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W.P. Nos. 8080, 8082 and 8084 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2023

CORAM

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

W.P. Nos. 8080, 8082 and 8084 of 2023

V.Dennison	... Petitioner in W.P. No. 8080 of 2023
T.Stephenson	... Petitioner in W.P. No. 8082 of 2023
C.Baby	... Petitioner in W.P. No. 8084 of 2023

-VS-

1. The Assistant Director of Industries and Commerce
(Industrial Co-operative Societies), Liquidator
TAICO Bank Ltd.
No.36, South Canal Bank Road
Mandavelipakkam
Raja Annamalaipuram
Chennai – 28.
 2. Kanyakumari District Small Match Procedures Service
Industrial Co-operative Society Ltd.
Thuckalay
Kanyakumari District.
(Under Liquidation)
- ... Respondents in all W.P.s

Common Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the First Respondent to pay the Petitioner retirement monetary and all attendant benefits as accepted by him in the proceedings in Ka.Ko.No.193/2004 dated 04.02.2021 on the file of the First Respondent, within a stipulated time.



W.P. Nos. 8080, 8082 and 8084 of 2023

For Petitioner : Mr. P.Selvaraj (in all W.P.s)
For Respondents : Mr. S.Rajesh (for R1) (in all W.P.s)
Government Advocate
Mr. M.Bindran (for R2)
Additional Government Pleader
(in all W.P.s)

COMMON ORDER

Heard Mr. P.Selvaraj, Learned Counsel for the Petitioners, Mr. S.Rajesh, Learned Government Advocate, who takes notice for the First Respondent, and Mr. M.Bindran, Learned Additional Government Pleader, who takes notice for the Second Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioners, who were working in Kanyakumari District Small Match Producers Service Industrial Co-operative Society Limited, Thuckalay, Kanyakumari District, have filed these Writ Petitions for directing the First Respondent to pay the retirement monetary and all attendant benefits to the Petitioners as accepted by the First Respondent in his Proceedings in Ka. Ko. No. 193/2004 dated 04.02.2021, within the stipulated time.



W.P. Nos. 8080, 8082 and 8084 of 2023

3. It is not in dispute that the Co-operative Society in respect of which the claims are made by the Petitioners and the office of the Second Respondent are situated within the territorial limits of jurisdiction of the Madurai Bench of this Court. The only reason stated by the Petitioners for approaching the Principal Seat of this Court instead of Madurai Bench is that the office of the First Respondent is located at Chennai within the territorial limits of jurisdiction of this Court. There cannot be any doubt that the First Respondent exercises 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- 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 OTHERS (2001 (2) SCC 294) and B.STALIN Vs. THE REGISTRAR, SUPREME COURT OF INDIA AND OTHERS (2012 (3) LW 489 (FB))].



W.P. Nos. 8080, 8082 and 8084 of 2023

WEB COPY

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;



W.P. Nos. 8080, 8082 and 8084 of 2023

WEB COPY

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*



W.P. Nos. 8080, 8082 and 8084 of 2023

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, this Court does not find any justification to entertain these Writ Petitions. Though obvious, it is made clear that no view has been expressed by this Court on the merits of the controversy involved in these matters.

In the result, these Writ Petitions are dismissed with the aforesaid clarifications. No costs.

16.03.2023

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Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 31.05.2023.



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To

WEB COPY

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P.D. AUDIKESAVALU, J.

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