



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO.561 OF 2024

KISHOR CHINTAMAN JADHAV

VS

THE STATE OF MAHARASHTRA THR SECRETARY HOME DEP. MANTRALAYA
MUMBAI AND 3 OTHERS

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr. Sudhir Malode, Advocate for the petitioner/s
Mr. Khan, APP for the respondent Nos.1 and 2/State
Mr. Ritesh Badhe, Advocate for the respondent Nos.3 and 4

CORAM : ANIL S. KILOR, J.

DATE : 14th FEBRUARY, 2025

1. The learned counsel for the respondent Nos.3 and 4, at the outset, raises an objection to the tenability of writ petition. It is submitted that the order impugned in the present writ petition is passed by the learned Judicial Magistrate First Class, Court No.2, Bhusawal on Exhs.4 and 24. He submits that the jurisdiction to challenge the said order lies with Aurangabad Bench of this Court.

2. The learned counsel for the petitioner, on the other hand, submits that since the petitioner is the resident of Nagpur, which comes within the jurisdiction of this Court and as the cause of action arose within the jurisdiction of Nagpur, this Bench is having jurisdiction. Further he submits that the petitioner was not party in the proceeding before Bhusawal Court and that is an additional ground to file the proceeding before the Nagpur Bench.

3. Admittedly, territorial jurisdiction to challenge the order passed by Judicial Magistrate First Class, Bhusawal lies with the Aurangabad Bench as per the Bombay High Court Appellate Side Rules, 1960.

4. This Court, in the case of *Haji Abdul ...vs... Bara Imam Masjid Trust*¹, has held thus:

"11. I am of view that in a case such as this where the impugned order is passed within the territorial limits of the jurisdiction of the Principal Seat or of a Bench of this Court, it is the Principal Seat or the Bench within whose ordinary territorial jurisdiction the order is passed which may normally try and hear the matter. Undoubtedly, when a part of the cause of action has arisen within the normal territorial jurisdiction of another Bench, that Bench would also have jurisdiction to entertain the matter in view of the law laid down by this Court in Nitin Industrial Associates (supra). In fact, in Kusum Ingots & Alloys Ltd. v. Union of India (2004) 6 SCC 255, the Supreme Court observed as follows:-

"When an order, however, is passed by a court or tribunal or an executive authority whether under provisions of a statute or otherwise, a part of cause of action arises at that place."

It must be made clear that what is at issue is not power of the Principal Seat or various Benches to issue writs which may have an impact on orders passed anywhere in the State or affect properties or persons residing anywhere in the State. What is at issue is the normal practice regulated by this Court by enacting the Bombay High Court (Appellate Side) Rules, 1960.

12. ...

13. ...

14. I am of view that in the present case, the cause of

¹ [2006(1) Mh.L.J. 184]

action has almost wholly arisen within the jurisdiction of the Appellate Side of the Principal Seat of this Court at Bombay since the only action which is challenged is refusal of permission at Pune by the Joint Charity Commissioner under section 36 of the Act. I am of view that in a case such as this, wherever the property may be located, the parties would be entitled to approach the Principal Seat or the Bench of this Court within whose ordinary territorial limits the impugned order has been passed, since clearly the impugned order would be a material part of the cause of action. As observed earlier, the locus of the properties would not, in such a case, determine the jurisdiction since the properties in respect of which the trust seeks permission to alienate may be located at several places within Maharashtra.”

5. Thus, having regards to the above referred observations of the Coordinate Bench of this Court and the Bombay High Court Appellate Side Rules, 1960, I have no hesitation to hold that the Bench within whose ordinary territorial jurisdiction the impugned order is passed, is Aurangabad Bench of this Court and therefore, this Court does not have jurisdiction.

6. Accordingly, the writ petition is **disposed of** with liberty to the petitioner to file before appropriate Bench, if he so desires.

(ANIL S. KILOR, J.)