

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

CR No.8497 of 2016

Date of Decision: 11.08.2017

Harpal Singh

.....Petitioner

Versus

Sucha Singh

... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

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

Mr. H.P.S. Ghuman, Advocate
for the respondent.

RAJ MOHAN SINGH, J.

[1]. Petitioner has assailed the order dated 15.09.2016 passed by Additional Civil Judge (Senior Division), Mohali, vide which application for dismissing the suit for want of territorial jurisdiction was dismissed.

[2]. Plaintiff/respondent filed a suit for recovery of Rs.66,67,000/- inclusive of principal and interest at Mohali on the ground that Mohali Court has jurisdiction as the cheque was presented by the plaintiff/respondent at Mohali and the same was also dishonoured at Mohali.

[3]. Defendant/petitioner filed an application for dismissal of the suit for want of jurisdiction.

[4]. Learned counsel for the petitioner submitted that the cheque was issued at Malerkotla and the same was

dishonoured at Malerkotla as the Mohali Bank was only a collecting bank. The suit property was also situated in the territory of Malerkotla and defendant also resided in Malerkotla, therefore, in term of Sections 16 and 20 CPC, only Court at Malerkotla has jurisdiction to try the suit.

[5]. Learned counsel further submitted that Civil Court at Mohali should have returned the plaint in terms of Order 7 Rule 10 CPC. Learned counsel placed reliance upon **Gujarat Insecticides Ltd. Vs. M/s Jainsons Minerals and another, 2008(1) CivCC 603** and **Mountain Mist Agro India (Pvt.) Ltd. and another Vs. S. Subramaniam, 2009(1) RCR (Civil) 313** and contended that jurisdiction in terms of Sections 16 and 20 CPC is at Malerkotla.

[6]. On the other hand, learned counsel for the respondent has relied upon the compromise executed in the High Court.

[7]. I have considered the submissions made by learned counsel for the parties and found that Section 20(c) CPC deals with the cause of action arises where the defendant reside or the cause of action arises subject to limitation. Civil suit has to be instituted in the Court within the local jurisdiction of any of the defendants, where there are more than one, at the time of the commencement of the suit actually and voluntarily resides, or carries on business, or personally works for gain, where the

cause of action can be wholly or in part arises. Cause of action is dependent upon bundle of facts.

[8]. At this stage of Order 7 Rule 11 CPC, in my considered opinion, this fact being a mixed question of law and facts and dependent upon bundle of facts and circumstances, cannot be appreciated. Trial Court would be at liberty to frame preliminary issue, if any, with the concurrence or otherwise of the parties. At the stage of determining the issue of jurisdiction in terms of Order 7 Rule 11 CPC, the Court is not obligated to see probable defence raised by the defendant. Only averments in the plaint are to be seen. The averments in the plaint would not deprive the plaintiff from maintaining the suit at Mohali subject to any such evidence likely to be adduced by the defendant in order to facilitate the trial Court to frame any preliminary issue on the subject at a later stage.

[9]. In view of above, I see no ground to interfere in the impugned order dated 15.09.2016 passed by Additional Civil Judge (Senior Division), Mohali at this initial stage. This revision petition is accordingly dismissed.

11.08.2017

prince

Whether Reasoned/Speaking

Whether Reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No