

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 582 OF 2018**

Pratibha Prabhakar Sabnis ... Petitioner

Versus

State of Karnataka, Thr. Commissioner
Belagavi Urban Development & 7 Others ... Respondents

Shri Surendra Borkar, Advocate for the Petitioner.

CORAM : C.V. BHADANG, J.

DATE : 12th JUNE 2018

ORAL ORDER:

The challenge in this petition, is to the order dated 09.06.2017, passed by the learned District Judge at Panaji Goa, thereby returning the plaint, on the ground that the Court has no territorial jurisdiction.

2. The brief facts necessary for the disposal of the petition may be stated thus:

That a certain part of land at Belagavi (Karnataka) belonging to the petitioner was acquired by the Belagavi Urban Development Authority (BUDA, for short). The preliminary notification was issued in the year 1984. The final notification came in the year 1992. It is contended that the Land Acquisition Officer (LAO) passed an award on 11.02.1998. According to the

State, the acquired land is developed, sites are allotted and buildings have been erected by the allottees.

3. Be that as it may, the petitioner filed Writ Petition No. 107831/2015, before the Dharwad Bench of the Karnataka High Court, in which, BUDA was arrayed as respondent. The petitioner had questioned the communication dated 21.05.1999 from BUDA, rejecting the application dated 21.04.1999, filed by the petitioner. The said petition was disposed of by the Karnataka High Court on 27.08.2015, directing the authority to pass fresh award, determining the market value etc. of the acquired land, under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act of 2013, for short).

4. It appears that the petitioner filed yet another petition being Writ Petition No. 113734/2015, before the Dharwad Bench of Karnataka High Court, in which, an undertaking came to be filed, on behalf of the Commissioner, BUDA (respondent no. 2), which reads as under:

“The respondent no. 2 i.e. the Commissioner, Belagavi Urban Development Authority, Belagavi, undertake to comply the order passed by this Hon'ble Court in W.P. No. 107831/2015 (LA-RES)

dated 27.08.2015, regarding the passing of fresh award determining the market value, under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, within a period of 6 weeks."

5. It further appears that BUDA challenged the order dated 27.08.2018, passed in Writ Petition No. 107831/2015, before the Division Bench in Writ Appeal No. 100668/2015. However, that appeal was withdrawn on 05.04.2016.

6. It appears that the petitioner had approached the Hon'ble Supreme Court in Special Leave to Appeal (Civil) No. 2946/2007, arising out of judgment and order dated 16.11.2016 in CCC No. 100745/2015, passed by the High Court of Karnataka at Dharwad. The said Special Leave to Appeal has been disposed of on 03.02.2017 in the following terms:

"The High Court has granted liberty to the petitioner to challenge the award in case the petitioner is not satisfied and in that view of the matter, it was held that there is no contempt.

We see no reason to take a different view. Therefore, reserving the liberty as granted by the High Court, this Special Leave Petition is dismissed.

Pending interlocutory applications, if any, stand disposed of."

7. The petitioner filed a summary suit purportedly, under Order XXXVII of the Code of Civil Procedure (CPC, for short), before the Senior Civil Judge at Bicholim, arraying eight defendants including the Chief Minister of Karnataka for the following reliefs:

“This Court may pass order directing to Bank at initial stage as Garnishee, to appear and file reply to application submitted by plaintiff. If the Garnishee disputes liability under Garnishee, this Court may decide before initiating proceedings under XXXVII of CPC. In view of such submission in accordance to law, this Court, may declare the Union Bank of India, as defendant in this suit under Order XXXVII of CPC.”

8. It appears that the plaint was returned and subsequently, the petitioner filed SPLCS No. 953/2017, before the learned District Judge at North Goa, for similar reliefs, in which, the office had raised certain objections. The learned District Judge has passed the following order, in the matter, on 09.06.2017, which brings the petitioner to this Court.

“As this Court has no jurisdiction (territorial), plaint is to be returned to the plaintiff.”

9. I have heard Shri Borkar, the learned Counsel for the petitioner. Perused the record. The learned Counsel has also placed on record written arguments. I have gone through the same.

10. It is submitted by Shri Borkar, the learned Counsel for the petitioner that the learned Senior Civil Judge had returned the plaint only because there were some public officers arrayed in the suit. He, however, submits that the learned District Judge could not have returned the plaint for want of territorial jurisdiction. It is submitted that the petitioner is a resident of Bicholim and had issued notice from there and as such, the learned District Judge would have jurisdiction.

On behalf of the petitioner, reliance is placed on the decision of the Supreme Court in the case of **Terapalli Dyvasahata Kumar Vs. S.M. Kantha Raju (Dead) through LR, AIR 2017 SCC 4055**, and **Mohannakumaran Nair Vs. Vijayakumaran Nair, (2007) 14 SCC 426**. It is submitted that the suit would be maintainable, in view of the liberty granted by the Hon'ble Supreme Court on 03.02.2017. He therefore submits that the petition be allowed.

11. As noticed earlier, admittedly, the land which was acquired, is situated at Belagavi (Karnataka). The acquisition proceedings were conducted at Belagavi. The petitioner had approached the Dharwad Bench of the Karnataka High Court, in which, some orders are passed and an undertaking is said to be given on behalf of BUDA. Thus, it is difficult to accept that the District Judge at Panaji would have territorial jurisdiction to

entertain the suit as framed and filed. The learned Counsel for the petitioner submits that the memo of undertaking at 11.12.2015, is a “promissory note”, which the Union Bank of India, Raviwar Peth, Belagavi has to honour by transferring an amount of Rs.64 crores and odd from the account of BUDA to the account of the appellant.

12. It is not necessary to dwell on merits of any such claim. Suffice it to mention that the learned District Judge has rightly found that there is no territorial jurisdiction to entertain the suit. In the case of **Terapalli Dyvasahata Kumar** (supra), the question was whether, Section 23 of the Andhra Pradesh Societies Registration Act of 2001 referred only to the Principal District Court of the place, where the society is registered. The Hon'ble Supreme Court has found that it has to be necessarily held that it is only the concerned District Court, where the society is registered, who will have jurisdiction to entertain any dispute under Section 23 of the Andhra Pradesh Societies Registration Act.

13. In the case of **Mohannakumaran Nair** (supra), the appellant had borrowed the sum from the respondent and the transaction was carried out at Saudi Arabia. The appellant had executed a promissory note in favour of the respondent.

Apparently, the parties were residing at Saudi Arabia, while the suit was filed at Attingal. The respondent raised an objection regarding territorial jurisdiction. The appellant claimed that since, the respondent was a resident within the jurisdiction of Attingal, the Court would have jurisdiction. The High Court held that the Court has territorial jurisdiction to entertain the suit. The Supreme Court ultimately held that at the material time, the respondents had been residing at Saudi Arabia and the material date is one of the institution of the suit and the change of the residence subsequent to the decision would not confer territorial jurisdiction. It is difficult to see as to how, the aforesaid decisions can come to the aid of the petitioner. That apart, the cases also turned on their own facts.

In the result, I do not find any reason to interfere with the impugned order. The petition is without any merit and is accordingly dismissed.

C.V. BHADANG, J.

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