

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

O.S.A.No.101 of 2017

E.Rajakumaran

... Appellant/Applicant/Plaintiff

Vs

M/s.Johoku Manufacturing Pvt.Ltd.,
Rep.by its Managing Director,
Plot No.7, SIPCOT Industrial Park,
Vallam Vadangal,
Echur Post - 631 604,
Sriperumbudur Taluk,
Kanchipuram District.

... Respondent/Respondent/Defendant

PRAYER : Original Side Appeal filed under Order XXXVI Rule 1 of O.S. Rules, praying to set aside the order and decree passed by this Court dated 03.08.2016 made in Application No.8076 of 2015 in C.S.D.No. of 2015 on the file of this Court.

For Appellant : Mr.R.Agilesh.
For Respondent : Mr.A.Saravanan for
Mr.R.Bharath Kumar.

J U D G M E N T

(Judgment of the court was made by N.KIRUBAKARAN.J.,)

The matter was heard through "Video Conference".

2.This Original Side Appeal has been filed against the order of the Learned Single Judge refusing to grant leave to file a Suit against the Respondent before this Court.

3.The Appellant proposed to file a Suit with the following prayer;

"a)Declaring that the order of dismissal dated 06.11.2015 by the Defendant is bad, wrong, null and void.

b)To direct the defendant to pay Rs.50,00,000/- as and by way of damages.

c)To direct the defendant to pay the costs of the Suit."

According to the Appellant, the cause of action for the Suit arose in Chennai as the office of the Respondent/ Company was situated at Saidapet, Chennai, within the jurisdiction of this Court, when the Appellant was appointed on 22.01.2014 in the office of the Respondent / Company. Subsequently, during the service of the Appellant with the Respondent / Company, his salary has been increased vide communication dated 29.04.2014. When these facts constitute cause of action to file a Suit before this Court, the Appellant sought leave to file a Suit against the Respondent before this Court.

4.However, the Learned Single Judge on appreciation of the facts and circumstances of the case, dismissed the Application filed by the Appellant refusing to grant leave to file a Suit before this Court stating that these facts are not material facts which would constitute cause of action to file a Suit before this Court.

5.Mr.R.Agilesh, Learned Counsel for the Appellant submitted that cause of action for the suit arises at Chennai as the registered office of the Respondent was situated at Saidapet, Chennai, when the Appellant was appointed on 22.01.2014. Subsequently, on 29.04.2014, on appreciation of the work done by the Appellant, his salary was increased and in this regard, a communication has also been sent from the office of the Respondent situated at Chennai. Further, he submitted that when these facts constitute cause of action to file a Suit before this Court, erroneously, the Learned Single Judge had refused to grant leave to file a Suit before this Court. Stressing the above points, he would pray to set aside the order of the Learned Single Judge and grant leave to file a Suit before this Court.

6.However, Mr.A.Saravanan, Learned Counsel for the Respondent submitted that there is no cause of action to file a Suit before this Court and the Learned Single Judge has rightly refused to grant leave, as the cause of action does not arise within the jurisdiction of this Court and prayed for dismissing this Appeal.

7.Heard Mr.R.Agliesh, Learned Counsel for the Appellant and Mr.A.Saravanan, Learned Counsel for the Respondent and perused the materials available on record.

8.A perusal of the plaint as well as the order passed by the Learned Single Judge would reveal that the office of the Respondent was located in Saidapet, Chennai, when the Appellant was appointed on 22.01.2014. The appointment order of the Appellant was issued from the office of the Respondent which was situated at Chennai and subsequently, the order increasing the salary of the Appellant dated 29.04.2014, was also issued from the office of the Respondent which was situated at Chennai. However, these facts would not constitute cause of action to file a Suit before this Court.

9.The real cause of action for filing the Suit before this Court by the Appellant is only with regard to his suspension and dismissal from the Respondent / Company. When the appellant was in service, the Respondent / company got shifted to Sriperumpudur, Kanchipuram District and the company has been functioning from Sriperumpudur only, where the Appellant had also joined and worked. At the time of suspension as well as dismissal from service, the Registered office as well as the Company were located in Sriperumpudur, Kanchipuram District and there is no work or function carried out by the Respondent within the jurisdiction of this Court. Therefore, there are no material facts which give rise to cause of action for the Appellant to file a Suit before this Court.

10.Hence, this Court is completely in agreement with the order passed by the Learned Single Judge. Therefore, the Order passed by the Learned Single Judge in Application No.8076 of 2015 is confirmed and the Appeal is dismissed. No costs.

11.Since the Application to grant leave to file a Suit before this Court was dismissed by the order of the Learned Single Judge and the same was confirmed by this Court, Registry is directed to return the plaint filed by the Appellant along with enclosures, after making a copy for record under written acknowledgment within a period of two weeks from the date of receipt of a copy of this Judgment, so as to enable the Appellant to re-present the plaint before appropriate forum within a period of four weeks from the date of receipt of a copy of the plaint along with enclosures, if so advised.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

To

The Sub Assistant Registrar,
Original Side Section,
High Court of Madras,
Chennai.

+1 CC to Mr. Bharath Kumar, Advocate sr 7221.
+1 CC to Mr.T. Dhanasekaran, Advocate sr 7115.

O.S.A.No.101 of 2017

SSD(CO)
SP(09/03/2021)



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