

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2019

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P. No. 22225 of 2019

S. Arun

...Petitioner

Vs.

1. National Institute of Public Finance and Policy
Represented by its Secretary,
18/2, Satsang Vihar Marg,
Special Institutional Area (JNU)
New Delhi - 0110067.

2. Shri. Ajay Narottam Shah

3. Mr. Susan Thomas

...Respondents

Prayer: Petitions are filed under Article 226 of the Constitution of India, praying to issue Writs of Mandamus, directing the First Respondent to dispose of Petitioner representation dated 08.07.2019 pending on the file of the First Respondent.

For Petitioner: Mr. Vaibhav For Mr. P.N. Vignesh

O R D E R

The Petitioner made a representation dated 08.07.2019 to the First Respondent, viz., Indira Gandhi Institute of Development Research at New Delhi, to take action against the Second and Third Respondents, who are working as Professors in that institution, and are residents of New Delhi, are working as Professors, on the basis of certain prosecution launched against them by the Central Bureau of Investigation. The Writ Petition has been filed before this Court by the Petitioner, who claims to be the resident of Chennai, to direct the First Respondent to dispose the aforesaid representation made by him.

2. When the Writ Petition has been taken up for admission before this Court today, Learned Counsel for the Petitioner was required to substantiate as to how the Writ Petition could be entertained by this Court as neither the Respondents are having

their 'seat of authority' nor any part of the 'cause of action' has arisen within the territorial limits of jurisdiction of this Court, having regard to the mandate of clauses (1) and (2) of Article 226 of the Constitution of India.

3. Learned Counsel for the Petitioner submits that since the Petitioner is a resident of Chennai and has sent the representation dated 08.07.2019 from here, it would suffice for him to approach this Court for the aforesaid relief.

4. The question whether the mere service of a notice to a Petitioner at his residence would entitle him to seek legal remedy under Article 226 of the Constitution of India before the High Court where his residence is situated, arose for adjudication before the Hon'ble Supreme Court in State of Rajasthan -vs- M/s. Swaika Properties (1985 AIR 1289), in which it has been held as follows:-

"8. The expression 'cause of action' is tersely defined in Mulla's Code of Civil Procedure:

"The '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 right to relief against the defendant. The mere service of notice under S. 52(2) of the Act on the respondents at their registered office at 18-B, Brabourne Road, Calcutta i.e. within the territorial limits of the State of West Bengal, could not give rise to a cause of action within that territory unless the service of such notice was an integral part of the cause of action. The entire cause of action culminating in the acquisition of the land under s. 52(1) of the Act arose within the State of Rajasthan i.e. within the territorial jurisdiction of the Rajasthan High Court at the Jaipur Bench.

The answer to the question whether service of notice is an integral part of the cause of action within the meaning of Art. 226(2) of the Constitution must depend upon the nature of the impugned order giving rise to a cause of action. The notification dated February 8, 1984 issued by the State Government under S. 52(1) of the Act became effective the moment it was published in the official Gazette as thereupon the notified land became vested in the State Government free from all encumbrances. It was not necessary for the respondents to plead the service of notice on them by the Special Officer, Town Planning Department, Jaipur under S. 52(2) for the grant of an appropriate writ, direction or

order under Art. 226 of the Constitution for quashing the notification issued by the State Government under S. 52(1) of the Act. If the respondents felt aggrieved by the acquisition of their lands situate at Jaipur and wanted to challenge the validity of the notification issued by the State Government of Rajasthan under S. 52 (1) of the Act by a petition under Art. 226 of the Constitution, the remedy of the respondents of the grant of such relief had to be sought by filing such a petition before the Rajasthan High Court, Jaipur Bench, where the cause of action wholly or in part arose." "

Applying the aforesaid principles, afortiori the mere fact that the representation made by the Petitioner was despatched from Chennai, would not suffice to hold that part of 'cause of action' for the Writ Petition has arisen for directing the disposal of that Writ Petition by the First Respondent whose 'seat of authority' is not situated within its territorial limits.

5. Even if it is assumed that in addition to the other Courts, this Court would have territorial jurisdiction, the principle of forum convenience would clearly operate to the effect that the Court ought not to entertain a Writ Petition when part of the cause of action, was trivial or negligible, as in this case, as fortified by the decision of the Division Bench of this Court in C. Ramesh -vs- The Director General of Police (order dated 06.06.2013 in W.P. (MD) No. 8790 of 2013) wherein it has been held as follows:-

"7. Exercise of jurisdiction is based on arising of the cause of action, either in whole or in part in any one of the said Revenue Districts. [See RAJASTHAN HIGH COURT ADVOCATES' ASSOCIATION Vs. UNION OF INDIA AND OTHERS (2001 (2) SCC 294) and B.STALIN Vs. THE REGISTRAR, SUPREME COURT OF INDIA AND OTHERS (2012 (3) LW 489 (FB))].

8. It should be remembered that the part of cause of action must be substantial in nature. The territorial jurisdiction of the Court is linked with the place of accrual of cause of action. [See U.P. RASHTRIYA CHINI MILL ADHIKARI PARISHAD, LUCKNOW Vs. STATE OF U.P. AND OTHERS (1995 (4) SCC 738)].

9. Referring to KUSUM INGOTS & ALLOYS LTD. Vs. UNION OF INDIA (2004 (3) CTC 365), a Full Bench of this Court in SANJOS JEWELLERS Vs. SYNDICATE BANK, BANGALORE AND OTHERS (2007 (5) CTC 305), held as under:-

"30. We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative

factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the Doctrine of forum conveniens. [See BHAGAT SINGH BUGGA Vs. DEWAN JAGBIR SAWHNEY, AIR 1941 CAL 670 : ILR (1941) 1 CAL 490; MADANLAL JALAN Vs. MADANLAL, 1945 (49) CWN 357: AIR 1949 CAL 495; BHARAT COKING COAL LTD. Vs. JHARIA TALKIES & COLD STORAGE (P) LTD., 1997 CWN 122; S.S.JAIN & CO. Vs. UNION OF INDIA, 1994 (1) CHN 445, and NEW HORIZONS LTD. Vs. UNION OF INDIA, AIR 1994 DEL 126]."

10. Question of entertaining a lis disclosing a cause of action or part of cause of action is based on the averments contained in the affidavit etc. At that stage, the truth or otherwise of the averments need not be gone into. But, there must be necessary averments disclosing a cause of action, so that the Court can take cognizance of/entertaining the lis exposed in the petition for taking further action. [See OIL AND NATURAL GAS COMMISSION Vs. UTPAL KUMAR BASU AND OTHERS (1994 (4) SCC 711)].

11. A Court cannot arrogate/assume/confer upon itself a jurisdiction-territorial jurisdiction, when it has no such jurisdiction. Lack of jurisdiction to entertain a matter goes to the root of the matter, otherwise whatever action taken or orders passed by the Court becomes a nullity, it is non est and of no consequence at all resulting in wasting of precious public time. Courts are barred from indulging in hypothetic and academic exercises."

6. In the aforesaid circumstances, this Court does not find any justification to entertain the Writ Petition and accordingly, the same is dismissed. It is made clear that no views on the merits of the factual contentions have been expressed by this Court and the rejection of this Writ Petition for the aforesaid reason would not preclude the Petitioner from working out his remedies for eligible relief, if he is otherwise entitled, before the proper forum in the manner recognized by law. No costs.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

maya/kv

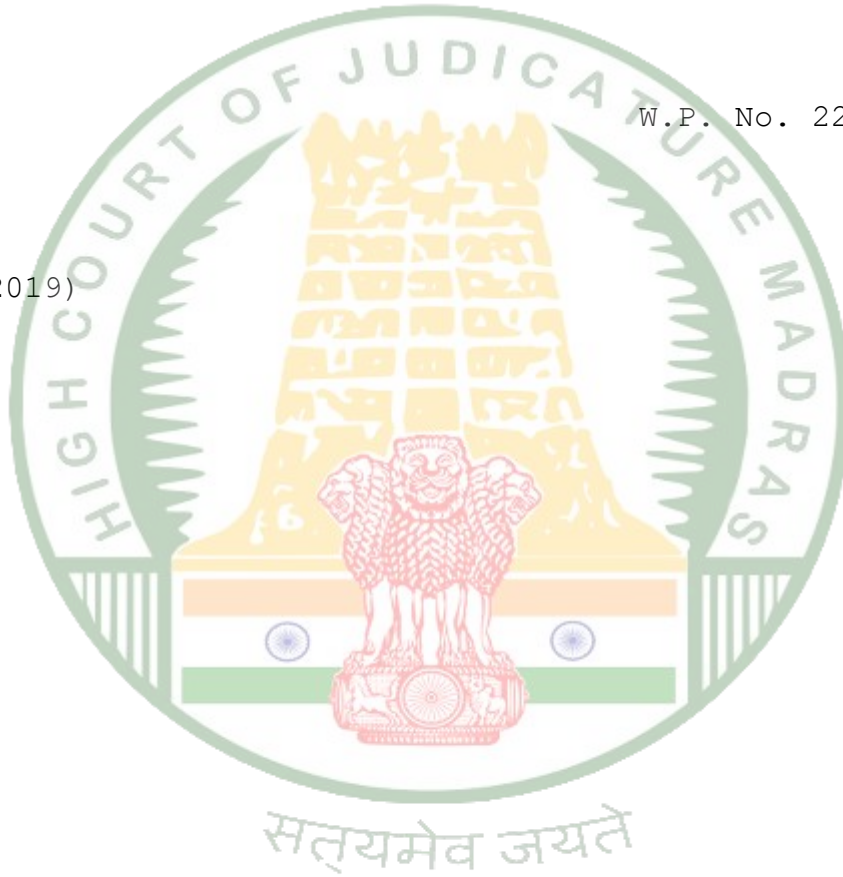
To

The Secretary,
National Institute of Public Finance and Policy
18/2, Satsang Vihar Marg,
Special Institutional Area (JNU)
New Delhi - 0110067.

+1 CC to M/s. Nithyaesh & Vaibhav, Advocate sr 64940.

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GMR (CO)
SP (20/09/2019)



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