



\$~4(Appellate Side)

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CM(M) 334/2022 & CM APPL. 17640/2022

M. RAJAN Petitioner

Through: Mr. S. Sashi Bhusan, Adv.
versus

MANOHAR LAL Respondent

Through: None

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

J U D G E M E N T (O R A L)

% **27.04.2022**

1. This petition under Article 227 of the Constitution of India assails an order dated 6th April, 2021 in CS SCJ No. 50520/2016, whereby the application of the petitioner, as the defendant in the said suit, under Order VII Rule 11 of the Code of Civil Procedure, 1908 (CPC), seeking dismissal of the suit on the ground of want of territorial jurisdiction, has been dismissed.

2. The respondent, as the plaintiff in the suit, alleged that he had advanced a friendly loan of ₹ 2,75,000/- to the petitioner refundable on or before 10th December, 2013. On the respondent approaching the petitioner seeking refund of the loaned amount, the plaintiff alleged that the petitioner had paid ₹ 1,000/- in cash and handed over a post-dated cheque dated 28th April, 2014 for an amount of ₹ 2,74,000/-. The aforesaid cheque was stated to have been presented to the State Bank of India, Kalkaji, New Delhi, on 29th April, 2014, whereupon it



was dishonoured on the ground of insufficiency of funds. Further repeated attempts by the respondent to request the petitioner to return the loan amount having failed, the respondent proceeded to file the aforesaid suit, seeking a decree against the petitioner for an amount of ₹ 2,74,000/- along with interest *pendente lite* and future till the date of payment. The plaint also alleges that, out of the loan amount of ₹ 2,75,000/-, an amount of ₹ 60,000/- was paid by the respondent to the petitioner from the Bank account of the respondent at Kalkaji, Delhi.

3. The petitioner moved an application under Order VII Rule 11, CPC, seeking dismissal of the suit filed by the respondent for want of territorial jurisdiction. The said application has been rejected by the learned Additional Civil Judge (“the learned ACJ”) *vide* the impugned order dated 06th April, 2021. The impugned order holds that, as the plaint alleged that part payment of the loan had been made from the Bank account of the respondent at Kalkaji, and the cheque which was handed over by the petitioner to the respondent for ₹ 2,74,000/- was also dishonoured at Delhi, the plaint could not be rejected at that stage on the ground of want of territorial jurisdiction as a part of the cause of action had arisen within the jurisdiction of this Court.

4. Aggrieved by the aforesaid observation made by the Ld. ACJ, the petitioner approached this Court.

5. Mr. S. Sashi Bhusan, learned Counsel for the petitioner, interjects at this point to contend that the cheque of ₹ 2,74,000/- was handed over to the respondent at Assam, though it was dishonoured on



presentation at Delhi.

6. Learned Counsel for the petitioner submits that the learned ACJ has erred in rejecting the petitioner's contention that the respondent's suit was bad for want of territorial jurisdiction. He submits that no part of the cause of action could be said to have arisen within the jurisdiction of this Court. He has placed reliance on the judgment of the Supreme Court in *Patel Roadways v. Prasad Trading Co.*¹

7. On a plain reading, Section 20² of the CPC, 1908, permits institution of a suit before a Court within the local limits of whose jurisdiction the defendant resides/ carries on business, or where the cause of action wholly or in part arises. The Explanation to Section 20 clarifies where, for the purposes of the said provision, a Corporation would be deemed to carry on business. The judgment of the Supreme Court in *Patel Roadways*¹, on which learned Counsel for the petitioner places reliance, essentially dealt with the scope of the Explanation to Section 20, where the suit was being sought to be instituted against a Corporation. It does not delineate the scope of Section 20(c) of the CPC, in a case where a suit is instituted against an individual.

¹ (1991) 4 SCC 270

² 20. Other suits to be instituted where defendants reside or cause of action arises.—Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction -

(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally works for gain, as aforesaid, acquiesce in such institution; or personally

(c) The cause of action, wholly or in part, arises.



8. Section 20(c) clearly states that a suit may be instituted in a Court within the local limits of whose jurisdiction the cause of action arises in whole or in part.

9. The expression, “cause of action”, has been defined times without number by the Supreme Court, as constituting the entire bundle of facts which is required to be established in order for a plaintiff to claim a right to relief against a defendant in a suit. One may refer in this context to *A.B.C. Laminart (P) Ltd. v. A.P. Agencies*³, *Bloom Dekor Ltd. v. Subhash Himatlal Desai*⁴ and *Church of Christ Charitable Trust and Educational Charitable Society v. Ponniamman Educational Trust*⁵

10. The respondent -plaintiff in the present suit, sued the petitioner -defendant, for having failed to return the loan advanced by the former to the latter. There are specific averments in the plaint that part of the loan was advanced at Delhi. It is further averred in the plaint that the cheque, handed over by the petitioner to the respondent, against part re-payment of the loan was presented and dishonoured at Delhi on the ground of want of sufficient funds. These facts, in my considered opinion, definitely constitute part of the cause of action which were required to be pleaded and established in order for the respondent - plaintiff to succeed in the suit.

³ (1989) 2 SCC 163

⁴ (1994) 6 SCC 322

⁵ (2012) 8 SCC 706



11. I do not find, therefore, that the learned ACJ can be said to have erred, either on facts or in law, in refusing to reject the plaint at this stage, under Order VII Rule 11 of the CPC, on the ground of want of territorial jurisdiction.

12. No case for interference by this Court, within the confines of Article 227 of the Constitution of India as delineated by the Supreme Court in its judgment in *Estralla Rubber v. Dass Estate*⁶, *Garment Craft v. Prakash Chand*⁷ or *Puri Investment v. Young India Co.*⁸ can be said to exist.

13. This petition is accordingly dismissed.

C.HARI SHANKAR, J

APRIL 27, 2022
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⁶ (2001) 8 SCC 97

⁷ 2022 SCC OnLine SC 29

⁸ 2022 SCC OnLine SC 283