

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR No. 3220 of 2015 (O&M)

Date of decision: 29.09.2015

International Air Transport Association

... Petitioner

versus

IATA Agents Association of India

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Tushar Sharma, Advocate, for the petitioner.

K.Kannan, J.

The petitioner is the defendant in suit who had pleaded for rejection of order under Order 7 rule 11 contending inter alia that the office of the defendant situate was at Mumbai and the principal office is registered as a non profitable organization at Canada. The contention by the plaintiff, on the other hand, was that all the reliefs claimed in the suit pertain to the office at Gurgaon which is a subsidiary company going by the name of International Air Transport Association (in short 'IATA') India Limited. The resident Director of the company was at Gurgaon and he alone was competent to represent the defendant though his principal office was at Canada or the office at Mumbai.

The trial Court rejected the objection taken with regard to the territorial jurisdiction and found that it was a mixed question of fact and law that would require a consideration by the trial of case and would not receive the objections taken as sufficient to allow for rejection of the plaint. The reliefs claimed in the suit are to issue a mandatory injunction in favour of the plaintiff against IATA for constituting as a Agency Program Joint Council (in short 'APJC') with immediate effect by inducting 18 members of the Travel Agent Associations and to declare the meetings held on 09.05.2014,

27.06.2014 and 06.08.2014 to be illegal and void.

I will not examine the issue of whether the plaintiff's prayers are justified or not but, for, the purpose of case I will take the relief sought for by the plaintiff to obtain relevance for examining the nature of action taken and the place of origin for such action to be still relevant. It is not in dispute that the IATA Private Limited has the principal office as a registered non-profitable Organization at Canada. The petitioner declares that its own Indian office is only at Mumbai and the resolutions which are now being challenged are of the meetings held on 09.05.2014 and 27.06.2014 and 06.08.2014. The nexus to Gurgaon is only by reference to its subsidiary company which is registered as a company under the Companies Act in which IATA India Private Limited holds its controlling interest. Mr. Amitabh Khosla, Country Director of the International Air Transport Association has, even according to the plaintiff, no position in IATA India Private Limited.

The counsel appearing on behalf of the respondent would state that the plaintiff is interested in having a APJC for the country region to be established with 18 representatives from the travel agents and since the country director has an office in Gurgaon, the suit instituted in Gurgaon is maintainable. I reject this argument, for, a legal entity having its principal office in a foreign country and that has its Branch Office in India at Mumbai at place other than Gurgaon alone shall be a place where the plaintiff can institute a suit. Under Section 19 as a party where the defendant resides or at the place where the meeting resolutions had been taken. I asked the counsel for the petitioner as to how he took notice of the case at the address at Gurgaon if their own office was at Mumbai. The counsel responds that since there was a relief of injunction and the plaintiff was attempting to serve it on the subsidiary office, the office at Gurgaon took notice of the same and the defendant officer moved an application for rejection of the plaint. I would find the explanation as quiet plausible and will

find that no part of cause of action arose within the jurisdiction of Haryana to institute the suit in any Court in State of Haryana.

I asked the counsel appearing on behalf of the respondents-plaintiffs if the plaintiffs would be interested in securing the reliefs sought in the plaint against IATA India Private Limited and the counsel has a definite response to make that the plaintiffs would have the relief only against the defendant in the manner described and not through the subsidiary company which admittedly is situate in the State of Haryana at Gurgaon. A company has a distinct legal identity and has personal residence of the resident Director at Gurgaon can not give the Court at Gurgaon the cause of action, since the relief is not against the resident Director but against his parent international entity. The suit is clearly wrongly instituted in a Forum which has no competency to entertain the suit.

I direct the return of the plaint and it will be open to the plaintiff to present it before the Court of competent jurisdiction and in the manner that the State court fee requirements would permit of. The Court at which the case has been instituted shall endorse the plaint to be presented at a Court where the plaintiff seeks to present at Mumbai and secure a date of his convenience for his appearance in the manner required under Order 7 Rule 10 read with Section 10A of the Civil Procedure Code.

(K.KANNAN)
JUDGE

29.09.2015

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