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W.P. No. 8851 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2023

CORAM

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

W.P. No. 8851 of 2023

and

W.M.P. No. 9008 of 2023

S.Selvaraj

... Petitioner

-VS-

1. Tamil Nadu Housing Board
Rep. by its Managing Director
Anna Salai, Nandanam
Chennai – 600 035.

2. The Secretary and Personal Officer
Tamil Nadu Housing Board
Anna Salai, Nandanam
Chennai – 600 035.

3. Executive Engineer and Administrative Officer
Tirunelveli Housing Unit
Tamil Nadu Housing Board
Anbu Nagar, Tirunelveli-627 011.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to impugned proceedings bearing No. Pension-4/13228/2013 dated 17.03.2022 issued by the First Respondent withholding Rs.3,03,249/- from Petitioner DCRG amount towards the alleged final loss and impugned proceedings No.PT1/17696/2012 dated 17.08.2022 issued by the Second



W.P. No. 8851 of 2023

Respondent declining to pay interest on delayed payment of pension arrears and quash both the proceedings and consequently direct the Respondents to release /disburse Rs.3,03,249/- and to pay interest at 12% per annum on pension arrears from the date it fell due within a time frame.

For Petitioner : Mr. K.M.Ramesh
Senior Counsel
for Mr. V.Subramani

ORDER

Heard Mr. K.M.Ramesh, Learned Senior Counsel assisted by Mr. V.Subramani, Learned Counsel for the Petitioner and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who had retired from the services in the Tirunelveli Unit of the Respondent has filed this Writ Petition challenging the proceedings in No. Pension-4/13228/2013 dated 17.03.2022 passed by the First Respondent withholding his Death-cum-retirement Gratuity dues towards alleged final loss and the proceeding No.PT1/17696/2012 dated 17.08.2022 passed by the Second Respondent declining to pay interest for delayed payment of pension arrears and consequential reliefs.



W.P. No. 8851 of 2023

WEB COPY

3. It is not in dispute that the office of the Third Respondent, where the Petitioner worked at the time of retirement from service, is situated within the territorial limits of jurisdiction of 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 and Second Respondents are located at Chennai within the territorial limits of jurisdiction of this Court. There cannot be any doubt that the office of the First and Second 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 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 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 OTEHRS (2001 (2)



W.P. No. 8851 of 2023

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*



W.P. No. 8851 of 2023

WEB COPY

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*



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 offices of the First and Second Respondents are 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.

4. 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.



W.P. No. 8851 of 2023

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No costs.

21.03.2023

Maya

Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 26.05.2023.

To

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Rep. by its Managing Director
Anna Salai, Nandanam
Chennai – 600 035.
2. The Secretary and Personal Officer
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WEB COPY



W.P. No. 8851 of 2023

P.D. AUDIKESAVALU, J.

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W.P. No. 8851 of 2023

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