

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 10TH DAY OF FEBRUARY 2020

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

A.No.9392 of 2019
in
C.S.SR.No.135938 of 2019

Lt. Col.Ramunni Nair,
S/o.Ramakrishna Nair
Flat No.3002, Bayview,
Hiranandani Upscale,
5/63 OMR,
Thalambur PO-600 130.

..Applicant/Plaintiff

// Versus //

1. Renault Nissan Automotive India (P) Ltd.,
Rep. by its Managing Director,
Plot No.1, SIPCOT Industrial Park,
Oragadam, Mattur Post,
Sriperumbudur,
Kanchipuram District-602 105.

2. Renault India (P) Ltd.,
Rep. by its CEO,
4th Floor, ASV Ramana Towers,
37 & 38, Venkatanarayana Road,
T.Nagar, Chennai-600 017.

3.Nissan Motor India (P) Ltd.,
Rep. by its President
5th Floor, ASV Ramana Towers,
37 & 38, Venkatanarayana Road,
T.Nagar, Chennai-600 017.

4.Nissan Renault Financial Services India Pvt. Ltd.,
Rep. by its MD
5th Floor, ASV Ramana Towers,
37 & 38, Venkateswara Road,
T.Nagar, Chennai-600 017.

5. Renault Nissan Technology & Business Centre India Pvt. Ltd.,
Rep. by its MD
Ascendas IT Park, Mahindra World City No.TP 2/1,
Natham Sub Post Office, Kancheepuram Dt.,
Tamil Nadu 603 002.

6. Mr. Jayakumar David,
Alliance HR Director,
Renault Nissan Technology & Business Centre India Pvt. Ltd.,
Ascendas IT Park, Mahindra World City No.TP 2/1,
Natham Sub Post Office, Kancheepuram Dt.,
Tamil Nadu 603 002.

..Respondents/Defendants

Application praying that this Hon'ble Court be pleased to grant leave to institute the above suit against the Respondents/defendants 1, 5 & 6 herein to claim the reliefs as prayed for by the applicant/plaintiff in the suit.

This Application coming on this day before this Court for hearing, the Court made the following order:

This Application is filed to grant leave to institute the suit against respondents 1, 5 & 6 before this Court. The suit is filed for a mandatory injunction directing the defendants to rescind their termination order dated 20.06.2019 issued against the plaintiff and reinstate him with adequate compensation; or in the alternative; to direct the defendants to pay to the plaintiff a sum of Rs.5 Crore towards compensation for loss of two years' salary, damages caused to the reputation of the plaintiff and mental agony on account of illegal termination of the plaintiff by order dated 20.06.2019.

2.I heard the learned counsel for the applicant/plaintiff and the learned counsel for the respondents.

3.The learned counsel appearing on behalf of the applicant submitted that the applicant was appointed vide appointment order dated 15.06.2009 by the first respondent. Although the applicant was appointed by the first respondent, he pointed out that the appointment order makes it clear that the applicant could be directed to provide services at any of the first respondent's companies/establishments/ departments/divisions anywhere in India as also the Associate Companies and any Subsidiary Companies of the applicant. He also referred to other documents so as to establish that the applicant provided services to group companies of the first respondent, which have been joined as respondents in the application. In particular, he referred to Pan India Organization chart at page 6 of the typed set of papers. He also referred to the Appraisal Form which indicates that services were provided to other group companies, namely the other defendants herein.

4.The learned counsel appearing on behalf of the applicant/plaintiff also contended that the services that were provided by the applicant to the group companies of the first respondent were taken into consideration for the purpose of appraisal of his performance.

5.By referring to the reply from the lawyer for the first respondent dated 06.08.2019, he pointed out that it is the admitted position that the performance of the applicant was appraised not only by the first respondent but also by the associate companies. For all these reasons, he submitted that respondents 2 to 5 are necessary or

proper parties to the suit and that therefore the applicant is entitled to leave to sue respondents 1, 5 & 6 before this Court.

6.The learned counsel appearing on behalf of the respondents 1 to 6 made submissions to the contrary. He pointed out that it is the admitted fact that the appointment order dated 15.06.2009 was issued by the first respondent. Equally it is the admitted fact that the termination order dated 28.06.2019 was issued by the first respondent. The salary of the applicant during the entire period of employment was also admittedly paid by the first respondent. In fact, the learned counsel pointed out that the notice dated 11.07.2019 which was issued by the counsel for the applicant after the issuance of the termination order, was addressed only to the first respondent and the 6th respondent in the capacity of Director of the first respondent. For all these reasons, the learned counsel submitted that this application is liable to be rejected.

7.The learned counsel appearing on behalf of respondents 2 to 5 made submissions thereafter. He pointed out that the appraisal which was relied upon by the learned counsel for the applicant, is admittedly an appraisal carried out by the first respondent and not by any of the other respondents. He also pointed out that the respondents 2, 3 & 5 have their registered offices at Sriperumbudur in Kancheepuram District and that the addresses specified in the cause title are the Corporate Office addresses.

M.Issac Vs. The Church of South India reported in *2009(2) CTC 631* and in particular paragraphs 23 & 24 therein, wherein this Court relied upon the judgement of the Hon'ble Supreme Court in the case of *Rajasthan High Court Advocates' Association Vs. Union of India & others* reported in *2001 (2) SCC 294* to conclude that 'cause of action' consists of facts that give rise to the right of action and not 'every fact'. By relying upon the said decision, the learned counsel submitted that in this case, the cause of action admittedly arose out of the termination order issued by the first respondent and, therefore, the applicant is not entitled to leave to sue.

9.I considered the submissions of the learned counsel for the respective parties and examined the relevant documents. Upon perusal of the plaint, it is clear that the suit is for a mandatory injunction to rescind the termination order and reinstate the applicant or, in the alternative, to direct the defendants to pay a sum of Rs.5 Crore as damages on account of the unlawful termination of the services of the applicant. From the relief requested in the plaint, it is self evident that the cause of action of the applicant commenced from the date of receipt of the termination order. The said termination order is, therefore, the basis of the suit. It is the admitted position that the order of appointment and termination were issued by the first respondent.

10.The learned counsel appearing on behalf of the applicant/plaintiff did not controvert the fact that salaries were also paid by the first respondent. In view of the above mentioned admitted facts, it is clear that the cause of action of the applicant is

the territorial jurisdiction of this Court.

11. Therefore, I am of the view that the suit is required to be laid where the first respondent has its registered Office. In addition, the second and third respondents have their registered offices at Sriperambudur in Kancheepuram District. This fact also makes it clear that this Court does not have jurisdiction over this dispute. Accordingly, the application for leave to sue is rejected.

Sd./-S.K.R.J

10/02/2020

//Certified to be true copy//

Dated at Madras this the day of 2020.

JJ 25/02/2020

COURT OFFICER(O.S.)

From 25.09.2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

सत्यमेव जयते

WEB COPY