

(2019) 12 SHI CK 0093

In the High Court Of Himachal Pradesh

Case No : Regular Second Appeal No. 41 Of 2018

M/s E.R Motors & Another

APPELLANT

Vs

M/s Shiva Distributors

RESPONDENT

Date of Decision : 19-12-2019

Acts Referred:

Code Of Civil Procedure, 1908 — Section 20

Citation : (2019) 12 SHI CK 0093

Hon'ble Judges : Sureshwar Thakur, J

Bench : Single Bench

Advocate : Ramakant Sharma, Dalip K Sharma

Final Decision : Dismissed

Judgement

Sureshwar Thakur, J

1. The instant appeal, stands directed, by the appellants/defendants (for short "the defendants"), against, the verdict recorded by the learned District Judge, Solan, H.P., upon, Civil Appeal No. 27-S/13 of 2016, whereby the latter while affirming, the, verdict recorded, by, the learned Civil Judge (Sr.Div), Kasauli, District Solan, H.P., upon, Civil Suit No. 141/1 of 2013, hence, dismissed, the, appeal filed thereagainst, by, the defendants.

2. The plaintiff/respondent herein (for short "the plaintiff") claims, the, suit money, towards, payments of 'Castrol' Lubricants, supplied by it, to, the defendants. In proof of the afore sales, becoming made, by the plaintiff, to the defendants, the plaintiff tendered into evidence Ex.PW-2/E-1 to Ex. PW-2/E-6, exhibits whereof, are, apposite sale invoices, and, thereon, the, signatures of the defendant exist, and, also hence they are personificatory, vis-a-vis, the defendants accepting the supplies of goods, made to them, by the plaintiff. The plaintiff having proven, its, making the requisitioned supplies to the defendant, thereafter it also through Ex. PW- 2/C, exhibit whereof, is the ledger account, of, the defendants, wherein the suit amount, is, reflected, to be, hence outstanding

towards the afore supplies, as, made by the plaintiff, to the defendants w.e.f 1.4.2012 to 15.5.2013, (i) and, when authenticity of the afore remains un-belied by the defendants, through, their adducing cogent thereto rebuttal evidence, rather, with the counsel for the defendants, while conducting, hence, cross-examination, upon, PW-2, rather putting suggestion to him hence holding echoings, vis-a-vis, goods becoming supplied to the defendants, and, whereto, an affirmative answer, was, meted, (ii) besides with PW-2, during, his cross-examination, became meted an affirmative suggestion, vis-a-vis, supplies being made at Darlagaht, and, whereto, an answer, in the affirmative, became meted by PW- 2, hence, constrains a conclusion, vis-a-vis, the defendant also accepting that the goods became supplied qua it, and, furthermore, also when there is no firm evidence, vis-a-vis, payments in cash or through cheque, or, through RTGs, becoming made to the plaintiff, (iii) and, whereupon hence the ledger account maintained by the plaintiff, reflecting therein, the, suit amount rather becoming un-liquidatied, vis-a-vis, the plaintiff, by the defendants, towards, supplies being made to it, by the latter, rather acquires conclusivity, hence the the concurrently recorded verdicts, rather, by both the Courts below, are, both apt and tenable.

3. Though the learned trial Court, had assumed jurisdiction, upon, the apposite civil suit, given the plaintiff firm becoming located at Parwanoo, and, also, upon, the supplies generating from Parwanoo, (i) thereupon with the apt cause of action, arising, within, the territorial limits of jurisdiction of Sub Judge, Kasauli, and, not within the territorial limits, of, the jurisdiction, of, Sub Judge, Arki, hence, enabled the learned trial Court, to, assume valid jurisdiction, upon, the extant suit.

4. The learned counsel, for, the defendants, contests, the, afore, on anvil, of, the mandate of Section 20, of, the CPC wherein, though, echoings occur (i) qua every suit, becoming institute-able in a Court, within, the local limits, of, whose jurisdiction the defendant, at the time, of, commencement of the suit actually, and, voluntarily resides, or carries on business. Since in the array, of, parties, the defendants' address is reflected, to be, within the jurisdiction, of, Tehsil Arki, (i) thereupon, though the defendant resides, within, the local limits of the jurisdiction, of, the Court located at Arki, (ii) besides when the defendants' also carry business, within, the local limits, of, the jurisdiction of the Court located at Arki, besides when delivery, of, goods, are, acquiesced by PW-2, in his cross-examination, to be made at Darlaghat, (iii) thereupon, the Court of Civil Judge (Sr. Div) Kasuali prima- facie holds no jurisdiction, to, try the lis, or, to make any decision thereon. However, upon, evident accrual of causes of action, within, the apt territorial limits, of, the jurisdiction, of, Civil Court at Kasauli, also, empowers the latter Court, to, entertain, and, try the suit, and, also when the afore statutory parameters, vis-a-vis, accrual of causes of action, within, the territorial limits of jurisdiction, of, the afore Court, is an alternate jurisdictional conferring clause, (a) and when the afore alternate jurisdictional conferring clause hence begets satiation hereat, in as much as, apt sale invoices generate from Parwanoo, (b) place whereof falls within, the jurisdictional limits, of, Civil Court

at Kasauli, thereupon, the latter Court became empowered, to, entertain, and, try the lis.

5. In view of the above, there is no merit in this appeal, and, the same is accordingly dismissed. The impugned judgments are maintained and affirmed. No question of law much less any substantial question of law arises for determination. All pending applications stand disposed of accordingly. Records be sent back.