

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

Sr. No.202

C.R. No.7935 of 2017

Date of decision: 13.02.2019

Ami Chand

....Petitioner

versus

Mewa Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Sapan Dhir, Advocate
for the petitioner.

Mr. R.S. Budhwar, Advocate
for the respondent.

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DEEPAK SIBAL, J. (Oral)

In the suit preferred by the petitioner before the Trial Court, the case set up by him was that through an agreement dated 10.06.2013, the respondent rented out a shed to the petitioner to be used by him as a Dhaba. The agreement was for a period of 11 months and the monthly rent agreed between the parties was Rs.10,000/-. In pursuance to the aforesaid agreement, the petitioner paid to the respondent Rs.50,000/- as security which was to be repaid to him by the respondent on the maturity of the agreement. However, after the period of lease was over, the petitioner demanded from the respondent the aforesaid security amount of Rs.50,000/- which the respondent refused to give occasioning the filing of the aforesaid suit through which the petitioner sought from the respondent the aforesaid amount of Rs.50,000/-.

The Trial Court dismissed the petitioner's suit on merits as also on the ground that it lacked territorial jurisdiction to entertain his suit. The

petitioner appealed against the dismissal of his suit which appeal was also dismissed on the ground of jurisdiction as according to the Appellate Court, the suit property was in Derabassi in District Mohali and therefore, the Court at Naraingarh in District Ambala, has no territorial jurisdiction to try the petitioner's suit. It was directed that the petitioner's plaint be returned to enable him to file the same before the Court which has jurisdiction to try his suit. Such direction by the Appellate Court is under challenge in the present proceedings.

Learned counsel for the parties have been heard.

It is admitted that the agreement dated 10.06.2013 was entered into between the parties in Naraingarh, District Ambala which included the clause under which the petitioner had paid to the respondent refundable security of Rs.50,000/- which is the subject matter of dispute between the parties. That being so, part of the cause of action accrued at Naraingarh, District Ambala and therefore, the Courts at Naraingarh would have jurisdiction to try the petitioner's suit.

The above view of mine is supported by the judgment of the Hon'ble Apex Court in **A.B.C. Laminart Pvt. Ltd. and another vs. A.P. Agencies, Salem – (1989) 2 SCC 163**, wherein it has been held as under:-

“13. Under section 20(c) of the Code of Civil Procedure subject to the limitation stated theretofore, every suit shall be instituted in a court within the local limits of whose jurisdiction the cause of action, wholly or in part arises. It may be remembered that earlier section 7 of Act 7 of 1888 added Explanation III as under:

“Explanation III. – In suits arising out of contract the cause of action arises within the meaning of this section at any of the following places, namely:-

- (1) the place where the contract was made;*
- (2) the place where the contract was to be performed or performance thereof completed;*
- (3) the place where in performance of the contract any money to which the suit relates was expressly or impliedly payable.”*

15. In the matter of a contract there may arise causes of action of various kinds. In a suit for damages for breach of contract the cause of action consists of the making of the contract, and of its breach, so that the suit may be filed either at the place where the contract was made or at the place where it should have been performed and the breach occurred. The making of the contract is part of the cause of action. A suit on a contract, therefore, can be filed at the place where it was made. The determination of the place where the contract was made is part of the law of contract. But making of an offer on a particular place does not form cause of action in a suit for damages for breach of contract. Ordinarily, acceptance of an offer and its intimation result in a contract and hence a suit can be filed in a court within whose jurisdiction the acceptance was communicated. The performance of a contract is part of cause of action and a suit in respect of the breach can always be filed at the place where the contract should have been performed or its performance completed. If the contract is to be performed at the place where it is made, the suit on the contract is to be filed there and nowhere else. In suits for agency actions the cause of action arises at the place where the contract of agency was made or the place where actions are to be rendered and payment is to be made by the agent. Part of cause of action arises where money is expressly or impliedly payable under a contract. In cases of repudiation of a contract, the place where repudiation is received is the place where the suit

would lie. If a contract is pleaded as part of the cause of action giving jurisdiction to the Court where the suit is filed and that contract is found to be invalid, such part of cause of the action disappears. The above are some of the connecting factors.”

In view of the above, the impugned judgments and decrees passed by the Trial Court as also the Appellate Court are set aside and the matter is remitted to the Trial Court for it to take a fresh decision on the already existing evidence on record. Such decision be rendered within two months from the date of receipt of a certified copy of this order after giving adequate opportunity to both sides to present their case.

The present petition is allowed in the above terms.

(DEEPAK SIBAL)
JUDGE

February 13, 2019
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No