A.Nos.6668 of 2015 in C.S.No.697 of 2015

M.M.SUNDRESH, J.

This application is filed by the applicant/second defendant to revoke the leave granted to the first respondent/plaintiff by this Court in A.No.5574 of 2015 dated 18.08.2015 to institute C.S.No.697 of 2015.

2. For the sake of brevity, the plaintiff and the defendants in C.S.No.697 of 2015 are arrayed as such.

3. The Facts in Brief:-

3.1. The plaintiff is engaged in the business of manufacturing, erecting and commissioning of Wind Turbines and development of wind power as well as solar power projects for its customers in various parts of India. The second defendant is the company, which entered into a Multi Annual Agreement along with Addendum on 04.05.2011 with the plaintiff for supply, erection, commissioning, operation and maintenance of 2000 MW Wind Power Projects. It was followed by an amendment entered into on 30.09.2011. On the same day, the second defendant raised purchase order to the plaintiff. The first defendant, who is a legally qualified person, was appointed as General Counsel in the plaintiff's company on

13.02.2012. The letter of appointment also governs the terms and conditions of his appointment. He was also involved in the legal processes and transactions between the plaintiff and the second defendant in his capacity as the General Counsel. Thereafter, the first amendment dated 30.06.2012 to the purchase order was made followed by the second one dated 09.07.2012.

3.2. On 06.08.2012, the first defendant was appointed as Director in the plaintiff company. A Supplementary Agreement was entered into between the plaintiff and the second defendant on 25.04.2013, in which, the first defendant is stated to have played an active role.

3.3. Thereafter, disputes have arisen between the parties viz.,the plaintiff and the second defendant. The first defendant became the Conciliation Officer. On his failure, an application was filed under Section 11 of the Arbitration and Conciliation Act, 1996, on behalf of the plaintiff by the first defendant. In the meanwhile, the first defendant submitted a letter expressing his willingness to resign allegedly on the ground of helping his son in his fledgling career. The resignation letter dated 16.06.2015 was followed by an e-mail dated 22.06.2015 and it was accepted by the plaintiff on 07.08.2015.

Immediately thereafter, the first defendant joined the services of the second defendant as Vice President (Legal) on 10.08.2015.

3.4. Inter alia, alleging that the first defendant would pass on all the confidential matters that took place with the plaintiff during the currency of his service, the present suit has been filed for permanent injunction. Pending suit, an application in A.No.5574 of 2015 was filed, seeking leave to sue. Primarily three contentions have been raised for maintaining the suit before this Court. They are:- (i) the letter of appointment was issued to the first defendant at Chennai; (ii) the Bank from which his salary was paid and the place of work of the first defendant was at Chennai; and (iii) as per Clause 13, the jurisdiction to resolve a dispute would be Courts in Chennai. Considering the submissions made, this Court, by an order dated 18.08.2015, has passed the following order.

> "This Application is filed to grant leave to the Applicant to sue the Respondents as Defendants 1 to 4 in the above suit.
>
> 2.Heard Mr. P.S. Raman, learned senior counsel appearing for the applicant and perused the materials placed before this Court.
>
> 3.The Applicant as the Plaintiff seeks to file the present suit for permanent injunction restraining the Defendant No.1 from associating himself with

Defendant No.2 including Defendant No.3 and its other directors/officials in any manner whatever and in any capacity whatever and from acting on behalf of the Defendant No.2 including Defendant Nos.3 and 4 and its other directors/officials till the final conclusion and disposal of the ongoing dispute arising out of the Multi-Annual Agreement dated 04.05.2011, Addendum A dated 04.05.2011, Amendment dated 30.09.2011 and Supplementary Agreement dated 25.04.2013, the Purchase Orders / Project Agreements pursuant to the Multi-Annual Agreement between the Defendant No.2 and the Plaintiff Company so as to affect the claim and rights and remedies / reliefs of the Plaintiff Company pursuant to his appointment as an employee in the Defendant No.2 Company and for other reliefs.

4. The grievance of the applicant is that the 1st Respondent, who was employed as General Counsel – India of the Applicant's Company has joined the 2nd Respondent after resigning the Plaintiff's Company and therefore so many confidential informations of the Applicant's company available with the 1st Defendant are likely to be passed to the 2nd Defendant with whom the Applicant is having an arbitration proceedings. Therefore, Applicant is seeking to file the present suit before this Court.

5. In so far as the present application seeking leave is concerned, it is stated that the very appointment order issued in favour of the 1st Respondent by the Applicant dated 13.02.2012 was issued at Chennai and that Plaintiff's head office is also situated at Chennai. It is further stated that the said

letter of appointment would be governed by Indian Law and the parties accepted that the exclusive jurisdiction is vested with the Courts in Chennai.

6. Considering the Order of Appointment issued in favour of the 1st Respondent and also considering the specific clause contained therein with regard to choice of forum, this Court is of the view that the substantial cause of action for filing the present suit has arisen within the jurisdiction of this Court as against the Respondents/Defendants, even though they are situated outside the jurisdiction of this Court. Accordingly, this Application is allowed."

3.5. The relevant Clauses pertaining to the letter of appointment of the first defendant issued by the plaintiff are as under:

" **8.CONFIDENTIALITY:-**

For the purposes of this clause, "Confidential Information" means any proprietary information of the Company, including but not limited to information relating to intellectual property rights, patents, trademarks, copyrights, trade secrets, know-how and the following types of information: technical data research, product plans, products, services, customer lists, software, developments, inventions, processes, formulate, technology, designs, manufacturing activity, drawings, engineering, hardware configuration, marketing, finance, dealings or other business information disclosed to you by the Company either directly or indirectly in writing, orally or by

drawings or observation of parts or equipment.

In the course of your employment with the Company, you may be privy to Confidential Information relating to the Company including trade secrets and intellectual property rights. You shall not, directly or indirectly, during the Term or thereafter, reveal, disclose or make known to any person or entity or use for your own benefit or the benefit of any third person any Confidential Information of the Company acquired during the course of employment. You shall not use or attempt to use any such information in any manner which may injure or cause loss, directly or indirectly to the company or any of its affiliated group companies. Upon the termination of your employment, you will be required to surrender to the Company all books, materials, papers, documents and any other property entrusted to you in the course of employment. The confidentiality obligations herein survive the termination of employment with the Company for an indefinite period thereafter.....

13. **CHOICE OF LAW AND FORUM**:

This Letter of Appointment shall be governed by Indian law and the parties accept the exclusive jurisdiction of the Courts in Chennai."

3.6. Seeking to revoke the leave granted by an order dated 18.08.2015, the present application in Application No.6668 of 2015 has been filed by the second defendant.

4. The learned Senior counsel appearing for the applicant/ second defendant submits that admittedly, the plaintiff is having its office at Sholinganallur, Chennai, being outside the territorial jurisdiction of this Court. The letter of appointment was also signed therein and the first defendant was working till the acceptance of his resignation. The resignation was also accepted by the plaintiff on 07.08.2015 at Sholinganallur. Clause 13 of the letter of appointment cannot confer jurisdiction to file the suit before this Court. There is no cause of action that has arisen within the territorial jurisdiction of this Court. The alleged cause of action that the first defendant consulted the lawyers at Chennai will not give jurisdiction to this Court. It is also not supported by material evidence. Even otherwise, a mere consultation *per se* would never create a cause of action. What is relevant is a material fact, if proved by the plaintiff, shall have the effect of getting the relief. Clause 12 merely speaks about a part of cause of action, which is not available in the case on hand. In any case, the second defendant is situated in Hyderabad and a dispute between the plaintiff and the first defendant could not bind him. It is not in dispute that the arbitration proceedings is also to take place at Hyderabad. Therefore, by applying the doctrine of *forum conveniens* also, the leave granted has to be revoked. In support of his

contentions, the learned Senior Counsel has made reliance on the following decisions:

1.D.Lakshminarayana Chettiar and another (((1954) AIR Madras 594);
2.Duro Flex Pvt. Limited. Vs. Duroflex Sittings System 150 (AIR 2015 Mad. 30); and
3.S.Nagaraj V. S.Govindaswamy and another (Manu/TN/0205/1984)

5. The learned Senior Counsel appearing for the first respondent/plaintiff submits that the cause of action constitutes bundle of facts. The facts were starring on the defendants. Having submitted to the jurisdiction of this Court, it is not open to the first defendant to contend to the contrary. The learned Senior Counsel further contended that the payment to the first defendant was made by way of salary from the bank situated at Chennai. Therefore, the said fact would constitute the cause of action and hence, the suit is maintainable. The Court will have to see the averments made in the plaint alone at this stage. Therefore, the leave granted is required to be sustained. In support of his contention, reliance has been made on the following judgements.

1.A.B.C. Laminart Pvt. Ltd., Vs. A.P. Agencies, Salem ((1989 AIR 1239);

2.Laxman Prasad V. Prodigy Electronics Ltd., and another ((2008)1 SCC 618);

3.Shree Ganesh Steel Rolling Mills Ltd., rep. By Chief Executive Officer, A.Abdul Rahman V. Anjaney International Co., Ltd., Alex Stewart Assayers Ltd., and Spices Trading Corporation Ltd., (Manu-TN-2377-2009);

4. The Church of Christ Charitable Trust and Educational Charitable Society, rep. By its Chairman V.Ponniamman Educational Trust, Rep. By its Chairperson/Managing Trustee(Manu/SC/0515/2012)

5.Boston Scientific International BV and Ors. V. Trivitron Healthcare Pvt. Ltd., (Manu/TN/3076/201);

6. Bhagwandas Metals Ltd., V. Raghavendra Agencies and L.S.Dwarakanath (Manu/TN/2719/2011); and

7.Sri Durga Lodge Pvt. Ltd., V. Federal Lloyd Corporation Ltd., (Manu/TN/2756/2011).

6. The learned counsel appearing for the second respondent/ first defendant submits that the allegations have no basis. The first defendant is a highly qualified person having legal knowledge and not otherwise. It is a simple issue qua the agreement between the plaintiff and the second defendant pertains to demand and supply. There is no allegation of collusion between the defendants. If there is a likelihood of fraud, the first defendant would have colluded with the second defendant. However, he has chosen to come out of the service of the plaintiff to join the second respondent. To show his bona fide, he has also filed an affidavit stating that he will not take any part in the

ongoing tussle between the plaintiff and the second defendant. Such a stand has also been ratified by the second defendant. Therefore, the very basis for filing the suit itself is not available. There is nothing that survives for adjudication in the suit. Hence, he prayed that the application may be allowed and the suit be dismissed.

7. In view of the stand taken by the first defendant with the approval of the second defendant, this Court adjourned the matter so as to enable the learned Senior Counsel appearing for the plaintiff to get instruction. However, it is reported that such a decree can be passed only when the first defendant suspends his service with the second defendant till the completion of the arbitral proceedings. Such a stand is not acceptable by the second defendant and the first defendant. Therefore, the matter is taken up for hearing to be decided on merit.

8. <u>Cause of Action:-</u>

8.1. Before going in to the merits of the case, let us deal with the word "cause of action". The word "cause of action" has not been defined either under the Civil Procedure Code or under the Letters Patent. A cause of action has to be seen in the context of territorial jurisdiction available to the Court while entertaining a suit.

It is the basis for the maintainability of a suit. It is the foundation of a suit, around which, the other provisions of the Civil Procedure Code revolve. While dealing with the cause of action, the Courts are concerned with the material facts required to be established in support of the right of the party to get a judgment. Such a material fact may be a fact in issue or a relevant fact. It has got no relationship with the case of a defendant. Such a fact shall not be equated with the evidence, which is necessary to prove a fact. A cause of action would include not only the right of the plaintiff, but also, the facts disclosing the infringement of its right. Therefore, the facts which are in support of its right and leading to infringement would form cause of action. Thus, what is important is that a fact will have to be material to the suit and the relief. Therefore, all facts, which are not material, would not constitute cause of action. There has to be an existence or infraction coupled with the right.

8.2. It is nothing but bundle of facts, which, when added with the law applicable provide the adequate right to the plaintiff 's relief. In a suit relates to a breach of contract, the making of a contract and its breach would be the proper cause of action. Therefore, the place in which it occurred would be very relevant. Thus, the fact which is remotely connected to another which forms a cause of action cannot

be one, just for the purpose of giving jurisdiction to a Court. Similarly, termination of a contract would certainly create a part of cause of action and therefore, the place in which it takes place gives jurisdiction to the Court. The legal position aforesaid has been reiterated by the Division Bench of this Court in **D.LAKSHMINARAYANA CHETTIAR AND ANOTHER ((1954) AIR Madras 594)** in the following manner.

> "41. There is no definition of "cause of action" in the Civil Procedure Code; but it is the fundamental pivot around which many of the provisions of the Civil Procedure Code revolve. It is the basis for the maintainability of the suit. It is the foundation for the adding up of parties, and it is an important ingredient in working out the principle of res judicata and that embodied in Order 2, Rule 2, Civil P.C. It has, therefore, necessarily become the subject of judicial scrutiny. Bretts J. defined it in -- 'Cooke v. Gill', (1373) 8 CP 107 (Z1) a leading case on the subject, to mean "every fact which is material to be proved to entitle the plaintiff to succeed, every fact which the defendant would have a right to traverse." In -- 'Bead V. Brown', (1889) 22 QBD 128 (Z2), Lord Esher adopted the same definition, but expressed it in more felicitous language as follows:
>
> > "Every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court. It does not comprise every piece of evidence which is necessary to prove each fact, but every fact which is necessary to be proved."
>
> Lord Watson in 'Chandkour v. Partab Singh', 16 Cal 08 (PC) (Z3) approved of the definition, but added a rider that

> "the cause of action has no relation whatever to the defence which may be set up by the defendant, nor does it depend upon the character of the relief prayed for by the plaintiff."

Subsequent decisions have followed the lead given by the earlier decisions.

48. In 'Gangi v. Ramaswami', 12 Mad LJ 103 (Z.7), Bhashyam Aiyangar J. struck a different note which is more in consonance with the later view regarding the meaning of the word "cause of action." There a first suit was brought by the plaintiffs for the recovery of some land which was in the possession of the defendant on the ground that they succeeded to the father's estate, and that the alienation made by the mother during her lifetime was bad. They obtained a decree therein, but subsequently they filed another suit to recover possession against another defendant in respect of another item which they claimed as part of the same inheritance. It was contended that the later suit was barred by Section 43, Civil P. C. In dealing with that contention, Bhashyam Aiyangar J. made the following pertinent remarks at p. 105 :

> "The former suit was instituted against the de-fondant therein, by reason of his wrongfully withholding from the plaintiffs, on the death of their mother, possession of the land in Schedule B, and the present suit is brought on the defendants herein similarly withholding the land comprised in schedule A, the defendants in both the cases having respectively come into possession of the lands comprised in schedules B and A under separate alienations made by the mother in favour of each on a different occasion. It will thus be seen that though the ground of title is one and the same in both the suits and the cause of action in respect of both arose at the same time, viz., the date of the mother's death, yet the persons who wrongfully withheld the

land in schedule A are quite different and there was no manner of combination or privity between them in respect of the lands which they severally withheld.

"The words 'cause of action' have fill along been held to mean 'every fact which it is material to be proved to entitle the plaintiff to succeed; every fact which the defendant would have a right to traverse' and have no relation whatever to the defence, but refer entirely to the grounds set forth in the plaint as the cause of action: (1873) 6 CP 107 (Z1), -- 'Shankar Baksh v. Daya Shankar', 15 Ind App 66 (PC) (Z8), 16 Cal 98 (PC) (33).

"Though the ground of title on both suits are founded in one and the same and the causes of action also arose at the same time, yet the properties comprised in the two suits are different and the persons who severally withheld the same are also different. A reference to Section 50, C. P. C. clearly shows that in every suit the plaint must show that the defendant is or claims to be interested in the subject matter and that he is liable to be called upon to answer the plaintiff's demand. This clearly shows that the cause of action is not an abstraction, something independent of the defendant, but that the plaint should disclose a cause of action against the defendant."

We respectfully agree with the aforesaid observations of the learned Judge, and this passage clearly brings out the distinction between the ground of title and the cause of action. A cause of action is something more than a ground of title. It not only includes the facts necessary to support the plaintiff's title, but also the facts which entitled him to relief against a particular defendant.

49. An interesting and instructive discussion, if we may say so, on the question raised is found in -- 'Bahadur Singh v.

Sultan Husain Khan', AIR 1922 Oudh 171 (Z9). Syed Wazir Hasan A. J. C. held that,

> "A revisioner has a separate cause of action in respect of each alienation made by the widow, and a suit to recover property comprised in one alienation is not barred by Order 2, Rule 2, C. P. C. by reason of a proper suit for the recovery of property comprised in another alienation."

The learned Judge traced the history of the meaning of the words "cause of action" and then made some weighty observations to the following effect at p. 175 ;

> "Though the cause of action has no relation to the defence which may be set up by the defendant, yet it would be an error to suppose that it has no relation to the defendant and his acts preceding the suit. A 'cause of action' is not a theoretical term entirely picked up from text books and placed on a plaint. In cases of torts, the right of the plaintiff and its infringement by the defendant will generally make up the 'cause of action'. In --'Williams v. Morland', (1824) 107 ER 620 (210), cited by Bowen L. J. in -- 'Bransden v. Humphrey', (1885) 14 QBD 141 (Z11), Little-dale J. said 'Generally speaking, there must be a temporal loss or damage accruing from the wrongful act of another, in order to entitle a party to maintain an action on the case.' Order 7, Rule 5 (Act 5 of 1908) is based on the same principle. It is as follows : 'The plaint shall show that the defendant is or claims to be interested in the subject matter and that he is liable to be called upon to answer the plaintiff's demand. 'Now in the present case the defendants' connection with the land in suit is wholly different from his connection with the lands covered by the other saies both in point of time and the subject matter of the alienations. Their act of

> infringement of the plaintiffs' right qua the property in suit is ' different from their act or acts of infringement of the plaintiffs' right qua one or the . other of the properties previously in suit."

It would be seen from the aforesaid decisions that though under Act 3 of 1859 this court was inclined to take the view that the unity of title was synonymous with cause of action, the later decisions clearly laid down that cause of action was something more than unity of title, and that it would include not only the right of the plaintiff but also the facts disclosing the infringement of that right.

8.3. A similar view has been taken by the Apex Court in **A.B.C. LAMINART PVT. LTD., AND ANOTHER V. A.P. AGENCIES, SALEM (1989 AIR 1239),** in which, the following passage would be apposite.

> "A cause of action means every fact, which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the Court. In other words, it is a bundle of facts which taken with the law applicable to them gives the plaintiff a fight to relief against the defendant. It must include some act done by t he defendant since in the absence of such an act no cause of action can possibly accrue. It is not limited to the actual infringement of the fight sued on but includes all t he material facts on which it is founded. It does not comprise evidence necessary to prove such facts, but every fact necessary for the plaintiff to prove to enable him to obtain a decree. Everything which if not proved would give the

> defendant a fight to immediate judgment must be part of t he cause of action. But it has no relation whatever to t he defence which may be set up by the defendant nor does it depend upon the character of the relief prayed for by t he plaintiff."

9. Clause 12 of Letters Patent:-

Clause 12 of the Letters Patent deals with the territorial jurisdiction of the Court. This Court assumes jurisdiction, when part of the cause of action arises within the jurisdiction. Considering the said issue, a Full Bench of this Court in **DURO FLEX PVT. LIMITED V. DUROFLEX SITTINGS SYSTEM 150 (AIR 2015 Madras 30)** has held as follows:

> "**34.**.....The question of convenience cannot be thus excluded from consideration. This view was cited with approval in Madanlal Jalan vs. Madanlal and others reported in AIR 1949 Cal. 495, where the Judge has held that the balance of convenience is a material consideration in the exercise of discretion under Clause 12 of the Letters Patent and has enunciated the following legal principles:
>
> "a) that the application lies for revoking the leave granted under Clause 12 of the Letters Patent;
>
> b) that such an application should be made at an early stage of the suit and delay and acquiescence may be a bar to such an application;
>
> c) that if the application depends on difficult questions of law or fact, the Court should not revoke leave on a summary application

but should decide the question at the trial;

d) that if the defendant shows clearly that no part of the cause of action arose within jurisdiction, the leave should be revoked as a matter of course;

e) that if only a part of the cause of action arose within jurisdiction, then it is a question of discretion for the Court to give or refuse leave or where leave has already been granted to revoke or maintain the leave; .....

g) that in giving or refusing leave or maintaining or revoking leave, the Court will ordinarily take into consideration the balance of convenience and may, if the balance is definitely in favour of the defendant, apply the doctrine of forum conveniens;

h) that the Court may refuse leave or revoke leave on the ground of balance of convenience, although there be no evidence of bad faith or abuse of process on the part of the plaintiff;.....

j) that if the Court is satisfied that the suit has been filed mala fide for the purpose of harassing or oppressing the defendant or might result in injustice, the Court should in all cases readily refuse leave or if leave has already been granted, revoke the leave as a matter of course".

35. The said view was approved in the affirmative by the Honourable Supreme Court in Kusum Ingots and Alloys Ltd., vs. Union of India and Another reported in 2004 (6) SCC 254, inter alia holding that High Court may refuse to exercise its discretionary jurisdiction even if a small part of the cause of action arises within its territorial jurisdiction, applying the test of 'forum conveniens'.

10.FORUM CONVENIENS:

10.1. In the abovesaid decision, the question of forum conveniens was also considered by this Court while granting leave under Section 12 of the Letters Patent. Accordingly, after considering number of pronouncements, it was finally concluded in the following manner:

> **57.** There is little doubt that the principles of forum conveniens, though not applicable to civil proceedings, have a role to play insofar as the consideration of grant of leave or revocation thereof under Clause 12 of the Letters Patent is concerned. This is irrespective of the fact as to what expression is used. As observed aforesaid, the balance of convenience is also forum conveniens. The test applied is of appropriateness or suitability of the forum which ought to apply, whether it be called forum conveniens or that the jurisdiction of the Court under Section 20 of the Code of Civil Procedure is different from Clause 12 of the Letters Patent (Food Corporation of India case (supra)).

Thus, there is no difficulty in appreciating the applicability of the concept of Clause 12 of the Letters Patent.

DISCUSSION:-

10.2. In the case on hand, the plaintiff is having his office situated in Sholinganallur, the letter of appointment to the first defendant was issued from that place, the first defendant was

working in various capacities therein and the letter accepting the resignation was also issued in the said place. The second defendant is also situated outside the territorial jurisdiction. These are all undisputed facts. Unfortunately, Sholinganallur does not come within the territorial jurisdiction of this Court. Therefore, the entire cause of action arises outside the territorial jurisdiction of this Court. Thus, applying the principles noted above, there is no territorial jurisdiction available to this Court. The mere fact that the first defendant came to Chennai and consulted the Lawyers would not constitute the cause of action and thus, conferring the jurisdiction on this Court. It is only a process of consultation. The consultation may be made at a different place but the same would not give any cause of action. If the said fact is taken as a material one, then it will lead to disastrous consequences conferring the jurisdiction on any Court, in which, the consultation takes place with the Lawyers. Similarly, signing of application under Section 11 of the Arbitration and Conciliation Act, 1996, also does not confer any jurisdiction.

11. Coming to the terms of the Letter of Appointment, Clause 8 can be invoked only by approaching the Court having territorial jurisdiction of Sholinganallur. Reliance has been made on Clause 13, which speaks about the jurisdiction being vested with the Courts at Chennai. Unfortunately, the plaintiff has misconstrued the

said clause. Though Sholinganallur can be termed to be a part of Chennai, it will not form part of the territorial jurisdiction of this Court. The misconception has reigned because of the fact that the plaintiff has given its address as Sholinganallur, Chennai. Because of its wrong understanding, the leave was also granted. In other words, the plaintiff proceeded on the footing that almost, all the causes of action have arisen within the territorial jurisdiction of this Court by bringing Sholinganallur within the purview of this Court. When Sholinganallur does not come within the territorial jurisdiction, it is needless to state that the suit is not maintainable. Therefore, the Letter of Appointment has to be read as a whole. If that is done, then Clause 13 would only mean the jurisdictional Court other than this Court. In other words, the Court, which has got jurisdiction over Sholinganallur, would alone have the jurisdiction. That is the reason why, Clause 13 says the Courts at Chennai. To repeat Clause 13 and to interpret it, it means that the Court having territorial jurisdiction over Sholinganallur alone. Even otherwise, law is quite settled that the parties by consent cannot confer jurisdiction upon a Court. It is not a case where two Courts have jurisdiction of which the parties have elected one. If we see the order passed at the time of granting leave, then there will not be any confusion. The plaintiff has proceeded on the footing that Sholinganallur comes within the

territorial jurisdiction of this Court. That is why, the averments that the agreement was entered into, the office of the plaintiff is situated within Chennai, the first defendant worked in Chennai and followed by the acceptance of resignation have been taken note of by this Court. Therefore, there is no other way that is available for the plaintiff except to approach the Court, which has got territorial jurisdiction over Sholinganallur.

12. The submission of the learned Senior Counsel for the Plaintiff that the payments having been made from the bank at Chennai, the suit is maintainable, cannot be countenanced. Admittedly, the second defendant is not situated within the territorial jurisdiction of this Court. The payment is a mere ministerial or administrative act. It is not a material fact, which requires to be proved leading to the granting of relief in favour of the plaintiff. It is not even a relevant fact. Hence, the submission made in this regard is accordingly rejected. The reliance made in this regard on the decisions rendered in **Bhagwandas Metals Ltd., V. Raghavendra Agencies and L.S.Dwarakanath (Manu/TN/2719/2011) and Sri Durga Lodge Pvt. Ltd., V. Federal Lloyd Corporation Ltd., (Manu/TN/2756/2011)** also cannot be accepted as they deal with different set of facts.

13. In the result, Application No.6668 of 2015 in C.S.No.697 of 2015 seeking revocation of leave stands allowed and consequently, Application No.5574 of 2015 granting leave stands dismissed.

12.07.2016

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M.M.SUNDRESH, J.

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Pre delivery order in
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