

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.407 OF 2026
WITH
INTERIM APPLICATION NO.4613 OF 2026
IN
APPEAL FROM ORDER NO.407 OF 2026

Nouveau Exports Pvt. Ltd.

A company incorporated under the
Companies Act 1956 having its registered
Office at 1302, Vaishali, New Teacher's Colony,
Aliyavar Jung Marg, Bandra (East),
Mumbai – 400 051

...Appellant/
(Orig. Plaintiff)

Versus

1. Punita Capoor

Residing at D-75, Ridgewood Estates,
DLF Phase-IV, Gurgaon,
Haryana – 122009

2. Shringar Impex Pvt. Ltd.

A company incorporated under the
Companies Act 1956 having its
Registered office at 1/7, Santa Sadan,
Ground Floor, North South Road No.10,
JVPD Scheme, Juhu,
Mumbai – 400049

...Respondents
(Orig. Defendants)

Mr. P. G. Sabnis a/w Ms. Kashmira Khedekar for the Appellant/Applicant

Mr. Naushad Engineer, Senior Advocate as amicus curiae a/w Ms. Mehak Shah

Mr. Praveen Sharma (Through VC) a/w Mr. Harshad M. Inamdar for the Respondents

CORAM : SHARMILA U. DESHMUKH, J.

DATE : JULY 15, 2026

JUDGMENT :

1. Heard. **Admit.** With consent, taken up for final disposal.
2. The Appeal is at the instance of the original Plaintiff, being aggrieved by the impugned order dated 17th February 2020, passed by the Bombay City Civil Court in Chamber Summons No. 2273 of 2015 in Suit No. 4241 of 2011, returning the plaint to the Plaintiff under Order VII Rule 10 of the Code of Civil Procedure, 1908 (for short '**CPC**') for presentation to the proper Court.
3. Suit No 2289 of 2011 was filed seeking specific performance of agreement for sale dated 20th October, 2000 executed between the Plaintiff as one party and Defendant No 1 and her sister as the other party in respect of property being undivided property No 79, Jeevan Nagar, Kilokari, New Delhi and for possession of the suit property. The claim in the suit was valued at Rs 24 Lakhs. Leave under Clause XII of Letters Patent was applied and was granted by this Court on 17th August, 2011 by way of endorsement on the plaint to that effect.
4. Pursuant to the Bombay City Civil Court (Amendment) Act, 2012, there was an increase in the pecuniary jurisdiction of the Bombay City Civil Court, by which the City Civil Court could receive and dispose of all suits and other proceedings of civil nature not exceeding Rupees One Crore arising within Greater Bombay. On 27th November, 2015, the suit came to be transferred from High Court to the Bombay City Civil Court

in view of the enhancement of the pecuniary jurisdiction. The Defendant No. 1 filed Chamber Summons No. 2273 of 2015 under Order VII Rule 11 of CPC seeking rejection of the plaint, on the ground of the suit being barred by Section 16 of the CPC. Vide order dated 12th January, 2017, the Trial Court dismissed the chamber summons holding that jurisdiction would have to be framed as a preliminary issue and decided at the trial and the plaint cannot be rejected. As against this, Civil Revision Application came to be filed and the High Court quashed and set aside the order of Trial Court and remanded the chamber summons for fresh hearing as there was no consideration as to whether the suit was barred under Section 16 of the CPC.

5. Vide impugned order dated 17th February, 2020, the Trial Court opined that in view of Section 16(d) of CPC, the suit had to be filed within the jurisdiction of Delhi High Court. It noted the judicial pronouncements that in the case of a suit for land which is not situated in Mumbai, leave under Clause XII cannot be granted. It further noted that, as per amendment of the Bombay City Civil Court (Transfer of Suits) Rules, 2012, particularly Rule 3, the City Civil Court has the powers and jurisdiction in respect of the transferred suit as if it had been originally instituted in the City Civil Court, and the leave which had been granted under Clause XII of the Letters Patent would have no effect. It further noted that, as there was a bar of territorial

jurisdiction, the plaint was required to be returned for presentation to the proper Court and rejected the prayer for rejection of the plaint and instead returned the plaint under Order VII Rule 10.

6. By order dated 11th December 2025, this Court appointed Mr. Naushad Engineer, learned Senior Advocate, as *amicus curiae* to assist the Court.

7. Mr. Engineer, learned *amicus curiae*, submits that the question which arises for consideration is whether the City Civil Court could conclude that it did not have the jurisdiction to entertain the suit when leave under Clause XII of the Letters Patent had been granted by this Court. He submits that the suit in the present case is for specific performance of an agreement for sale of land along with a specific prayer for possession, and is therefore a suit for land. As the land is situated in New Delhi, the Courts in Mumbai would lack jurisdiction to entertain the suit. He submits that leave under Clause XII is granted by the Court prior to the stage of acceptance of the suit and in the absence of the Defendant. He submits that the course which is available to a Defendant where leave has been granted under Clause XII is to apply for revocation of leave or raise the issue in the written statement, to be decided at the time of trial. He submits that the judicial pronouncements make it clear that, if the lack of jurisdiction is clear, an application for revocation of leave is maintainable. He submits

that, considering the prayer sought in the plaint, which was specific performance along with the suit for possession, the suit being for land, this was a clear case of lack of jurisdiction in which an application for revocation was maintainable.

8. He submits that, by reason of the increase in the pecuniary jurisdiction of the City Civil Court, the suit came to be transferred to the City Civil Court. He points out that the consequence of such transfer is provided in Section 4A of the Bombay City Civil Court Act, 1948 (as amended by the Amendment Act of 2012). He submits that, upon a plain reading of Section 4A(2), which provides that the City Civil Court shall have all powers and jurisdiction in respect of the transferred suit as if it had been originally instituted before that Court, it would be open to the Defendant to raise the issue that the City Civil Court does not have the jurisdiction to decide the suit. He submits that the provisions of Sections 16, 17, and 20 of the CPC apply with full force to the City Civil Court, and merely because leave under Clause XII was granted, in a clear case warranting return of the plaint, an appropriate application could have been filed by the Defendant, and it is not required to undergo a full trial in a Court which clearly does not have jurisdiction.

9. He submits that, even assuming that the suit had remained before the High Court, the Defendant could have taken out an

application for revocation of leave, and as the suit was transferred, the Defendant could have filed an application for return of the plaint in view of Section 4A of the Bombay City Civil Court Act, 1948. He submits that, considering Clause XII of the Letters Patent, if the suit is for land, the High Court would have jurisdiction to entertain such a suit only if the land is situated within its territorial jurisdiction. He submits that the grant of leave under Clause XII does not preclude the Defendant from challenging the jurisdiction of the Court to hear and decide the suit. He submits that the impugned order correctly directs return of the plaint. In support, he relies upon the following decisions:

- i. Isha Distribution House Pvt. Ltd. v. Aditya Birla Nuvo Ltd. & Anr.¹**
- ii. Harshad Chiman Lal Modi v. DLF Universal Ltd. & Anr.²**
- iii. Kanchan Dayal Shewakramani & Anr. v. Benchmark Town Planning LLP & Anr.³**
- iv. D. G. Kotak & Anr. v. Rajeshkumar @ Rajas R. Doshi & Ors.⁴**
- v. Vinod Grover & Ors. v. Videocom Realty & Infrastructure Ltd. & Ors.⁵**
- vi. Sudhir G. Angur & Ors. v. M. Sanjeev & Ors.⁶**

1 (2019) 12 SCC 205
 2 (2005) 7 SCC 791
 3 2018 SCC OnLine Bom 3907
 4 2011 SCC OnLine Bom 1690
 5 2018 SCC OnLine Bom 3908
 6 (2006) 1 SCC 141

10. Mr. Sabnis, learned counsel appearing for the Appellant would submit that, once leave under Clause XII of the Letters Patent has been granted by the High Court, the transferee Court has no jurisdiction to sit in review or appeal against that decision, and the subordinate Court cannot be permitted to take a different view. He submits that it is settled by judicial pronouncements that, once leave is granted, the issue of territorial jurisdiction becomes a mixed question of law and fact and can be considered only at the trial after the written statement is filed by the Defendant. He submits that, if a plaint is returned under Order VII Rule 10, it will lead to a *de novo* trial, and in a given case, if the enhancement of pecuniary jurisdiction takes place at the end of the trial and the City Civil Court returns the plaint, the new Court will have to conduct the trial afresh, which is not the legislative intent. He submits that, upon a statutory transfer, if the transferee Court is permitted to undertake a fresh review of territorial jurisdiction, it would lead to several difficulties.

11. He submits that the High Court and the Civil Court operate in different procedural fields as regards territorial jurisdiction is concerned. He submits that, in a reverse situation, if, on account of reduction of the pecuniary jurisdiction of the High Court, a suit is transferred from the City Civil Court to the High Court, a suit filed

based on a part of the cause of action in the City Civil Court would not be maintainable in the High Court for want of leave, as leave cannot be obtained after filing of the suit. He submits that Section 16 of the CPC does not apply to the High Court in view of Section 120 of the CPC. He submits that the word used in Order VII Rule 10 is "return" and not "transfer", and since the plaint was never filed in the City Civil Court, there is no question of return of the plaint. He would make an alternative argument that, under the Amendment Act and the Rules, suits triable by the City Civil Court are transferred and excluded suits have not been transferred, and if the City Civil Court comes to the conclusion that, after transfer, it has no jurisdiction because Clause XII leave does not apply to it, the only option available is to send the matter back to the High Court. In support, he relies upon the following decisions:

- i. **Indian Mineral & Chemicals Co. & Ors. v. Deutsche Bank**⁷
- ii. **Isha Distribution House Pvt. Ltd. v. Aditya Birla Nuvo Ltd. & Anr. (supra)**
- iii. **EXL Careers & Anr. v. Frankfinn Aviation Services Pvt. Ltd.**⁸

12. Mr. Sharma, learned counsel appearing for the Respondents would submit that a conjoint reading of Sections 3, 4A(2), 5, and 12 of

⁷ (2004) 12 SCC 376

⁸ (2020) 12 SCC 667

the Bombay City Civil Court Act, 1948, makes it clear that the City Civil Court has exclusive jurisdiction, and the jurisdiction is not governed by the Letters Patent, which apply exclusively to the High Court. He submits that any leave granted by the High Court under Clause XII prior to the date of transfer loses significance, as the Letters Patent is applicable only to the High Court and is not applicable to the City Civil Court. He submits that, in view of Section 4A of the Bombay City Civil Court Act, 1948, the suits have to be treated as having been originally instituted in that Court, meaning thereby that the Code of Civil Procedure would govern the procedure of trial, and Section 16 would therefore apply. He submits that, as the relief sought in the suit was for specific performance along with possession, the suit was one for land, and the City Civil Court would not have the territorial jurisdiction to entertain the suit. He submits that the arguments of the Appellant suffer from the fallacy that the leave under Clause XII granted by the High Court will continue to regulate suits which are transferred from the High Court to the City Civil Court, which is contrary to the Notification dated 30th August 2012 and the Bombay City Civil Court Act, 1948. In support, he relies upon the following decisions:

- i. **Adcon Electronics Pvt. Ltd. v. Daulat & Anr.**⁹
- ii. **Dr. P. A. Subramanian v. S. Ramasamy & Ors.**¹⁰

9 (2001) 7 SCC 698 : 2001 SCC OnLine SC 1096

10 2014 SCC OnLine Mad 2720

iii. EXL Careers & Anr. v. Frankfinn Aviation Services Pvt. Ltd. (supra)

13. Rival contentions now arise for determination.

14. The issue which was framed by this Court as arising for consideration in the order dated 12th November 2025 reads as under:

"Whether, on a true and proper construction of Rule 3 of the Bombay City Civil Court (Transfer of Suits) Rules, 2012, the City Civil Court was justified in coming to the conclusion that leave under Clause XII of the Letters Patent granted prior to the notification of the said Rules would become non-operative/withdrawn, and consequently, the City Civil Court can examine afresh the issue of the appropriate Court in which the suit had been filed?"

15. The facts are undisputed that the plaint seeks the relief of specific performance of an agreement for sale which was executed in Mumbai and also seeks possession of land which is situated in Delhi. The suit was initially filed in the High Court in its ordinary original civil jurisdiction as the suit claim was valued at Rs 24 Lakhs, which was beyond the pecuniary jurisdiction of the City Civil Court. The jurisdictional clause in the plaint reads as under:

"23. That the above noted cause is within the pecuniary and non pecuniary jurisdiction of the court. The Plaintiff and the Defendant No 2 are having their respective offices at Mumbai. The Agreement dated 20th October, 2000 was signed, executed and delivered to the Plaintiff in Mumbai. The entire transaction has taken place in

Mumbai, however, Defendant No 1 is residing out of Mumbai beyond the jurisdiction of this Hon'ble Court and the property is also situated at Delhi, hence, upon granting leave under Clause XII of the Letters Patent, this Hon'ble Court will have jurisdiction to try and entertain the present suit."

16. In view of the pleading in the jurisdictional clause to the effect that part of cause of action had taken place outside Mumbai, leave under Clause XII of the Letters Patent was granted by this Court, by way of endorsement on the plaint dated 17th August 2011. Clause XII of the Letters Patent reads as under :

"12. Original jurisdiction as to suits

And We do further ordain that the said High Court of Judicature at Bombay, in the exercise of its ordinary original civil jurisdiction, shall be empowered to receive, try, and determine suits of every description, if, in the case of suits for land or other immovable property such land or property shall be situated, or in all other cases if the cause of action shall have arisen, either wholly, or, in case the leave of the Court shall have been first obtained, in part, within the local limits of the ordinary original jurisdiction of the said High Court or if the defendant at the time of the commencement of the suit shall dwell or carry on business, or personally work for gain. within such limits; except that the said High Court shall not have such original jurisdiction in cases falling within the jurisdiction of the Small Cause Court at Bombay, in which the debt, or damage, or value of property sued for does not exceed one hundred rupees."

17. Upon a reading of Clause XII of the Letters Patent, it is clear that the High Court can exercise jurisdiction in cases: (a) where the suit is for land or other immovable property, such land or property is situated

within the local limits of ordinary original jurisdiction of High Court and (b) in all other cases if the cause of action has arisen either wholly within the jurisdiction of High Court and where it has arisen in part within the jurisdiction of High Court with leave of the Court and (c) where the Defendant resides or carries on business within such limits.

18. Section 20 of CPC provides for institution of suits where defendants reside or cause of action wholly or in part arises. Similarly Clause XII of Letters Patent confers jurisdiction on High Court in cases where cause of action wholly arises within its jurisdiction and when it partly arises within its jurisdiction, leave is obtained. The difference is that in case of suits instituted in High Court, where part of cause of action arises within jurisdiction of High Court, leave is required to be obtained.

19. By reason of Section 20 of CPC, by treating the suit to be a suit other than for land, in event the pecuniary jurisdiction would have permitted, the Plaintiff could have filed the suit in the City Civil Court on the ground that part of cause of action arises within the jurisdiction of City Civil Court. In such case, it would have been open for the Defendant to raise an objection to territorial jurisdiction at the earliest possible opportunity under Section 21 of CPC and could have filed an application under Order 7 Rule 10 for return of the plaint to the Delhi High Court. As the City Civil Court did not have the pecuniary

jurisdiction, the suit came to be filed in the High Court and treating the suit as a suit other than for land, leave under Clause XII of Letters Patent was obtained on the ground that part of cause of action arises outside jurisdiction of High Court. The remedy which would be available to a party in the City Civil Court seeking return of plaint could not be denied in case of proceeding before High Court by seeking revocation of leave.

20. Clause XII of Letters Patent would confer jurisdiction on High Court in cases of suit for land or immovable property only if the property is situated within the local limits of ordinary original civil jurisdiction. As to what constitutes suit for land is now well settled legal position. In ***Adcon Electronics Pvt. Ltd. v. Daulat & Anr.*** (supra), the Hon'ble Apex Court has held as under:

“A suit for land” is a suit in which the relief claimed relates to title to or delivery of possession of land or immovable property. Whether a suit is a “suit for land” or not has to be determined on the averments in the plaint with reference to reliefs claimed therein; where the relief relates to adjudication of title to land or immovable property or delivery of possession of the land or immovable property, it will be a “suit for land”.

21. Mr. Sabnis does not dispute this position that suit in present case would be a suit for land. According to him, once leave under Clause XII has been granted, the City Civil Court would not have the

power to review the decision of High Court as to territorial jurisdiction. The said submission overlooks that by legislative amendment introducing Section 4A(2) to the Bombay City Civil Court Act, 1948, and Rule 3 of the Bombay City Civil Court (Transfer of Suit) Rules, 2012, the City Civil Court is empowered in respect of transferred suit to hear and dispose of the suit *as if it had been originally instituted in that Court*.

Rule 3 and 4A read as under:

"3. All suits and/or proceedings, which are liable to be transferred to the City Civil Court, under sub-section (1) of Section 4A of the Bombay City Civil Court Act, 1948, shall stand transferred to the Principal Seat of the Bombay City Civil Court, Old Secretariat, Bombay, with effect from the date on which Section 4 of the Amending Act shall come into force. The City Civil Court shall have all the powers and jurisdiction in respect thereof as if it had been originally instituted in that Court."

"4A. Transfer of suits and proceedings cognizable under section 3, to City Court.- (1) Notwithstanding anything contained in section 9 of the Bombay City Civil Court and the Bombay Court of Small Causes (Enhancement of Pecuniary Jurisdiction and Amendment) Act, 1986 (Mah. XV of 1987), all suits and proceedings cognizable by the City Court under section 3, and pending in the High Court on the date of coming into force of section 2 of the Bombay City Civil Court (Amendment) Act, 2023 (Mah. XLVI of 2023), not being suits or proceedings falling under clauses (a) to (d) of section 3, shall stand transferred to the City Court.

(2) Any suit or proceeding so transferred shall be heard and disposed of by the City Court and the City Court shall have all the powers and jurisdiction in respect thereof as if it had been originally instituted in that Court.

(3) In any such suit or proceeding institution fees shall be paid credit being given to any Court-fee levied in the High Court and cost incurred in the High Court till the date of transfer shall be assessed by the City Court in such manner as the State Government may, after consultation with the High Court, determine by rules.”

22. The consequence of the suit being transferred to the City Civil Court is that the suit is then treated as if originally instituted in the City Civil Court. The provisions of Sections 16, 17, and 20, which were not applicable to the High Court in its ordinary original civil jurisdiction by virtue of Section 120 of the CPC, apply with full force to the City Civil Court. Thus, upon an application being filed raising an objection of jurisdiction, the City Civil Court was competent to decide the issue of jurisdiction as if the suit had been originally instituted in that Court.

23. One of the contentions raised by Mr. Sabnis is that instead of returning the plaint, the City Civil Court, if finds, that it does not have the jurisdiction after transfer, the only option was to send the matter back to High Court. The answer to this submission lies in Section 15 of CPC which provides that every suit shall be instituted in the Court of lowest grade competent to try it and High Court could not have retained the suit with it. The only reason as to why the suit was filed in the High Court was by reason of the suit claim being beyond the pecuniary jurisdiction of the City Civil Court. Upon enhancement of

pecuniary jurisdiction, the suit was required to be transferred to the City Civil Court, who was then competent to decide all issues including the issue of territorial jurisdiction as if the suit was originally instituted in the City Civil Court.

24. To buttress his submission that the transfer would not clothe the City Civil Court with the power to examine the issue of territorial jurisdiction, Mr. Sabnis would illustrate a situation where the enhancement of pecuniary jurisdiction takes place at concluding end of the trial and the effect of return of plaint under Order VII Rule 10 leads to a *de novo* trial. The contention envisages a situation where the High Court has granted leave under Clause XII of Letters Patent and pecuniary jurisdiction gets enhanced after the trial has commenced and is at its conclusion. To answer the contention, it will be relevant to ascertain the remedies which are available to a Defendant where leave under Clause XII has been granted. At the stage of seeking leave to institute the suit, the Defendant is not heard. Upon such leave being granted, the suit is permitted to be taken on file. The right which is available to the Defendant, upon causing an appearance in the suit, is to apply for revocation of the leave or to take the objection to jurisdiction in the written statement.

25. As to when revocation of leave can be sought is answered in ***Isha Distribution House Pvt. Ltd. v. Aditya Birla Nuvo Ltd. & Anr.*** (supra),

where the Hon'ble Apex Court noted the decision of ***Secretary of State for India in Council v. Golabrai Paliram***¹¹ in paragraph 15 as under:

"15. The observations of Rankin C.J. in *Secy. of State for India in Council v. Golabrai Paliram* correctly represent the law as to how the Court should approach an application for revocation of leave (SCC OnLine Cal: AIR p 147)

"....I do really protest against questions of difficulty and importance being dealt with by an application to revoke the leave under Clause 12 of Letters Patent and to take the plaint off the file. Normally it is well settled that the proper way to plead to the jurisdiction of the Court is to take the plea in the written statement and as a substantive part of the defence. Except in the clearest cases that should be the course."

26. It was therefore open for the Defendant to seek revocation of leave by pointing out clear case of lack of jurisdiction. If the Defendant did not apply for revocation or though applied was not allowed, while the High Court was in seisin of suit, the suit will have to go the full course. Where at the concluding end of the trial in such situation, the pecuniary jurisdiction is enhanced and the suit is transferred to the City Civil Court, as the revocation of leave was not sought and/or not allowed, upon an application filed for return of the plaint for lack of territorial jurisdiction, by treating the suit as if it had been originally instituted in the City Civil Court, the issue of lack of territorial jurisdiction will have to be decided at the time of trial in view of

11 AIR 1932 Cal 146

Section 21 of CPC. The consequence in such case would be dismissal on ground of lack of jurisdiction. Depending upon facts of each case, the City Civil Court would be required to decide whether plaint can be returned or will have to go full trial, but, by treating the suit as having been originally instituted in City Civil Court. The situation as illustrated by Mr. Sabnis does not nullify the effect of Section 4A(2) of the Amendment Act of 2012 and it cannot be accepted that upon transfer, the Defendant could not have filed an application for return of the plaint.

27. In the present case, the affidavit in support of notice of motion indicates that the ex-parte decree of 7th August, 2013 was set aside and the stage was of filing of written statement. At this stage, the Defendant was within her rights to seek return of the plaint on the ground of lack of territorial jurisdiction. The grant of leave under Clause XII by the High Court does not protect the jurisdiction of the City Civil Court, as the City Civil Court receives the suit as if it is originally instituted before it, in view of Section 4A(2) of Amendment Act of 2012, irrespective of fact that the City Civil Court is subordinate to the High Court. The leave granted under Clause XII of Letters Patent confers jurisdiction on the High Court, which jurisdiction does not *ipso facto* get transferred to the City Civil Court, by transfer of the suit, if the City Civil Court lacks jurisdiction.

28. The adjudication of the application by the City Civil Court does not constitute review of the grant of leave under Clause XII of Letters Patent but an inquiry into the lack of territorial jurisdiction, which the City Civil Court was competent to inquire in view of Section 4A(2) of the Bombay City Civil Court Act, 1948. In the present case, though the application was filed under Order 7 Rule 11 seeking rejection, the Trial Court has returned the plaint instead of rejecting the suit.

29. Mr. Sabnis would support his submission of territorial jurisdiction being mixed question of fact and law by relying on the decision in ***Isha Distribution House Pvt. Ltd. v. Aditya Birla Nuvo Ltd. & Anr.*** (supra). In that case, the suit was filed for declaration of termination of two agreements, damages and injunction etc. The leave under Clause XII of Letters Patent was granted and revocation of leave was sought on the ground that no part of cause of action arose with the jurisdiction of the Calcutta High Court but at Bangalore. The Hon'ble Apex Court noted that issue of such nature cannot be tried by filing an application for revocation of leave by holding that the plea of territorial jurisdiction is essentially mixed question of law and fact.

30. The facts of the case before the Hon'ble Apex Court required evidence to be led and was not a clear case of lack of jurisdiction. Pertinently, the Hon'ble Apex Court noticed the decision in the case of

Secretary of State for India in Council v. Golabrai Paliram (supra), which had received approval in ***Indian Mineral & Chemicals Co. & Ors. v. Deutsche Bank*** (supra), wherein it was held that normally it is well settled, that the proper way to plead to the jurisdiction of the Court is to take the plea in the written statement and as a substantial part of the defence and except in the clearest cases, that should be the course.

31. The decision would not assist the case of the Plaintiff for the reason that the present suit is a suit for land and in view of Section 16 of CPC, would lie before the Court within whose jurisdiction the immovable property is situated. There is no disputed question of fact involved for the same to be tried as an issue in the suit.

32. The contention that once leave is granted under Clause XII, the trial has to take its full course is not an absolute proposition and in clear case, the leave granted under Clause XII can be revoked. Being a clear case of the suit being suit for land, the High Court would not have had the jurisdiction and an application for revocation of the leave would have been perfectly maintainable.

33. There were no submissions which were canvassed on the merits of the order of return of the plaint and rightly so as the suit was a suit for land, which would lie before the Delhi High Court. The Trial Court has rightly considered that, as the suit is one for land, it ought to be returned for presentation to the proper Court instead of rejecting the

plaint, and has exercised its powers under Order VII Rule 10 and returned the plaint.

34. In light of the discussion above, the grant of leave under Clause XII of Letters Patent conferring jurisdiction upon the High Court to entertain and try the suit does not protect the jurisdiction of the City Civil Court upon transfer of the suit to City Civil Court by reason of enhancement of pecuniary jurisdiction. In view of Section 4A(2) of Bombay City Civil Court Act, 1948, the City Civil Court was justified in examining afresh the issue of territorial jurisdiction and directing return of plaint under Order VII Rule 10 of the plaint.

35. Resultantly, the Appeal stands dismissed.

36. Interim Application does not survive for consideration and is disposed of.

37. This Court records its appreciation for the valuable assistance rendered to this Court by Mr. Naushad Engineer, learned *amicus curiae* in assisting the Court in the adjudication of the present dispute.

[SHARMILA U. DESHMUKH, J.]