



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 699 OF 2016

Chandralop Shikshan Prasarak
Mandal & Others

...Applicants

Versus

Umesh Hiranman Patil & Another

...Respondents

Mr. Anilkumar K. Patil, for the Applicants.

Mr. Kush M. Lahankar a/w Mr. S. R. Ganbavale, for Respondent No. 1.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 31st JULY, 2023.

P.C.:

. Heard.

2. The challenge in the petition is to the order dated 25th July, 2016 rejecting the application for return of plaint under Order 7, Rule 10 of the Code of Civil Procedure on the ground of jurisdiction.

3. Learned Counsel appearing for the Applicants has pointed out the averments in the plaint and in particular the jurisdictional clause which states that as the plaintiff is the resident of Malegaon,

his suit has been instituted at Malegaon. Learned Counsel appearing for the Respondents submits that the suit has been filed based on the cause of action which has arisen within the jurisdiction of the Malegaon Court.

4. Considered the submissions and perused the impugned order.

5. Section 20 of the C.P.C. provides for jurisdiction and states that every suit shall be instituted in the Court within the local limits of whose jurisdiction the defendants or each of the defendants, where there are more than one resides, or carries on business or any of the defendants, where there are more than one resides or carries on business provided leave of Court is given or the defendant who does not reside or carry on business, acquiesce in such institution or the cause of action, wholly or in part, arises. The averments in the plaint invokes the jurisdiction of the Malegaon Court on the ground that the plaintiff is resident of Malegaon. Considering the provisions of Section 20 of C.P.C., the place of residence of plaintiff does not confer jurisdiction upon Malegaon Court.

6. By the impugned order the trial Court has rejected the application by holding that the cause of action has wholly arisen

within the territorial jurisdiction of the Malegaon Court. As indicated above, there is no averment in the plaint as regards the cause of action arising at Malegaon and on the contrary the jurisdictional clause states that as the plaintiff is residing in Malegaon and as such the plaint has been filed in Malegaon.

7. In view of the above the trial Court has exceeded its jurisdiction in entertaining the suit by relying upon the provisions of clause (C) of Section 20 of the C.P.C. which is wholly inapplicable to the present case. The impugned order is liable to be quashed and set aside and is, hereby, quashed and set aside. The application below Exhibit 22 stands allowed. Civil Revision Application stands allowed.

8. Needless to clarify that as the impugned order has been quashed and set aside, the trial Court to pass necessary consequential order of return of plaint.

(SHARMILA U. DESHMUKH, J.)