



W.P. No. 24209 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2022

CORAM

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

W.P. No. 24209 of 2014

and

M.P. No. 1 of 2014

Sivasubramania Battar

... Petitioner

-VS-

1. The Commissioner
Hindu Religious and Charitable Endowments Department
Nungambakkam, Chennai.
2. The Joint Commissioner
Hindu Religious and Charitable Endowments Department
Tirunelveli-2.
3. The Joint Commissioner /Executive Officer
Arulmigu Subramania Swamy Temple
Tiruchendur, Tuticorin District.
4. The Trustee, (Thakkar)
S/o. Late.Kalyana Appaswamy Battar
No.29/17, Kariamianicka Perumal Koil Street
Tiruchendur, Tuticorin District.

5. K.Krishnamoorthy

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records and order of the First Respondent dated 12.05.2014 in R.P. No. 100/2013-D2 and quash the same as illegal.



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For Petitioner : Mr. J.Antony Jesus

For Respondents : Mr. K.Karthikeyan
Government Advocate (For R1 & R2)

Mr. A.K.Sriram
For M/s. A.S. Kailasam Associates (For R3)

R4-No appearance

Mr. W.C.Sridhar (For R5)

ORDER

Heard Mr. J.Antony Jesus, Learned Counsel appearing for the Petitioner, Mr. K.Karthikeyan, Learned Government Advocate for the First and Second Respondents, Mr. A.K.Sriram, Learned Counsel for the Third Respondent, Mr. W.C.Sridhar, Learned Counsel for the Fifth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed challenging the order in R.P. No. 100/2013-D2 dated 12.05.2014 passed by the First Respondent rejecting the rival claims of the hereditary succession of pooja murai in the Temple of the Third Respondent.



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3. It is not in dispute that the Temple in respect of which the claim is made

by the Petitioner and the offices of the Second to Fourth Respondents are situated within the territorial limits of jurisdiction of the Madurai Bench of this Court. It has been further brought to notice that earlier Writ Petition in W.P (MD) No. 2298 of 2012 relating to the same matter had been filed before the Madurai Bench of this Court. That apart, the Writ Petition in W.P (MD) No. 7624 of 2007 relating to the rights claimed by the Fifth Respondent in the same Temple had been filed by the Petitioner before the Madurai Bench of this Court. Another Writ Petition in W.P. No.21153 of 2013 relating to the same Temple filed by the Fifth Respondent before this Court was withdrawn by him with liberty by Order dated 28.09.2022 to file fresh Writ Petition before the Madurai Bench of this Court. The only reason stated by the Petitioner for approaching the Principal Seat of this Court instead of Madurai Bench is that the office of the First Respondent, who has passed impugned order located at Chennai within the territorial limits of jurisdiction of this Court. There cannot be any doubt that the First Respondent exercises powers for the whole of the State of Tamil Nadu, but that cannot be said to mean as if the cause of action has arisen within the territorial limits of jurisdiction of the Principal Seat of this Court at Chennai. Even if it is assumed that a part of cause of action has arisen within the territorial limits of jurisdiction of this Court, the principle of *forum*



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conveniens would come into play as held by 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), 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*



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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*



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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.”

Having regard to the aforesaid legal position *viz-a-viz* factual matrix of this case, the cause of action for the Writ Petition, would have to be necessarily construed as having arisen wholly outside the territorial limits of jurisdiction of the Principal Bench of this Court, notwithstanding that the office of the First Respondent is located in Chennai. Though obvious, it is made clear that no view has been expressed by this Court on the merits of the controversy involved in the matter.



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4. In fine, the Writ Petition is dismissed with the aforesaid clarifications.

Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

Note: Issue order copy by 11.11.2022.

To

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P.D. AUDIKESAVALU, J.

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