

24  
04.07.2024  
S.D.  
Ct. No. 26

**F.M.A. 466 of 2021  
With  
CAN 1 of 2021**

**Dr. Sephali Roy  
Vs.  
Union of India & Ors.**

Mr. Pradyamna Sinha  
Mr. Sidhant Chowdhary  
Mr. Sannidhya Datta  
Ms. Anjali Roy  
...For the appellant/petitioner

Mr. Shyamal Chakraborty  
Mr. Debjyoti Mondal  
..For the Respondent No. 3

Mr. Debapriaya Gupta  
..For the Union of India

Appeal is directed against the order dated  
December 18, 2020 passed in W.P.A. 8766 of 2020.

Writ petition was not entertained due to lack of  
jurisdiction on the finding that no cause of action arose  
within the jurisdiction of this Court. The learned Single

Judge granted leave to the appellant to approach the appropriate forum, in accordance with law, if so advised.

Learned advocate appearing for the appellant submits that, the appellant retired from services and is presently residing at Kolkata within the territorial jurisdiction of this High Court. Appellant is entitled to maintain a writ petition relating to the violation of legal rights in this High Court. In support of such contention, he relies upon **(2014) 9 SCC 329 (Nawal Kishore Sharma vs. Union of India & Ors. )** and **(2020) 10 SCC 766 (Shanti Devi alias Shanti Mishra vs. Union of India & Ors.)**.

Respondent nos. 1 and 3 are represented by their respective advocates. It is contended on behalf of the respondents that, no part of the cause of action arose within the part of territorial jurisdiction of this Court.

We find from the records that the writ petition was disposed of finally without inviting affidavits. Issue of jurisdiction is a mixed question of fact and law. Authorities cited at the bar, namely **Nawal Kishore Sharma** (supra) and **Shanti Devi** (supra) requires the Court to assess as to whether any part of the cause of action or the entirety of cause of action arose within the territorial jurisdiction of the High Court or not. Such

exercise apparently was not undertaken before the learned Single Judge. More so, in view of the fact, affidavits were not invited.

In such circumstances, it would be appropriate to set aside the impugned order dated December 18, 2020 and we remand the writ petition for hearing.

We request the learned Single Judge to hear and dispose of the writ petition and all issues raised therein, finally after completion of affidavits. In order to shorten the time of disposal of the writ petition, it would be appropriate to issue directions for filing of affidavits in the writ petition.

Let affidavit-in-opposition to the writ petition be filed within three weeks from date. Reply thereto, if any, be filed within two weeks thereafter.

Liberty is given to the parties to mention the matter before the learned Single Judge for early disposal of the writ petition.

It is clarified that we did not pronounce on any of the issues raised including that of jurisdiction.

It is also clarified that the findings returned, are *prima facie* and for the purpose of disposal of the appeal

only. Such finding will not prejudice any of the parties to the writ petition.

**F.M.A. 466 of 2021** and the connected application being **CAN 1 of 2021** are disposed of accordingly.

**(Debangsu Basak, J.)**

**(Partha Sartha Sen, J.)**