;

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(ii) export or import of merchandise or services;

(vii) agreements relating to immoveable property used exclusively in trade or commerce;

Explanation.-A commercial dispute shall not cease to be a commercial dispute merely because-

(a) It also involves action for recovery of immoveable property or for realisation of monies out of immoveable property given as security or involves any other relief pertaining to immoveable property;

(b) One of the contracting parties is the State or any of its agencies or instrumentalities, or a private body carrying out public functions;"

6. In view of the definition, it is clear that ordinary transactions of merchants traders, financiers relating to mercantile documents would come under the Commercial Dispute.

7. Since this Court has not summoned the original record. Therefore, after consideration, order dated 12.9.2024 passed by learned IInd Civil



Judge, Senior Division, Burhanpur, district Burhanpur, M.P. in RCS-B No.48 of 2020 is **set aside**. Learned trial court is directed to peruse the record carefully, hear the parties and decide the application afresh filed under Order 7 Rule 11 CPC as expeditiously as possible.

8. Since this court does not have original record and is not in a position to cross – check whether indeed suit was filed before the Commercial jurisdiction or not. Therefore, observation in this case is for disposing of this revision. Therefore, learned trial court shall decide the case on its own merits. The aggrieved party if any shall be free to challenge order in accordance with law before the appropriate forum.

9. With the aforesaid observation and direction, this civil revision stands disposed of.

(AVANINDRA KUMAR SINGH)
JUDGE

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