



2024:DHC:8042



\$~30

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Pronounced on: 18.10.2024

+ CS(OS) 305/2021

MANISHI SAXENA BANSALPlaintiff

Through: Ms. Srijia Choudhary, Adv.

versus

EXL SERVICES.COM (INDIA) PVT. LTD.Defendant

Through: Mr. Gyanendra Kumar, Ms. Pallavi
Singh Rao, Ms. Shree Sinha and Ms.
Meghna Bhaskar, Advs.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

VIKAS MAHAJAN, J.

**I.A. 9247/2022 (under Order VII, Rule 10 read with Section 151 CPC
filed by defendant)**

1. This is an application filed by the defendant under Order VII, Rule 10 praying for return of plaint to the plaintiff on account of lack of territorial jurisdiction of this Court.
2. The present suit has been filed by the plaintiff who was an ex-employee of the defendant company. In the suit the challenge is to the letter/order dated 04.06.2021 terminating the services of the plaintiff, which has been alleged to be wrongful and illegal. Further a claim of damages has also been made by the

Signature Not Verified

Digitally Signed
By: NARENDRA SINGH
ASWAL
Signing Date: 22/10/2024
18:46:24

CS(OS) 305/2021

Page 1 of 14



plaintiff.

3. The learned counsel for the defendant/applicant submits that the appointment of the plaintiff with the defendant company was made *vide* appointment letter dated 05.09.2016 and the place of posting as mentioned in the said appointment letter is Gurugram, Haryana.

4. He invites the attention of the Court to the Annexure of the appointment letter to submit that reference in the said annexure is to the subsistence allowance to be paid to any employee during his suspension and such suspension allowance is payable to the employees in respect of four locations where the defendant no. 1 is having its branch offices. According to him there is no reference to the Delhi Office in as much as the defendant is having no set up of workforce in Delhi.

5. He also draws attention of the Court to the undated legal notice given by the plaintiff prior to her termination, to contend that the same has also been addressed to the CEO of the defendant company at its office situated in DLF Phase II, Gurugram (Haryana).

6. He submits that it is a case of the plaintiff herself that in Para 13 of the plaint the defendant company in the termination letter dated 04.06.2021 has alleged unauthorized absence from work and gross misconduct at workplace during plaintiff's medical leave. It is not in dispute that the workplace of the plaintiff was at Gurugram. Thus, the *situs* of employment, nexus of action of cessation of services, as well as, the cause of action, all arose in Gurugram only and no cause of action arose at Delhi.

7. He also refers to para 27 of the plaint, which contain the facts showing that this Court has the territorial jurisdiction, wherein the plaintiff has pleaded that this Court has territorial jurisdiction to entertain the suit only for the



2024:DHC:8042



reason that the registered office of the defendant company is situation at Jasola, New Delhi. He submits that the defendant only has its registered office at New Delhi, however, it does not carry any business/commercial activities or business operations therefrom.

8. Reference is also made to the post termination communication between the plaintiff and defendant company to contend that all such communications are with the officials of the defendant company who are based in Gurugram. The Court's attention is invited to the e-mail dated 23.06.2021 written by the plaintiff to one Mr. Shailesh Singh (Gurugram HO-Human Resources). Likewise, an e-mail dated 02.07.2021 has also been written by an official of the defendant company to the plaintiff to hand over all the assets and relevant documents to the defendant at its office situated in Gurugram.

9. He submits that alongwith the plaint, the termination order which has been placed on record does not mention the place from where the said termination order has originated. He, however, fairly states that the hard copy of the termination letter sent to the plaintiff is on the letterhead of the company which only mentions the address of the registered office of the company at New Delhi but it does not indicate that the same has originated from the registered office of the defendant company.

10. He urges that since no part of the cause of action has arisen in Delhi, therefore, this Court does not have the territorial jurisdiction to try and adjudicate the present suit. In support of his submission, he places reliance on the decision of Hon'ble Supreme Court in **Patel Roadways Limited, Bombay vs. Prasad Trading Company (1991) 4 SCC 270**, as well as, decisions of this Court in **Braham Prakash vs. Govt. of NCTD of Delhi &Anr., 2007 SCC OnLine Del 1142; Degremont Limited vs. Kolkata Municipal Corporation,**

Signature Not Verified

Digitally Signed
By: NARENDRA SINGH
ASWAL
Signing Date: 22/10/2024
18:46:24

CS(OS) 305/2021

Page 3 of 14



2024:DHC:8042



2013 SCC OnLine Del 2852;PiccadilyAgro Industries Ltd. vs. Ashok Narwal and Anr., 2016 SCC OnLine Del 1542;Amity Business School vs. P.K. Gupta, 2009 SCC OnLine Del 2950.

11. *Per contra*, the learned counsel appearing on behalf of the plaintiff refer to the termination letter dated 04.06.2021, to contend that the same has been issued to the plaintiff from the defendant's registered office situated at Delhi. She submits that the issuance of termination letter from the registered office situated at Jasola, clearly depicts that the defendant company also carries out business from the office situated at Jasola, New Delhi, therefore, jurisdiction of this Court arises under Section 20(a) of the Code of Civil Procedure, 1908.

12. Placing reliance on the defendant company's letter dated 31.12.2021, written to the National Commission for Woman pertaining to settlement of disputes with the defendant company, the learned Counsel for the plaintiff submits that the said letter also depicts that defendant company carries its business from its registered office situated at Jasola, New Delhi.

13. She also invites the attention of the Court to the experience letter dated 19.08.2022 and the relieving letter dated 24.08.2022 issued by the defendant company to the plaintiff, to submit that the said letters also mention the address of registered office of the defendant company which clearly indicates that the defendant carries out regular business from the New Delhi office.

14. Placing reliance on the decision in ***New Moga Transport Co. vs United India Insurance Co. Ltd. (2004) 4 SCC 677***, she submits that the plaintiff has a right to choose her own forum where there is more than one Court in which such suit may be instituted. The defendant cannot insist that instead of Court A, the plaintiff should file a suit in Court B.



2024:DHC:8042



15. She has also referred to the decision in *Bela Goyal Proprietor of ispat Sangraj v. Viipi-MIPL JV & Ors.*, (2022) SCC OnLine Del 38, to contend that in the said case, this Court was pleased to hold that the explanation of Section 20 makes it clear that where principal office is located, the company is presumed to carry out business from there.

16. Lastly, she contends that the Plaintiff has mentioned both the New Delhi, as well as, the Gurugram address of the defendant company in the memo of parties just to show her *bona fide*. However, the action of termination of employment, which infringed the rights of the plaintiff and gave rise to the cause of action to file the present suit arose only on 04.06.2021 at the registered office of the defendant at New Delhi, therefore, this court is competent to adjudicate the present matter.

17. She has also placed reliance on the decisions in - (i) *Swamy Atmananda and Ors. vs Sri Rama Krishna Tapovanam and ors.* (2005) 10 SCC 51, (ii) *State of Andhra Pradesh vs T.V. Krishna Reddy and Ors.* MANU/AP/0486/2008, (iii) *Indian Performing Rights Society Ltd. vs Sanjay Dalia and Anr.* (2015) 10 SCC 161 and (iv) *Kusum Ingots & Alloys Ltd. vs Union of India & Anr.* (2004) 6 SCC 254.

18. I have considered the respective submissions of the learned counsel for the plaintiff, as well as, the defendant and have perused the record.

19. The short question that requires determination is whether this Court has the territorial jurisdiction to try and adjudicate the present suit. Section 20 which governs the territorial jurisdiction for instituting a suit of the present nature reads as under:

Section 20. Other suits to be instituted where defendants reside or cause of action arises.- *Subject to the limitations aforesaid, every suit*

Signature Not Verified

Digitally Signed
By: NARENDRA SINGH
ASWAL
Signing Date: 22/10/2024
18:46:24

CS(OS) 305/2021

Page 5 of 14



shall be instituted in a Court within the local limits of whose jurisdiction-

(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally works for gain, as aforesaid, acquiesce in such institution; or

(c) The cause of action, wholly or in part, arises.

Explanation – A corporation shall be deemed to carry on business at its sole or principal office in [India] or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

20. In ***Patel Roadways Limited*** (*supra*), the Hon'ble Supreme Court interpreted the aforesaid provision and held that where a corporation has a subordinate office at a place other than the place where the principal office of the corporation is situated and the cause of action has arisen at that place and not at the place where the registered office of the corporation is situated, then only the Court where the cause of action arose and the corporation has a subordinate office, would have the jurisdiction and not the Court within whose jurisdiction the registered office of the corporation is situated.

21. The relevant para of the plaint wherein averments have been made in terms of Order VII Rule 1(f) as to facts showing that this Court has the jurisdiction is as under:

27) That the registered office of the Defendant Company is situated at Jasola, New Delhi and thus this Hon'ble Court has the territorial jurisdiction to entertain this suit.



22. Evidently, in the plaint the plaintiff is claiming territorial jurisdiction of this Court only on the basis of the registered office of the defendant company being situated at New Delhi and not on the basis of cause of action having arisen in New Delhi. There is no averment made in the plaint that the plaintiff was employed or posted at defendant's registered office at New Delhi or that her services were terminated at New Delhi or that the defendant carries on business in Delhi.

23. On the contrary, the appointment letter dated 05.09.2016 shows that the initial place of posting of the plaintiff shall be at Gurugram, Haryana. However, her services were transferrable and she may be assigned in India or outside India to serve the company or any of its company.

24. In the present application as well, the defendant has specifically alleged that the plaintiff was hired to work at the Gurugram office of the defendant company and throughout the term of her employment, she used to work at the Gurugram office of the defendant and that the defendant carries on its business *inter alia* from the Gurugram office. These averments have been admitted by the plaintiff/non-applicant to be matter of record in the reply filed in response to the instant application. However, it has been for the first time contended in the reply that the cause of action does not depend only on the *situs* of the employment contract and the cause of action arose when the impugned termination letter was issued from the registered office of the defendant company situated at Delhi. Incidentally, this fact, as noted above, has not been pleaded by the plaintiff in the plaint.

25. The law is well settled that cause of action consists of bundle of facts which give cause to enforce the legal injury for redress in a Court of law. In



South-East Asia Shipping Company Limited vs. Nav Bharat Enterprises Pvt. Ltd., (1996) 3 SCC 443, the Hon'ble Supreme Court held as under:

3. It is settled law that cause of action consists of bundle of facts which give cause to enforce the legal injury for redress in a court of law. The cause of action means, therefore, every fact, which if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the court. In other words, it is a bundle of facts, which taken with the law applicable to them, gives the plaintiff a right to claim relief against the defendant. It must include some act done by the defendant since in the absence of such an act no cause of action would possibly accrue or would arise. In view of the admitted position that contract was executed in Bombay, i.e., within the jurisdiction of the High Court of Bombay, performance of the contract was also to be done within the jurisdiction of the Bombay High Court; merely because bank guarantee was executed at Delhi and transmitted for performance to Bombay, it does not constitute a cause of action to give rise to the respondent to lay the suit on the original side of the Delhi High Court. The contention that the Division Bench was right in its finding and that since the bank guarantee was executed and liability was enforced from the bank at Delhi, the Court got jurisdiction, cannot be sustained.

(emphasis supplied)

26. Likewise, in ***Om Prakash Srivastava vs. Union of India, (2006) 6 SCC 207***, the Hon'ble Supreme Court held as under:-

12. The expression "cause of action" has acquired a judicially settled meaning. In the restricted sense "cause of action" means the circumstances forming the infraction of the right or the immediate occasion for the reaction. In the wider sense, it means the necessary conditions for the maintenance of the suit, including not only the infraction of the right, but also the infraction coupled with the right itself. Compendiously, as noted above, the expression means every fact, which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court. Every fact, which is necessary to be proved, as distinguished from



every piece of evidence, which is necessary to prove each fact, comprises in “cause of action”. (See Rajasthan High Court Advocates' Assn. v. Union of India [(2001) 2 SCC 294] .)

(emphasis supplied)

27. In the context of termination of employment, the Hon'ble Supreme Court in ***Eastern Coalfields Ltd. and Ors. vs. Kalyan Banerjee, (2008) 3 SCC 456***, held that the cause of action would arise where the workman was employed or his services were terminated and the location of the Head Office of the employer company will not confer any jurisdiction. In the said case, the workman was employed in Mugma area in the District of Dhanbad, Jharkhand, where his services came to be terminated. However, the Writ Petition was filed by the workman before the Calcutta High Court. In this factual backdrop, the Hon'ble Supreme Court observed as under:

13. In view of the decision of the Division Bench of the Calcutta High Court that the entire cause of action arose in Mugma area within the State of Jharkhand, we are of the opinion that only because the head office of the appellant Company was situated in the State of West Bengal, the same by itself will not confer any jurisdiction upon the Calcutta High Court, particularly when the head office had nothing to do with the order of punishment passed against the respondent.

(emphasis supplied)

28. Following the above decision, the Hon'ble Supreme Court in ***V.G. Jagdishan vs. Indofos Industries, (2022) 6 SCC 167***, wherein the workman was employed as a Driver at Ghaziabad Office and his services were retrenched at Ghaziabad but the industrial dispute was raised by him at Delhi on the pretext that Demand Notice was given by him from Delhi and the Head Office of the Management was at Delhi. The Hon'ble Supreme Court



observed as under:

10. From the findings recorded by the Labour Court, Delhi and the learned Single Judge and the Division Bench of the High Court, it is not much in dispute that the workman was employed as a driver at Ghaziabad office. He was working at Ghaziabad. His services were retrenched at Ghaziabad. All throughout during the employment, the workman stayed and worked at Ghaziabad. Only after the retrenchment/termination the workman shifted to Delhi from where he served a demand notice at Head Office of the Management situated at Delhi. Merely because the workman after termination/retrenchment shifted to Delhi and sent a demand notice from Delhi and the Head Office of the Management was at Delhi, it cannot be said that a part cause of action has arisen at Delhi. Considering the facts that the workman was employed at Ghaziabad; was working at Ghaziabad and his services were terminated at Ghaziabad, the facts being undisputed, only the Ghaziabad Court would have territorial jurisdiction to decide the case.

(emphasis supplied)

29. In *Amity Business School* (supra), the respondent therein was appointed as an Advisor to the President of the Society running the petitioner school which is situated in Noida and his services were discontinued by issuance of communication from Noida but the jurisdiction of this Court was claimed only on the basis of Society having its office in Delhi, this Court relying upon the decision of *Patel Roadways* (supra) observed that substantial cause of action has arisen in Noida, therefore, it is the Courts at Noida which will have the jurisdiction to entertain the suit. The relevant part of the decision reads as thus:

14. No doubt, the Amity Business School is an institution set up and run by the society aforesaid. However, it is not in dispute that Amity Business School has its setup in, and operates from Noida. It is clear from the facts narrated hereinabove that the respondent was



appointed as the Advisor to the President of Amity Business School. The letter of appointment of the respondent was issued from the Amity Business School through its President. The respondent had given his joining report at Noida. The respondent was discharging his functions as the Advisor to the President at Noida. Even the communications in relation to the termination of his services had been issued at Noida. Therefore, the respondent, though an employee of the society was only concerned with the institution set up by it viz. Amity Business School at Noida. He had no concern with the parent society or any other institution run by it.

XXXX

XXXX

XXXX

XXXX

*18. The respondent/plaintiff was appointed at Noida as is evident from his letter of appointment and joining report. It is claimed that the fact of the plaintiff calling upon the defendant to pay his dues constitutes a part of cause of action for filing the suit. It is not the case of the respondent plaintiff that he called upon the defendant to pay his dues at Delhi, even if it were to be assumed that the said act by itself constitutes a part of the cause of action. In fact, it is not the mere demand made by the respondent/plaintiff either through a legal notice or otherwise which forms a part of the action **but it is the act of termination of the respondent's service, and the act of denial or failure on the part of the petitioner to pay to the respondent the amounts claimed by him which would constitute a part of the cause of action. These acts have taken place at Noida. Consequently, I am of the view that the entire cause of action arose at Noida where the respondent was engaged, he was discharging his duties, and from where he was relieved.***

(emphasis supplied)

30. A similar view was taken by this Court in **Braham Parkash** (supra). In the said case the petitioner was under the employment of the respondent management at Neemrana, Rajasthan at the time of termination of his services, therefore, this Court observed that the subject matter of the dispute substantially arose in the State of Rajasthan and the immediate occasion



which resulted in the alleged infraction of the rights of the petitioner occurred in the State of Rajasthan, therefore, the Courts in Delhi cannot be vested with territorial jurisdiction. The relevant para 15 of the said decision reads thus:

15. Taking note of the facts and circumstances of the present case, undoubtedly, the situs of the employment of the petitioner workman at the time of termination of his services was at Neemrana, Rajasthan. Thus the subject matter of the dispute substantially arose in the State of Rajasthan. Consequently, it has to be held that as the immediate occasion which resulted in the alleged infraction of the rights of the petitioner workman occurred in the State of Rajasthan, the Courts in Delhi cannot be vested with territorial jurisdiction on the allegation that the head office of the respondent management is in Delhi or that the PF, etc. was being deposited in Delhi or even that the Directors of the respondent management are residing in Delhi. In other words, by sifting out the extraneous factors on which the petitioner workman sought to place emphasis, there is only one conclusion that can be arrived at, which is that in the facts and circumstances of the present case, the cause of action which constituted an infringement of the rights of the petitioner workman arose at Rajasthan where he was lastly employed.

(emphasis supplied)

31. Now coming to the facts of the present case, it is an admitted position that the plaintiff was appointed at Gurugram office of the defendant company. Even at the time of her termination she was working at Gurugram office, accordingly, the order of termination was given effect to at Gurugram. Further, post termination the e-mail dated 23.06.2021 was addressed by the plaintiff to one Mr. Shailesh Singh (Gurugram HO-Human Resources). Likewise, an e-mail dated 02.07.2021 has been written by an official of the defendant company to the plaintiff to hand over all the assets and relevant documents to the defendant at its office in Gurugram. The cause of action



which infringed the rights of the petitioner as an employee and furnished her reason to file the present suit arose at Gurugram where she was working at the time of her termination.

32. Cause of action consists of the bundle of facts which give cause to enforce a legal right for redressal in a Court of law. Cause of action means every fact, which if traversed, would be necessary for the plaintiff to prove in order to establish his right to a judgment of a Court. The only averment made in the plant to claim the territorial jurisdiction is that the registered office of the defendant company is situated at Jasola, New Delhi. Undisputedly, the plaintiff as an employee of defendant company never worked in the registered office of the defendant company at New Delhi. Even with regard to the termination letter dated 04.06.2021 there is no averment made in the plaint in terms of Order VII Rule 11(f) CPC that the same was issued from the registered office nor a copy of the envelop has been filed to establish the same. The same only appears to be an afterthought. Therefore, no part of cause of action has arisen in Delhi.

33. In any case, mere presence of registered office of the defendant company in Delhi or the letter head on which termination letter is printed mentions the address of the registered office for correspondence, or for administrative purposes, will not vest this Court with territorial jurisdiction over the subject matter of the suit. It is thus, clear that the Courts at Gurugram have the jurisdiction to entertain the suit as the cause of action has arisen in Gurugram, where the plaintiff was employed when her services came to be terminated.

34. In view of the above discussion, I am of the opinion that this Court has no territorial jurisdiction to entertain the present suit.



2024:DHC:8042



35. The application is thus, allowed and disposed.

CS(OS) 305/2021

36. As the view has been taken that this Court lacks the territorial jurisdiction to entertain the suit, the plaint is directed to be returned under Order VII Rule 10(1) CPC to be presented to the Court in which the suit should have been instituted.

37. The Registry is directed to make necessary endorsements, in terms of the Order VII Rule 10(2) CPC.

38. The date already fixed i.e. 12.11.2024, stands cancelled.

VIKAS MAHAJAN, J

OCTOBER 18, 2024/N.S. ASWAL/dss

Signature Not Verified

Digitally Signed
By: NARENDRA SINGH
ASWAL
Signing Date: 22/10/2024
18:46:24

CS(OS) 305/2021

Page 14 of 14