



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11339 OF 2022

BALASAHEB TUKARAM DESHMUKH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr. V. S. Undre, Advocate for the petitioner
Mrs. R. R. Tandale, AGP for the respondent/State

CORAM : R. M. JOSHI, J.
DATE : 27th JUNE, 2024

PER COURT :-

1. By consent of learned counsel for the petitioner and learned AGP, this petition is heard finally at the stage of admission. Since respondent No.4 is absent, he could not be heard in the matter.
2. The petitioner/plaintiff in plaint filed in Kaccha Reg.No. 88/2019 in the Court of Civil Judge Senior Division at Bhoom against defendant i.e. respondent No. 4 sought compensation of Rs. 20 crores for defamation caused by defendant by making complaint to the Anti Corruption Bureau against plaintiff.
3. It is the case of the petitioner/plaintiff that he was working as Deputy Commissioner, Sales Tax at Worli, Mumbai. Defendant had

lodged complaint against him with Anti Corruption Bureau. It is his contention that the said complaint was false, malicious and due to the said complaint and proceedings purusuant thereto, he is defamed in society. According to him the said criminal proceedings initiated on the basis of said complainant has culminated in to his acquittal in ACB (Spl. Case) 41/2013 with these averments, suit came to be filed before CJSD, Bhoom.

4. Learned Trial Court by passing order dated 03/06/2019 has held that the Court has no jurisdiction to entertain the suit for want of occurrence of cause of action within its jurisdiction. The Court therefore, returned plaint to the petitioner for its presentation before the appropriate Court. Plaintiff filed two applications for reconsideration of the said order. Last of such application filed under Section 151 of the Code of Civil Procedure (for short 'CPC') on 23/11/2021 came to be rejected by the learned Trial Court. Hence, this petition.

5. Learned counsel for the petitioner submits that the Trial Court has committed error in returning the plaint without considering the pleadings in paragraph No. 6 of the plaint. It is his submission that once plaintiff states that there was a circulation of the complaint, as well as criminal proceedings in the newspaper, the plaintiff gets cause of action

to file suit at Bhoom. It is his further contention that the said order of rejection of plaint ought to have been reconsidered by the Court concerned in exercise of its inherent jurisdiction. He also states that the plaintiff has paid Court fees and therefore these orders deserve interference.

6. Sections 16 to 20 of CPC, provide for Court in which suit can be instituted. According to Section 17 of CPC suit to be instituted where subject matter situate. Section 17 of CPC covers eventuality where subject matters fall in territorial jurisdiction of different Courts. As per Section 20 of CPC other suits to be instituted where defendant reside or cause of action arises, at least in part. Thus, in order to maintain the suit of nature in instant case, there must be cause of action arisen at least in part within the jurisdiction of the Civil Court or where the defendant resides or carry on business or works personally for gain. In the instant case, admittedly defendant is not resident within the jurisdiction of Trial Court. As far as the cause of action for filing of the suit is concerned, in entire plaint there is absolutely no whisper to indicate that the cause of action or any part thereof occurred within the jurisdiction of Trial Court. Merely by stating in paragraph 7 that the cause of action filed suit arose had Washi, Bhoom, that will not entrust the jurisdiction to the Court to entertain the said suit. The order passed by the learned Trial court dated

03/06/2019 is legal and proper requiring no interference. In no circumstances it was open for the Trial Court to reconsider the said order in exercise of powers under Section 151 of CPC.

7. Learned Trial Court has therefore, rightly rejected the applications for reconsideration of order of return of plaint. Hence, petition stands dismissed.

(R. M. JOSHI, J.)

ssp