

Senbo Engineering Ltd. Vs. New Era Enterprises and ors.

Senbo Engineering Ltd. Vs. New Era Enterprises and ors.

SooperKanoon Citation : sooperkanoon.com/1163089

Court : Kolkata

Decided On : Aug-25-2014

Judge : Soumen Sen

Appellant : Senbo Engineering Ltd.

Respondent : New Era Enterprises and ors.

Judgement :

ORDER

SHEET GA No.2254 of 2014 With CS No.298 of 2013 IN THE HIGH COURT AT CALCUTTA Ordinary Original Civil Jurisdiction ORIGINAL SIDE SENBO ENGINEERING LTD.Versus NEW ERA ENTERPRISES & ORS.BEFORE: The Hon'ble JUSTICE SOUMEN SEN Date : 25th August, 2014.

Appearance: Mr.Nilay Sengupta, Adv.Mr.D.N.Sharma, Adv.Mr.Supratim Laha, Adv.Mr.Tanmoy Roy, Adv.Mr.Chayan Gupta, Adv.The Court: The plaintiff has filed a suit for recovery of certain amount as well as declaration that some of the bills being annexures L, M, N, O, P are illegal and null and void.

The reading of the plaint would show that the plaintiff had entered into an agreement with the defendant no.1 for design and construction of underground station including Stabling Line at Central Secretarial and Tunnel towards Khan Market by Cut & Cover Method on Central Secretariat - Baderpur Corridor of Delhi MRTS Project.

The defendant resides outside.

The offer of the plaintiff was accepted by the defendant at its registered Office at Faridabad.

In a suit for breach of contract and for recovery of money three things can constitute a cause of action.

The formation of the contract, the execution of the contract and breach thereof.

The integral part of the cause of action from reading of the plaint would show has arisen at New Delhi.

The contract was accepted at New Delhi.

The performance of the contract is to take place at New Delhi.

The breach, if any, has occurred at New Delhi.

No integral part of the cause of action has arisen within.

Even it would show that the plaintiff is having its office at New Delhi which was inextricably connected with the said contract.

Negotiation at Calcutta is no part of the cause of action.

Even otherwise it would appear that the balance of convenience lies in the suit being tried at an appropriate forum at New Delhi.

In view of the aforesaid, instead of dismissing the suit, I direct return of the plaint to the plaintiff to be presented before the appropriate forum.

The plaintiff shall file a xerox copy of the plaint in the department and thereafter shall be permitted to withdraw the plaint and file it before the appropriate forum.

The plaint shall be presented within four weeks from date before the appropriate forum upon notice to the defendants.

The application, accordingly, stands disposed of.

On return of the plaint, the suit shall not be shown as pending in this Honble Court.

Certified website copies of this order, if applied for, be urgently supplied to the parties subject to compliance with all requisite formalities.

(SOUMEN SEN, J.) sp/

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com