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W.P. No. 9673 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2023

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

W.P. No. 9673 of 2023

and

W.M.P.Nos.9728 and 9729 of 2023

B.Rajeshwari

... Petitioner

-VS-

1. Government of Tamil Nadu,
Rep. by Secretary to Government,
Personnel and Administrative Reforms(J) Department,
Secretariat, Chennai – 600 009.
2. The Director
Directorate of Rural Development & Panchayat Raj
4th and 5th Floor, Panagal Maligai
Saidapet, Chennai 600 015.
3. The Director
Directorate of Local Fund Audit
4th Floor, Professor K.Anbhalagan Building
No.571, Anna Salai, Nandanam, Chennai-600 035.
4. The Commissioner
Papanasam Panchayat Union
Papanasam, Thanjavur.
5. Block Development Officer
Thanjavur Panchayat Union Office
Thanjavur District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Respondents 1 to 5 to



W.P. No. 9673 of 2023

pay family pension to the Petitioner from 13.11.2020 (the day on which the Petitioner's husband T.Balasubramanian died) within a time frame fixed by this Hon'ble Court together with 18 percentage per annum from the date the pension is payable to the Petitioner.

For Petitioner : Mr. N.G.R.Prasad
for M/s.Row and Reddy

For Respondents : Mr. K.Karthik Jeganath
Government Advocate (R1 to R3)

Mr.M.S.Premkumar (R4 and R5)

ORDER

Heard Mr. N.G.R.Prasad, Learned Counsel for the Petitioner, Mr.Karthik Jeganath Learned Government Advocate appearing for the First to Third Respondents and Mr.M.S.Premkumar Learned Counsel for the Fourth and Fifth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The husband of the Petitioner, viz., T.Balasubramanian, who was working a Record Clerk in the office of the Fifth Respondent died on 13.11.2020 while he was in service, and this Writ Petition has been filed for directing the Respondents to pay family pension to her.



W.P. No. 9673 of 2023

3. It is not in dispute that the Panchayat Union, where the husband of the Petitioner was working, in respect of which the claim has been made by the Petitioner and the offices of the Fourth and Fifth Respondents are 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 offices of the First to Third Respondents are located at Chennai within the territorial limits of jurisdiction of this Court. There cannot be any doubt that the First to Third 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- 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. 9673 of 2023

WEB COPY

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



W.P. No. 9673 of 2023

WEB COPY

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 (4) SCC 711)].*



W.P. No. 9673 of 2023

WEB COPY

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 *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 to Third 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. It has been brought to notice by Learned Government Advocate appearing for the Respondents that by Proceedings in Na. Ka. No. 54364/2022/E2 dated 21.10.2022, the Third Respondent has sent proposals for



W.P. No. 9673 of 2023

sanction of pension to the Petitioner and its copy has been placed on record. It is made clear that if the Petitioner still has any other grievance to be redressed in the matter, she would have to work out the rights before the proper forum in the manner recognized by law.

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

29.03.2023

kst

Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 31.05.2023.

To

1. The Secretary to Government of Tamil Nadu,
Personnel and Administrative Reforms(J) Department,
Secretariat, Chennai – 600 009.
2. The Director
Directorate of Rural Development & Panchayat Raj
4th and 5th Floor, Panagal Maligai
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WEB COPY



W.P. No. 9673 of 2023

P.D. AUDIKESAVALU, J.

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4. The Commissioner
Papanasam Panchayat Union
Papanasam, Thanjavur.
5. Block Development Officer
Thanjavur Panchayat Union Office
Thanjavur District.

W.P. No. 9673 of 2023

29.03.2023