



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.06.2021

C O R A M

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THE HONOURABLE MR.JUSTICE P.D.AUDIKEVALU

W.P. (MD) No. 9901 of 2021

and

W.M.P. (MD) No. 7604 of 2021

K.S.Selvan

... Petitioner

-vs-

1.The Executive Director/Appellate Authority,
Canara Bank, No.112, J.C. Road,
Head Office, Bangalore.

2.The Chief General Manager/Disciplinary Authority,
Canara Bank, Industrial Relation Section,
No.112, J.C. Road, Head Office, Bangalore.

3.The Assistant General Manager/Inquiring Authority,
Canara Bank, Circle Office, Chandigarh.

4.The Assistant General Manager,
Canara Bank, Regional Office,
(Formerly Divisional Office-East),
Pandyan House,
Madurai.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the First Respondent to consider the Petitioner's Appeal and dispose of the same pending before him from 02.09.2020 onwards, within the time frame that may be stipulated by this Court.

For Petitioner : Mr. R. Murugan

For Respondents : Mr. N. Dilip Kumar
Standing Counsel

ORDER

Heard Mr. R. Murugan, Learned Counsel for the Petitioner and Mr. N. Dilip Kumar, Learned Counsel, who takes notice for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.



2. The Petitioner, who was working as Chief Manager in Circle Office, Karnal, of the Respondent from 28.09.2018 to 27.08.2019, was transferred to Srinagar Main Branch, Chandigarh, by order dated 24.05.2019 and as he had not reported for duty, disciplinary proceedings were initiated against him which culminated in the order No.HRW IRS DP CHD 2467 2020 dated 21.08.2020 issued by the Second Respondent inflicting the Petitioner with the penalty of dismissal. The Petitioner thereafter claims to have preferred an appeal dated 02.09.2020 against that order before the First Respondent and this Writ Petition has been filed for directing the First Respondent to dispose the said appeal within a time limit that may be stipulated by the Court.

3. 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.

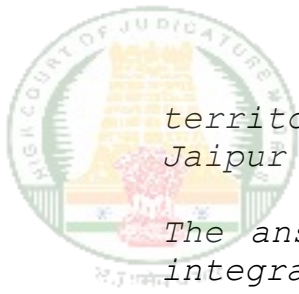
4. Learned Counsel for the Petitioner states that the Petitioner presently resides at Meenakshiyapuram, Duraisamiyapuram Post, Sivagiri, Tenkasi District, PIN - 627757, from where he has sent the appeal, which falls within the jurisdiction of this Court.

5. The question whether the mere service of a notice to a person 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- Swaika Properties** [1985 (3) SCC 217], 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



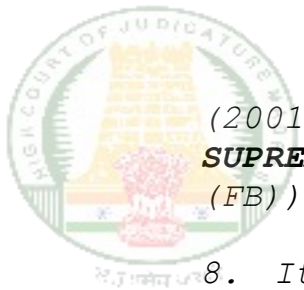
territorial jurisdiction of the Rajasthan High Court at the Jaipur Bench.

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, *a fortiori* the mere fact that the appeal filed by the Petitioner was despatched from his residence at Tenkasi, within the territorial limits of jurisdiction of the Madurai Bench of this Court, would not form any part of 'cause of action' for the Writ Petition to arise for directing the disposal of that appeal by the First Respondent whose 'seat of authority' is not situated within its territorial limits.

6. It is borne out of record that the termination of the Petitioner from employment has not taken place within the territorial jurisdiction of this Court. Even if it is assumed that in addition to the other Courts, this Court would also 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 the 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) where 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 OTEHRS**



(2001 (2) SCC 294) and **B.STALIN Vs. THE REGISTRAR, SUPREME COURT OF INDIA AND OTHERS** (2012 (3) LW 489 (FB))].

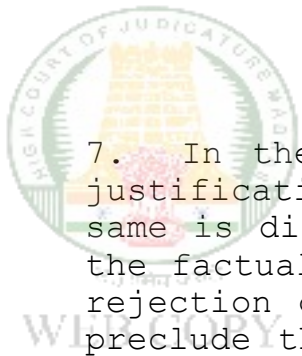
8. It should be remembered that the part of cause of action must be substantial in nature. The territorial jurisdiction of the Court is linked with the place of accrual of cause of action. [See **U.P. RASHTRIYA CHINI MILL ADHIKARI PARISHAD, LUCKNOW Vs. STATE OF U.P. AND OTHERS** (1995 (4) SCC 738)].

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



7. 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 controversies 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. Consequently, the connected miscellaneous petitioner is closed. No costs.

Sd/-

Assistant Registrar(CS-I)

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/ /2021

Sub Assistant Registrar(CS)

vsm/SRM

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-19134[F] dated 10/06/2021)

W.P. (MD) No.9901 of 2021

and

W.M.P. (MD) No.7604 of 2021

09.06.2021

SE (CO)

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