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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2022

CORAM

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

W.P. No. 23432 of 2019

R.Yesudasan

...Petitioner

-vs-

1.M.D.India

New Health Insurance Private Limited
(Unit of Insurance Co. Ltd.)
Guna Complex, No.443 & 445, Anna Salai
Teynampet, Chennai - 600 018.

2.The District Collector

Kanyakumari
Kanyakumari District.

3.The Director of Medical & Rural Health Department
Chennai - 600006.

4.The Commissioner of Pay and Accounts
Integrated Complex for Finance Department
III Floor, Veterinary Hospital Campus
Anna Salai, Nandhanam, Chennai.

5.The Chief Educational Officer
South S.L.B. Road
Nagercoil, Kanyakumari District-629 001.

6.The Treasury Officer
District Treasury Office
Kanyakumari District.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the First Respondent herein to reimburse medical expenses of Rs.1,52,884/- with interest incurred by the Petitioner for taking treatment at NIMS Heart Foundation Noorul Islam Institute of Medical Science & Research Foundation, Neyyattinkarai at Thiruvandapuram and other medical expenses.

For Petitioner : Mr. D.Charles Muthu Shanthan

For Respondents: Mr. T.Shanmugham (For R1)

Mr. Vadivelu Deenadayalan (For R2 to R6)
Additional Government Pleader



O R D E R

Heard Mr. D.Charles Muthu Shanthan, Learned Counsel for the Petitioner, Mr. T.Shanmugham, Learned Counsel for the First Respondent and Mr. Vadivelu Deenadayalan, Learned Additional Government Pleader appearing for the Second to Sixth Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who is a retired teacher, had made a claim for reimbursement of expenditure of Rs.1,52,884/- towards medical expenses incurred by him with interest for taking treatment from 29.04.2015 to 02.05.2015 at Noorul Islam Institute of Medical Science & Research Foundation, Neyyattinkarai at Thiruvanthapuram, but as there was no response for the same, he has filed this Writ Petition.

3. Learned Additional Government Pleader appearing for the Second to Sixth Respondents has produced a copy of the Letter in Na. Ka. No. 10596/ 2019/L2 dated 09.02.2022 from the Sixth Respondent sent to the Nodal Officer, United India Insurance Company Limited, V Floor, P.L.A. Rathna Towers, 212, Anna Salai, Chennai - 600 006 requesting to examine the claim of the Petitioner for medical reimbursement under the Health Insurance Scheme and Learned Counsel for the Petitioner has received its copy.

4. It is not in dispute that R.C.Primary School, Palliyadi in which the Petitioner was working at the time of his retirement from service is located within the territorial limits of jurisdiction of the Madurai Bench of this Court. The only reason stated for having approached the Principal Seat of this Court instead of approaching the Madurai Bench of this Court is that the office of the First, Third and Fourth Respondents are situated at Chennai within the territorial limits of jurisdiction of the Principal Seat of this Court. There cannot be any doubt that the First, Third and Fourth Respondents exercise powers for the whole of the State of Tamil Nadu, but that cannot be said to mean as if the cause of action arises within the territorial limits of jurisdiction of the Principal Seat of this Court.

5. In this context, reference may be made to the decision of the Division Bench of this Court in C.Ramesh -vs- Director General of Police, Chennai (Order dated 06.06.2013 in W.P. (MD) No. 8790 of 2013), in which 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))].



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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 hypothetical 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, viz., seeking direction to the First Respondent to reimburse the medical expenses of Rs.1,52,884/- incurred by the Petitioner, would have to be necessarily construed as having arisen wholly within the territorial limits of jurisdiction of the Madurai Bench of this Court, notwithstanding that the office of the First, Third and Fourth Respondents are located in Chennai.

6. When it is pointed out that the Writ Petition cannot be entertained in the Principal Seat of this Court in that backdrop, Learned Counsel for the Petitioner seeks permission of the Court to withdraw this Writ Petition with liberty to file fresh Writ Petition for the same relief before the Madurai Bench of this Court and he has made an endorsement to that effect in the court record.

In fine, the Writ Petition is dismissed as withdrawn granting such liberty. No costs.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

Maya

To

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+1CC to Mr.S.John Peter, Advocate, SR.No.23790

+1cc to Government Pleader, Sr.No.23790

W.P. No. 23432 of 2019

LA (CO)
KKV/17/05/2022