IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

Present:

The Hon'ble Justice Ananya Bandyopadhyay

IA NO. GA/8/2026
In CS/86/2014

BHUTORIA BROTHERS PRIVATE LTD
Vs
UNION OF INDIA

For the Plaintiff : Mr. Sourojit Dasgupta, Adv.

Ms. Swati Chowdhury, Adv.

For the Defendant : Mr. Uday Sankar Bhattacharya, Adv.

Mr. Tapan Bhanja, Adv.

Judgment on : 31.08.2026

Ananya Bandyopadhyay, J.:-

1. Heard the submissions of the Learned Advocates representing the respective parties.
2. The defendant has filed the present application seeking revocation of the leave granted under Clause 12 of the Letters Patent, 1865 and consequential rejection of the plaint.
3. The plaintiff had instituted the suit principally for recovery of damages quantified at Rs.1,32,72,600/-, alternatively for an enquiry into damages, together with interest and ancillary reliefs. The claim arose from the alleged

deprivation of the plaintiff's use and enjoyment of a godown measuring approximately 5,600 square feet at N.H.6, Village-Dhulagori, P.S. Sankrail, District Howrah.

4. The plaint recorded the said premises had been let out to M/s. Vrinda Texprints under a tenancy agreement dated 1st January, 2003. According to the plaintiff, the Customs authorities searched the premises on 23rd August, 2003, sealed the same and retained control thereof until 2nd April, 2013. The alleged loss of rent, deprivation of use and damage to the premises constituted the substance of the claim against the defendants.

5. The plaintiff had earlier instituted Title Suit No.29 of 2005 before the competent Civil Court at Howrah against its tenant and obtained a decree dated 19th August, 2010. The plaint also referred to subsequent proceedings before this Court concerning removal of the goods lying at the said premises.

6. The pendency and culmination of the proceeding before the Howrah Court are relevant only as part of the factual history. The decree passed therein cannot, however, confer territorial jurisdiction upon this Court in respect of the present and distinct claim against the Customs authorities. The tenancy dispute and the alleged acts of the Customs authorities constitute distinct juridical causes.

7. The question before the Court is whether, upon the averments contained in the plaint, any part of the cause of action against the defendants arises within the territorial jurisdiction contemplated by Clause 12 of the Letters Patent.

8. In Indian Mineral & Chemicals Co. & Ors. v. Deutsche Bank, (2004) 12 SCC 376, the Supreme Court held, while considering an application for revocation of leave under Clause 12, the averments in the plaint were to be accepted as correct and the jurisdictional question might be determined at that stage where the want of jurisdiction was apparent from the plaint itself. Questions requiring determination upon disputed facts are ordinarily matters for trial.

9. The present case falls within the former category. The plaint itself places every material event constituting the alleged wrong at Dhulagori, Howrah. The search was conducted there; the premises were sealed there; the alleged control was assumed there; and the deprivation of use and alleged damage, for which compensation had been claimed, related to the same premises.

10. The situs of the alleged wrong cannot be shifted to Kolkata merely because correspondence or demands may have emanated from, or been received at, Kolkata. A demand for redress is consequential upon the alleged cause of action and does not, by itself, constitute a material part thereof.

11. The plaintiff's reliance upon the Howrah Court's decree could not yield a different result which arose from the landlord-tenant relationship and was rendered by the Court within whose territorial jurisdiction the godown had been situated. It neither adjudicated the present claim against the Customs authorities nor could have legally dealt with the territorial nexus requisite under Clause 12 of the Letters Patent.

12. The instant suit cannot be categorised as a “suit for land” as the principal relief is for damages and the plaintiff seeks neither declaration of title to nor delivery of possession of the godown. The Supreme Court in Excel Dealcomm

(P) Ltd. v. Asset Reconstruction Co. (India) Ltd. & Ors., (2015) 8 SCC 219, has directed that the character of a suit for land be gathered from the plaint and the reliefs claimed therein.

13. The suit being other than a suit for land, the plaintiff must nevertheless satisfy one of the jurisdictional requirements embodied in Clause 12 of the Letters Patent.The plaint discloses no material part of the cause of action to have occasioned within the territorial limits of this Court.

14. The leave granted under Clause 12 Letters Patent cannot sustain itself in the absence of a jurisdictional fact disclosed by the plaint. As observed by the Supreme Court in Isha Distribution House Pvt. Ltd. v. Aditya Birla Nuvo Ltd. & Anr., (2019) 12 SCC 205, questions of territorial jurisdiction involving disputed facts ordinarily warrant determination at trial; but where the jurisdictional deficiency is apparent from the plaint, the Court is not required to defer the matter merely as a matter of procedure.

15. The present objection involves no adjudication upon disputed evidence. The conclusion follows from the plaintiff's own averments.

16. The consequence of revocation of the leave is return of the plaint for presentation before the Court competent to entertain the suit. In Excel Dealcomm (supra), the Supreme Court, upon finding that the Calcutta High Court lacked jurisdiction under Clause 12 Letters Patent directed return of the plaint to the appropriate forum. The same procedural consequence was recognised in Indian Mineral (supra).

17. No opinion is expressed upon the merits of the plaintiff's claim, the legality of the acts attributed to the Customs authorities, the quantum of damages, limitation, causation or any other defence available to the defendants.
18. The leave granted under Clause 12 of the Letters Patent, 1865 for institution of C.S. No.86 of 2014 is hereby revoked.
19. The plaint, together with the documents filed therewith, shall be returned to the plaintiff in terms of Order VII Rule 10 of the Code of Civil Procedure, 1908, for presentation before the Court of competent jurisdiction.
20. The decree dated 19th August, 2010 passed in Title Suit No.29 of 2005 by the competent Civil Court at Howrah and the subsequent proceedings referred to in the plaint shall remain open to consideration by the competent Court in accordance with law.
21. All questions on the merits of the plaintiff's claim and the defences thereto are left open.
22. There shall be no order as to costs.
23. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with the requisite formalities.
24. GA/8/2026 is disposed of accordingly.

(Ananya Bandyopadhyay, J.)

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