

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present :

The Hon'ble Justice Shampa Dutt (Paul)

WPA 16838 of 2024
With
CAN 1 of 2025

Jeju Metals Private Limited & Anr.
Vs.
Union of India & Anr.

For the Petitioners : Mr. Moti Sagar Tiwari,
Ms. S. Poddar.

For the P.F. Authorities : Mr. Mihir Kundu.

Hearing concluded on : 13.02.2025

Judgment on : 06.03.2025

Shampa Dutt (Paul) , J.

1. The present writ application has been preferred praying for direction upon the respondent no. 2 to cancel the Summon dated 18.06.2024 and Notice dated 14.03.2023 issued by the Regional Provident Fund Commissioner-II, Hubballi, State Karnataka, on the ground of lack of territorial jurisdiction.
2. The petitioner has relied upon the judgment passed by a Single Bench of this court in ***D.R.M. Steel Industries Private Ltd. vs. Board for Industrial and Financial Reconstruction and Ors., 1995 SCC OnLine Cal 108.*** It

appears from the said judgment that it relates to a rejection order in respect of a reference made by the petitioner Company to the BIFR and as such does not apply to this case.

3. The respondent/PF authorities have relied upon the judgments in:-

i. State of Rajasthan & Ors. Vs. M/s. Swaika

Properties & Anr., AIR 1985 Supreme Court 1289.

“8. The expression “cause of action” is tersely defined in Mulla's Code of Civil Procedure:

“The ‘cause of action’ means 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 relief against the defendant. The mere service of notice under Section 52(2) of the Act on the respondents at their registered office at 18-B, Brabourne Road, Calcutta i.e. within the territorial limits of the State of West Bengal, could not give rise to a cause of action within that territory unless the service of such notice was an integral part of the cause of action. The entire cause of action culminating in the acquisition of the land under Section 52(1) of the Act arose within the State of Rajasthan i.e. within the territorial jurisdiction of the Rajasthan High Court at the Jaipur Bench. The answer to the question whether service of notice is an integral part of the cause of action within the meaning of Article 226(2) of the Constitution must depend upon the nature of the impugned order giving rise to a cause of action. The notification dated February 8, 1984 issued by the State Government under Section 52(1) of the Act became effective the moment it was published in the Official Gazette as thereupon the notified land became vested in the State Government free from all encumbrances. It was not necessary for the respondents to

plead the service of notice on them by the Special Officer, Town Planning Department, Jaipur under Section 52(2) for the grant of an appropriate writ, direction or order under Article 226 of the Constitution for quashing the notification issued by the State Government under Section 52(1) of the Act. If the respondents felt aggrieved by the acquisition of their lands situate at Jaipur and wanted to challenge the validity of the notification issued by the State Government of Rajasthan under Section 52(1) of the Act by a petition under Article 226 of the Constitution, the remedy of the respondents for the grant of such relief had to be sought by filing such a petition before the Rajasthan High Court, Jaipur Bench, where the cause of action wholly or in part arose.”

ii. *M/s. Kusum Ingots and Alloys Ltd. v. Union of India*

& Anr., AIR 2004 Supreme Court 2321.

“7. Clause (2) of Article 226 of the Constitution of India reads thus:

*“226. (2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person **may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding** that the seat of such Government or authority or the residence of such person is not within those territories.”*

17. Recently, in *National Textile Corpn. Ltd. v. Haribox Swalram* [(2004) 9 SCC 786 : JT (2004) 4 SC 508] a Division Bench of this Court held : (SCC p. 797, para 12.1)

“12.1. As discussed earlier, the mere fact that the writ petitioner carries on business at Calcutta or that the reply to the correspondence made by it was received at Calcutta is not an integral part of the cause of action and, therefore, the Calcutta High Court had no jurisdiction to entertain the writ petition and the view to the contrary taken by

the Division Bench cannot be sustained. In view of the above finding, the writ petition is liable to be dismissed.”

4. The petitioner herein has raised the point of jurisdiction of the respondent no.2 whose office is situated within the State of Karnataka.

5. In *State of Goa vs Summit Online Trade Solutions Private Limited & Ors.*, (2023) 7 SCC 791, the Supreme Court held:-

*“14. While dealing with an objection as to lack of territorial jurisdiction to entertain a writ petition on the ground that the cause of action has not arisen within its jurisdiction, a High Court essentially has to arrive at a conclusion on the basis of the averments made in the petition memo treating the contents as true and correct. That is the fundamental principle. Bearing this in mind, we have looked into the petition memo of WP (C) No. 38 of 2017 and searched in vain to trace how **at least part of the cause of action** has been pleaded by the petitioning company, to have arisen within the territorial jurisdiction of the High Court.*

15. This is a case where clause (2) of Article 226 has been invoked by the High Court to clothe it with the jurisdiction to entertain and try the writ petitions. The constitutional mandate of clause (2) is that the “cause of action”, referred to therein, must at least arise in part within the territories in relation to which the High Court exercises jurisdiction when writ powers conferred by clause (1) are proposed to be exercised, notwithstanding that the seat of the Government or authority or the residence of the person is not within those territories.

16. The expression “cause of action” has not been defined in the Constitution. However, the classic definition of “cause of action” given by Lord Brett in *Cooke v. Gill* [*Cooke v. Gill*, (1873) LR 8 CP 107] that “cause of action 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”, has been accepted by this Court in a couple of decisions. **It is axiomatic that without a cause, there cannot be any action.** However, in the context of a writ petition, what would constitute such “cause of action” is the material facts which are imperative for the writ petitioner to plead and prove to obtain relief as claimed.

17. Determination of the question as to whether the facts pleaded constitute a part of the cause of action, sufficient to attract clause (2) of Article 226 of the Constitution, would necessarily involve an exercise by the High Court to ascertain that the facts, as pleaded, constitute a material, essential or integral part of the cause of action. In so determining, it is the substance of the matter that is relevant. It, therefore, follows that the party invoking the writ jurisdiction has to disclose that the integral facts pleaded in support of the cause of action do constitute a cause empowering the High Court to decide the dispute and that, at least, a part of the cause of action to move the High Court arose within its jurisdiction. **Such pleaded facts must have a nexus with the subject-matter of challenge based on which the prayer can be granted.** Those facts which are not relevant or germane for grant of the prayer would not give rise to a cause of action conferring jurisdiction on the court. These are the guiding tests.

18. Here, tax has been levied by the Government of Goa in respect of a business that the petitioning company is carrying on within the territory of Goa. Such tax is payable by the petitioning company not in respect of carrying on of any business in the territory of Sikkim. Hence, merely because the petitioning company has its office in Gangtok, Sikkim, the same by itself does not form an integral part of the cause of action authorising the petitioning company to move the High Court. We hold so in view of the decision of this Court in *National Textile Corpn. Ltd. v. Haribox Swalram* [*National Textile Corpn. Ltd. v. Haribox Swalram*, (2004) 9 SCC 786] . The immediate civil or evil consequence, if at all, arising from the impugned notification is that the petitioning company has to pay tax @ 14% to the

Government of Goa. The liability arises for the specific nature of business carried on by the petitioning company within the territory of Goa. The pleadings do not reflect that any adverse consequence of the impugned notification has been felt within the jurisdiction of the High Court. At this stage, we are not concerned with the differential duty as envisaged in Schedule II (@ 6%) vis-à-vis Schedule IV (@ 14%) of the impugned notification. That is a matter having a bearing on the merits of the litigation.”

6. In the present case:-

- i. The summon dated 18.06.2024 was issued by the respondent, at Hubballi, Karnataka.
- ii. Notice dated 14.03.2023 was issued by the Regional R.P.F. Commissioner-II, Regional Office, **Hubballi, State Karnataka.**
- iii. The petitioners manufacturing plant is situated at Dharwad, State Karnataka.
- iv. A dispute as to payment of the salaries and wages to the employees and workers was decided in a meeting with the Deputy Labour Commissioner, **Belgaum, State Karnataka** as the employees/workers were employed at the plant in Dharwad, State Karnataka.

7. Though liquidation process was initiated in Kolkata, the entire cause of action in the present case, the dispute relates to non-payment of the dues of the workers/employees, who were engaged in the plant at Dharwad, State Karnataka.

8. The petitioners have stated that as their company has its office at Kolkata, this Court has jurisdiction.
9. From the averment as made in the writ petition, it appears that **the total “cause of action” in this case has arisen in the State of Karnataka.** All the respondents are located also within the State of Karnataka.
10. The petitioners have their company office at Kolkata, but as **no part of the cause of action has arisen with the jurisdiction of this Court,** this Court does not have the jurisdiction to exercise its powers under Article 226 of the Constitution in this case. ***(State of Goa vs Summit Online Trade Solutions Private Limited & Ors. (Supra))***
11. **The writ petition is thus dismissed for want of jurisdiction** with liberty to the petitioners to pursue their case before the appropriate court having jurisdiction, the summon and notice challenged herein being in accordance with law, the authority having jurisdiction.
12. All connected applications, if any, stand disposed of.
13. Interim order, if any, stands vacated.
14. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Shampa Dutt (Paul), J.)