

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

Date of decision: 03.04.2017

CWP No.6407 of 2017

Rishi Kapoor

...Petitioner

Vs.

Union of India & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Dinesh Mahajan, Advocate, for the petitioner.

RAJIV NARAIN RAINA, J.

Right or wrong, the remedy of the petitioner lies in first appeal under Section 96 of the Code of Civil Procedure to the District Judge against the judgment and decree dated 30.01.2017 rendered by the Additional Civil Judge (Senior Division), Gurdaspur. Even when the trial Court has held on Issue No.3 that the Gurdaspur Court had no territorial jurisdiction to entertain and try the suit since all the bundle of facts constituting cause of action arose in Visakhapatnam and not only within the territorial jurisdiction of the Gurdaspur Court, but also no Court within the territorial jurisdiction of our High Court would have the territorial jurisdiction to entertain the dispute regarding an order of removal from service passed in Visakhapatnam. The order of removal and the order in appeal passed by the DIG Headquarters were served and supplied to the petitioner at Vishakhapatnam in the State of Karnataka.

The trial Court has observed that the plea taken by the plaintiff-petitioner in his plaint that he was conveyed his dismissal order at

Gurdaspur, Punjab is false as per admission of the plaintiff made during cross-examination that both the orders i.e. order of removal dated 22.01.2014 as well as order in appeal dated 30.04.2014 were conveyed to him at Visakhapatnam. The findings on Issue No.3 are universal in character and if they do not suffer from any legal infirmity, then the findings would be true to any Court in India. It would, therefore, seem to me that dismissing this writ petition for the reason that an appeal is provided against the judgment and decree of the trial Court would serve no useful purpose and the only order that can be passed is to relegate the petitioner to his remedy in a Court of competent jurisdiction at Visakhapatnam.

If the petitioner is shown the door of first appeal enabling him to come in regular second appeal to this Court and then enable him to approach the Supreme Court in case of inevitable dismissal would be an empty formality because the result of the litigation can be foretold today. Neither any cause of action nor part thereof arises within the territorial jurisdiction of this Court. The commission of offence and misconduct of eve teasing was committed somewhere in Visakhapatnam. To this end, the findings on Issue No.3 returned by the learned Additional Civil Judge (Senior Division), Gurdaspur are reproduced hereunder to assist any Court where this order may be presented in any proceeding in future:

“ISSUE No.3

3. Whether this court has got no territorial jurisdiction to entertain and try and present suit?

OPD

12. The onus to prove this issue was upon the defendants and the learned counsel for the defendants has vehemently argued that this court has no jurisdiction to try the present suit as no part of cause of action accrued in favour of the plaintiff within the territorial jurisdiction of this court. On the other hand, the learned counsel for the plaintiff has argued that this

court has jurisdiction to try the present suit as order of the dismissal was conveyed to the plaintiff at Gurdaspur. At this stage, the cross-examination of plaintiff is very material who during his cross has specifically admitted that he was supplied the copy of enquiry after completion and the removal order from service was served upon him at Visakhapatnam on 23.01.2014 and he preferred an appeal before DIG, Headquarter on 12.02.2014, which was dismissed by DIG vide order dated 30.04.2014 and copy of the same was also supplied to him at Visakhapatnam, which means that the plea taken by the plaintiff in his pleading that he was conveyed about his dismissal from service at Gurdaspur is false and as per admission of plaintiff both the orders i.e. order dated 22.01.2014 as well as order dated 30.04.2014 passed by appellate authority were conveyed to the plaintiff at Visakhapatnam which means that this court even has no territorial jurisdiction to try the present suit, so accordingly, this issue is also decided in favour of the defendants and against the plaintiff.

RELIEF

13. In view of findings of this Court on the above said issues, the suit of the plaintiff is hereby dismissed with no order as to costs.”

However, in case remedy is invoked in Visakhapatnam, the petitioner may apply under Section 14 of the Limitation Act, 1963 for the time spent in this litigation in the Civil Suit No.349 dated 28.08.2014 against the order passed by the Appellate Authority rejecting the appeal on 30.04.2014 including the order of removal from service, which order has not been placed on the file of this petition. Furthermore, in case of availing remedy in Visakhapatnam, then it would be in the fitness of things to hold that the findings of the learned trial Court on the merits of this case will not influence an independent examination by any other Court on the merits of the removal and appellate order.

The moral of the story is one should secure sage counsel before launching a thousand ships.

Accordingly, this petition is dismissed with the above observations recorded and the liberty.

03.04.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>