
(1989) 07 PAT CK 0022
In the Patna High Court
Case No : Misc. Appeal No. 250 of 1982

Bishwanath Prasad Banka

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 21-07-1989

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 15, 16, 17, 18, 19

Citation : (1990) 1 PLJR 659

Hon'ble Judges : Binod Kumar Roy, J

Bench : Single Bench

Advocate : Arun Bihari Mathur, Pramd Bahadur Mathur and Nityanand Tiwary, for the Appellant; K.P. Singh, G.P. V. and Bal Mukund Prasad Sinha, J.C. to G.P. V., for the Respondent

Final Decision : Allowed

Judgement

Binod Kumar Roy, J.—The Plaintiff is the Appellant who challenges an order returning his plaint.

2. The suit in question was filed for cancelling a certificate filed against the Plaintiff's deceased father under the provisions of the Bihar and Orissa Public Demand and Recovery Act and also for restraining the State of Bihar, the divisional Officer, Bettiah, the District Supply Officer, Motihari, the Certificate Officer and the Nazir of the Nazarat of the Subdivisional Office, Bettiah by grant of an injunction from enforcing the aforementioned certificate in any manner whatsoever as also for granting a decree for Rs. 26,638 against the State of Bihar along with interest pendent list and future etc.

3. The Plaintiff alleged in his plaint that pursuant to an agreement, the Plaintiff's father N and Lal Banka) was appointed as the Stockist of Government foodgrains for storage at Bettiah in 1948. After death of his father the Plaintiff was required to make a fresh agreement which he made sometime in 1954 on the same terms and conditions. The District Supply Officer, Motihari (Defendant No. 3) was

instrumental in the negotiations as well as the preparation of the agreement made on behalf of the State of Bihar.

4. The cause of action according to the Plaintiff arose partly at Motihari where false accounting of shortage for the first period was done and partly at Bettiah where false accounting for the second period was done.

5. The State of Bihar filed written statement asserting therein that the suit is beyond jurisdiction of the court.

6. A question of maintainability of the instant suit at Bettiah arose. The court below by the impugned order held that it had no jurisdiction and directed return of the plaint after taking into account the following facts and circumstances (i) after 1973 there was division of the Champaran District as a result of which two districts East Champaran, having its headquarter at Motihari, and West Champaran, having its headquarter at Bettiah were formed, (ii) From the perusal of the record it appears that whatever, the Plaintiff's father had done it was done at Motihari, (iii) No relief has been sought for from any officer posted at Motihari and (iv) the connected certificate case is also continuing at Bettiah.

7. Mr. Arun Bihari Mathur, earned Counsel appearing for Appellant, argued, that the court below has completely misconceived the provisions of Section 20(c) of the Code of Civil Procedure. He says that according to the averments made in paragraphs 12, 15, 17 and 19 of the plaint it is clear that the Appellant has made allegations against the District Supply Officer at Motihari (Defendant No. 3) and has categorically alleged in regard to the cause of action at Motihari and thus, the suit was clearly maintainable before the Motihari Court. In support of his contention he placed reliance on a decision of our own High Court in the case of *Puran Mal Jaiswal Vs. Onkar Nath Choudhary and Others*, in which it was held that the expressions "cause of action" and part of the cause of action must be taken as meaning, respectively, the material facts and any material fact in the case for the Plaintiff.

8. Earned Counsel appearing on behalf of the Respondents supported the impugned order and argued that the court below has correctly passed the order.

9. In the CPC "the place of suing" stands enumerated from Sections 15 to 20. The word "cause of action" has been subject matter of numerous pronouncements which means the entire bundle of facts.

From a bare perusal of the plaint, it is clear that the Plaintiff has come up with allegations against the District Supply Officer, Motihari (Defendant No. 3), and he has sought for a relief against him also while seeking permanent injunction from enforcing the certificate in any manner whatsoever. In that view of the matter, the court below has committed an error of record in holding that no relief has been sought for against any officer posted at Motihari. Accordingly, the instant suit could be well filed before the Motihari Court.

10. For the reasons aforementioned, this appeal is allowed but in the facts and

circumstances of the case there shall be no order as to costs. Since the suit is of the year 1973 it is expected that the trial court will expedite its hearing.