

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE**

**APOT/175/2026
IA NO: GA/1/2026**

**BHUTORIA BROTHERS PRIVATE LIMITED
VS
UNION OF INDIA**

BEFORE:

The Hon'ble JUSTICE DEBANGSU BASAK

-AND-

The Hon'ble JUSTICE ARYAK DUTT

For the Appellant : Mr. Sourajit Dasgupta, Adv.
Ms. Swati Chowdhury, Adv.

For the Respondent : Mr. Uday Sankar Bhattacharya, Adv.
Mr. Tapan Bhanja, Adv.
Mr. Gourab Karmakar, Adv.

HEARD ON : 29.09.2026

DELIVERED ON : 29.09.2026

DEBANGSU BASAK, J.:-

1. Appeal is directed against the judgment and order dated August 31, 2026 passed in IA No. GA/8/2026 arising out of CS/84/2014.

2. By the impugned judgment and order, learned Single Judge held that, the suit filed by the appellant was not one which is a suit for land within the meaning of the Clause 12 of the Letters Patent, 1865. However, learned Single Judge held that, no material part of the cause

of action of the suit arose within the jurisdiction of the High Court and therefore, proceeded to invoke Order VII Rule 10 of the Code of the Civil Procedure, 1908, and directed return of the plaint to be presented before a Court at Howrah.

3. Learned Advocate appearing for the appellant draws the attention of the Court to the plaint. He submits that, there is no challenge to the finding returned by the learned Single Judge of the suit was not one for land. He submits that, the registered office of the plaintiff was lying and situated within the territorial jurisdiction of the Original Side of the High Court. The claim in the suit is one for damages. Damages were suffered by the plaintiff at its registered office. Damages are to be paid and accounted for at the registered office of the appellant who is the plaintiff. Consequently, it cannot be said that, the plaint does not disclose a part of cause of action arising within the jurisdiction of the High Court.

4. Learned Advocate appearing for the respondent refers to the pleadings in the plaint. He submits that, the case of the appellant in the plaint is that, it gave a tenancy to a third party in respect of an immovable property lying and situated admittedly outside the territorial jurisdiction of the High Court. He submits that, the claim made by the appellant as the plaintiff is on account of damages allegedly suffered due to a search and seizure process undertaken by the customs authorities. He submits that, the customs authorities were required to keep the godown belonging to a third party in possession pending

disposal of the customs proceedings for the period from August 23, 2003 till April 2, 2013.

5. Learned Advocate appearing for the respondent submits that, since, the appellant is required to establish its ownership in respect of the immovable property concerned which is lying and situated outside the jurisdiction of the Original Side of the High Court, the suit is to be construed to be a suit for land. In support of such contention, he relies upon ***AIR 1986 CALCUTTA 57 (Bengal Glass & Silicate Works Vs. Lalit Mohan Bijlani and Another)***.

6. In course of hearing, the Court drew the attention of the learned counsel of the respective parties to ***(1994) 4 SCC 225 (Morgan Stanley Mutual Fund Vs. Kartick Das)*** where, the Supreme Court held that, the residence of a company is where the registered office is located. Normally, cases should be filed only where the registered office of the company is situated.

7. Learned counsel for the respective parties do not advance any argument contrary to the proposition noted in *Morgan Stanley Mutual Fund (supra)*.

8. IA No. GA/8/2026 which was disposed of by the impugned judgment and order is an application seeking revocation of leave granted under Clause 12 of the Letters Patent, 1865.

9. The appellant as the plaintiff seeks money decree as against the respondent as the defendant in the suit. Claim of the appellant arises out of damages suffered consequent upon a search and seizure

conducted by the respondent at the premises of the tenant of the appellant on August 23, 2003. According to the appellant, the respondent kept such tenancy premises under possession for the period from August 23, 2003 till April 2, 2013. The appellant, therefore, suffered loss and damages for non-user of such property. Damages were suffered at the registered office of the appellant which is admittedly lying and situate out of the jurisdiction of the Original Side of the High Court.

10. We find from the materials on record that, the plaintiff is not seeking declaration of title in respect of an immovable property at all. Consequently, the principles of “suit for land” are not attracted in the facts and circumstances of the present case. *Bengal Glass & Silicate Works (supra)* is distinguishable purely on such ground alone.

11. In *Bengal Glass & Silicate Works (supra)*, the plaintiff sought declaration that plaintiff was a monthly tenant of a suit premises as also perpetual injunction restraining interference by the landlord in the matter of the plaintiff’s possession and enjoyment thereof including ingress and egress thereto of a tenancy admittedly lying and situated outside the territorial jurisdiction of the Original Side of the High Court. In such context, the Court held that, the suit was a suit for land and therefore, the leave granted under Clause 12 of the Letters Patent, 1865 was revoked.

12. As noted above, the appellant as the plaintiff is not seeking any declaration of title in respect of any immovable property. The claim of

the appellant is essentially for damages. Damages, according to the appellant, were suffered at the registered office of the appellant. Such registered office of the appellant is lying and situated within the territorial jurisdiction of the Original Side of the High Court.

13. The appellant is a company established under the provisions of the Companies Act, 1956 and therefore, is an existing company within the meaning of the Companies Act, 2013.

14. In view of the ratio of *Morgan Stanley Mutual Fund (supra)* which held that, the residence of a company is where its registered office is located and as such, normally, cases should be filed only where the registered office of the company is situated, this Hon'ble Court cannot be said to be without jurisdiction to try, entertain and determine the suit.

15. Plaint as it stands today cannot be said to be not disclosing any cause of action. The registered office of the plaintiff admittedly is within the Original Side of the High Court. In view of the ratio of *Morgan Stanley Mutual Fund (supra)*, the suit, therefore, cannot be returned to be presented before any third forum on the ground of lack of jurisdiction of the Original Side of the High Court to try, entertain and determine the same.

16. We are hasten to add that, we did not pronounce on the merits of the rival claims of the parties with regard to the claim for damages made by the appellant as the plaintiff in the suit. Such issues are left open to be decided at the trial.

17. In view of the discussions above, the impugned judgment and order dated August 31, 2026 is set aside. GA/8/2026 is dismissed. CS/86/2014 is remanded to the learned Trial Judge for decision.

18. In view of our judgment and order, all pending applications as on the date of the impugned judgment and order stands revived. Learned Single Judge will proceed to hear and dispose of all pending applications as if the same are live.

19. APOT/175/2026 along with pending application are disposed of, without any order as to costs.

(DEBANGSU BASAK, J.)

20. I agree.

(ARYAK DUTT, J.)