



W.P. No. 7534 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2023

CORAM

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

W.P. No. 7534 of 2023

and

W.M.P. Nos. 7639 and 7641 of 2023

V.Shanmugam

... Petitioner

-VS-

1. The Director General of BSF,
Border Security Force,
Block No. 10, CGO Complex,
Lodhi Road, New Delhi – 110 003.
2. The Inspector General,
Border Security Force,
FTR HQ, Gandhi Nagar,
Gujarat State – 381 025.
3. Deputy Inspector General,
Sec. HQ BSF – Barmer,
Rajasthan State – 344 001.
4. The Commandant,
76 BN BSF, BSF Camp, Jalipa,
Barmer, Rajasthan State – 344 001.
5. The Deputy Inspector General,
Border Security Force,
Sector TAC Head Quarters, Post Tamasa,
District Malkangiri, Odisha.
6. Deputy Inspector General, BSF,
SHQ BSF Chennai,



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Village – Keerapkkam,
PO – Nallampakkam, Post,
Chengalpattu District – 600 127,
Tamil Nadu

7. The Commandant,
110 Bn BSF, Mowpet – Shillong,
Meghalaya – 794 3012.
8. The Commandant,
110 Bn BSF,
Tagore Villa, Alam Bazar,
Kolkotta, West Bengal – 700 035.
9. The Commandant,
85 BN BSF, Dhikberia,
Badu – Post,
Dist., - North 24 Barhana,
West Bengal – 700 128.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Proceedings in the 1st respondent's Signal DTO 281730 dated 28.01.2020 to the Sixth Respondent seeking pre receipt for Rs. 2,00,000/- against 40% disability to be declared as arbitrary, unfair, discriminative, in violation of Rule of Law, violative of Articles 14 and 16 of the Constitution, quash it and resultantly to pay Rs.3.75 Lakhs against 75% disability under Seema Prahari Beema Yojna Insurance Claim as already sought to be settled at Rs. 3,75,000/- by way of seeking pre-receipt for the said amount conveyed under a letter dated 30.05.2019 addressed by the Fifth Respondent to the Petitioner together with interest at 10% from the date of injury viz. 03.06.2009 to the date of payment.



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For Petitioner : Mr. A.Irundayam
For Respondents : Mr. K.Ramanamoorthy,
Central Government Standing Counsel

ORDER

Heard Mr. A.Irundayam, Learned Counsel for the Petitioner and Mr. K.Ramanamoorthy, Learned Central Government Standing Counsel, who takes notice for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who is working in Sec. HQ BSF – Barmer, Rajasthan, had met with an accident on 03.06.2009 at Tiruvannamalai while he was on earned leave. The First Respondent by Proceedings in Signal DTO 281730 dated 28.01.2020 has sought pre-receipt for Rs. 2,00,000/- from the Petitioner through the Sixth Respondent for the disability suffered by him under the Seema Prahari Beema Yojna Insurance Scheme, which is challenged in this Writ Petition contending that the Petitioner is entitled to a higher amount of Rs. 3,75,000/- together with interest at the rate of 10% per annum from the date of injury, viz., 03.06.2009, till the date of actual payment.



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3. It is not in dispute that the offices of the First to Fifth and Seventh to Tenth Respondents are not situated within the territorial limits of jurisdiction of this Court. The only reason stated by the Petitioner for approaching this Court is that his permanent address and the office of the Sixth Respondent are located at Chennai within the territorial limits of jurisdiction of this Court, but there is no explanation in the affidavit filed in support of the Writ Petition as to how the Sixth Respondent, who was liaising with the First Respondent, has any legal obligation to meet the claim of the Petitioner under Seema Prahari Beema Yojna Insurance Scheme. The aforesaid circumstances 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- 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)



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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,



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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.

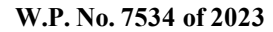
JHARIA TALKIES & COLD STORAGE (P) LTD., 1997 CWN

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*



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, this Court does not find any justification to entertain this Writ Petition. 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.

In fine, the Writ Petition is dismissed with the aforesaid clarifications. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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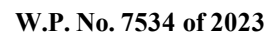
Index: Yes/No

Neutral Citation : Yes/No

Note: Issue order copy by 31.05.2023.

To

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Border Security Force,
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Lodhi Road, New Delhi – 110 003.
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Border Security Force,
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P.D. AUDIKESAVALU, J.

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