

(2019) 12 DEL CK 0190

In the Delhi High Court

Case No : Civil Writ Petition No. 12995 Of 2019

Deepak Kumar

APPELLANT

Vs

M/S Dreeshti Aircon (P) Ltd. And Ors

RESPONDENT

Date of Decision : 13-12-2019

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2019) 12 DEL CK 0190

Hon'ble Judges : Rekha Palli, J

Bench : Single Bench

Advocate : Anuj Aggarwal, Sangita Rai

Final Decision : Dismissed

Judgement

Rekha Palli, J

1. The present petition preferred under Article 226 of the Constitution of India by an ex-employee of the respondent no.1 seeks the following prayers:-

"(i) issue an appropriate writ, order or direction thereby directing the respondent No.2, 3, 4 & 5 to execute the Recovery Certificate dated 11.05.2016, Recovery Certificate dated 07.11.2016 as well as Recovery Certificate dated 24.07.2017 and thereafter pay the recovered compensation to the petitioner herein;

(ii) issue an appropriate writ, order or direction thereby directing the respondent No. 1 to implement the Order dated 14.01.2016 passed by the Commissioner, Employees Compensation and accordingly pay to the petitioner a sum of Rs. 2,17,483/- along with interest thereupon to be calculated at 12% per annum;

(iii) issue an appropriate writ, order or direction thereby directing the respondents to pay appropriate litigation expenses and costs to the petitioner;

(iv) allow the present, writ petition with costs in favour of the petitioner; and

(v) pass any such other or further orders as this Hon'ble Court may deem fit and

proper in the interest of justice and in favour of the petitioner.

2. The case as set up by the petitioner is that while he was employed as a Peon with the respondent no.1/employer, he on 11.08.2012, met with an accident in which he sustained greivous injuries on his right shoulder and left leg. As despite the petitioner having met with the accident during the course of his employment, he was not paid any compensation by the respondent no.1, he preferred a claim under the Employees Compensation Act, 1923 which came to be allowed by respondent no.2 vide his order dated 14.01.2016 by directing the respondent no.1 to pay to the petitioner a sum of Rs.2,17,483/- along with interest @ 12% per annum w.e.f. 11.08.2012 i.e. the date of the accident.

3. As the respondent no.1 failed to release the awarded amount, the petitioner approached the respondent no.2 seeking implementation of the order dated 14.01.2016. On 11.05.2016, the respondent no.2 issued a recovery certificate directing the District Collector Office of the Deputy Commissioner (North East), D.C. Office Complex, Nand Nagri, Delhi 110093 i.e. the respondent no.5 to recover the awarded amount from the respondent no.1. The recovery certificate was followed by a reminder from respondent no.2 on 07.11.2016. While the recovery certificate remain unexecuted, the Executive Magistrate, Karawal Nagar, Delhi vide its letter dated 10.02.2017 informed the respondent no.5 that keeping in view the fact that the petitioner's employer i.e. respondent no.1, against whom the recovery certificate was required to be executed, did not fall within his jurisdiction at Karawal Nagar, Delhi, the recovery certificate should be forwarded to the concerned District Collector Revenue at Gurugram, Haryana for necessary action.

4. Pursuant to the aforesaid directions given by the concerned Executive Magistrate, the respondent no.2 vide his letter dated 24.07.2017 directed the respondent no.3 i.e. the Deputy Commissioner Revenue, Gurugram, Haryana to take steps for implementation of the order dated 14.01.2016. As despite respondent no.2's directions, no action has been taken by respondent no.3 and respondent no.4 i.e. Tehsildar, Gurugram, Haryana to get the recovery certificate dated 11.05.2016 implemented, the present petition has been filed primarily seeking directions to respondent nos.3 and 4 to expeditiously implement the order dated 14.01.2016.

5. On being queried as to how the petition would be maintainable before this Court, when it was the petitioner's own case that the authorities which were required to take steps for implementation of the order dated 14.01.2016 are situated in Gurugram, Haryana which does not fall within the territorial jurisdiction of this Court, learned counsel for the petitioner submits that the petitioner is a resident of Delhi and, therefore, he has, as per his convenience chosen to file the petition before this Court. Since a part of cause of action by way of issuance of the order dated 14.01.2016 has arisen within the territorial jurisdiction of this Court, he submits that this Court has the jurisdiction to issue directions to the respondents to get the order dated 14.01.2016 and recovery

certificate dated 11.05.2016 implemented. In support of his contention, he places reliance on a decision of the Supreme Court in *Kusum Ingots and Alloys Ltd. v. Union of India (UOI) and Ors.* [Civil Appeal No.9159/2003] and a decision of the High Court in *Alchemist Asset Reconstruction Company Pvt. Ltd. and Ors. v. Hotel Gaudavan Pvt. Ltd. and Ors.* [W.P.(C)11814/2015].

6. On the other hand, Ms.Sangita Rai, learned counsel for the respondent nos.2 and 5, appearing on advance notice, opposes the writ petition and submits that once the respondent nos.2 & 5 have already passed the requisite orders and issued the necessary recovery certificate in favour of the petitioner, no further directions against them are called for. She submits that the respondent nos.2 and 5 cannot issue any directions to the respondent nos.3 & 4, who alone are the authorities competent to take further action in terms of the recovery certificate and, therefore, contends that if the petitioner is aggrieved by the non-execution of the recovery certificate by respondent nos.3 and 4, he should approach the competent authorities at Gurugram, Haryana.

7. I have considered the submissions of the learned counsel for the parties and with their assistance perused the record. Despite the vehement plea raised by the learned counsel for the petitioner that a part of cause of action has arisen at Delhi and, therefore, this Court would have territorial jurisdiction to entertain the present petition, I find myself unable to agree with the same. Once the writ petition in itself shows that the respondent no.5, the authority which is situated in Delhi has already issued the requisite recovery certificate and directed the respondent nos.3 & 4 to get the same implemented in accordance with law, it is evident that the relief sought in the present petition is directed only against the respondent nos.1, 3 & 4, all of whom are admittedly situated at Gurugram, Haryana. It cannot, therefore, be said that any part of the cause of action has arisen within the jurisdiction of this Court. Merely because the petitioner has urged in the writ petition that a part of the cause of action has arisen in Delhi when in fact the relief sought by the petitioner is admittedly directed against the authorities outside the territorial jurisdiction of this Court, there is no ground made out for this Court to entertain the present petition.

8. Reliance placed by the learned counsel for the petitioner on *Kusum Ingots and Alloys Ltd.* (supra) and *Alchemist Asset Reconstruction Company Pvt. Ltd. and Ors.* (supra) is wholly misplaced as neither of the said decisions dealt with the fact situation as in the present case, where the petitioner is seeking implementation of the recovery certificate by initiating attachment action against the respondent no.1, who is situated in Gurugram for which action can be taken only by the respondent nos.3 & 4. In para 25 of the *Kusum Ingots and Alloys Ltd.* (supra) on which heavy reliance has been placed by learned counsel for the petitioner, the Supreme Court has held that when a part of cause of action arises within the jurisdiction of one or the other High Court, it is for the petitioner to choose his forum. However, in the present case, I find that no part of cause of action has arisen within the territorial jurisdiction of this Court and, therefore,

the petitioner's grievance that inconvenience will be caused to him if he is compelled to approach the Punjab and Haryana High Court, cannot be a ground to entertain the present petition.

9. Similarly, the decision of this Court in Alchemist Asset Reconstruction Company Pvt. Ltd. and Ors.(supra) also does not forward the case of the petitioner in any manner. In the said decision, this Court was dealing with the case where the petitioner had impugned an order passed by the Debt Recovery Appellate Tribunal, Delhi whereas in the present case, the petitioner is not assailing any order passed by either respondent no.2 or respondent no.5, which alone are at Delhi. It is not the petitioner's case that the respondent nos.2 or 5 have in any manner failed to discharge their statutory duties and in fact, it is evident that the petitioner is seeking directions only against the respondent nos.1, 3 & 4 who are all situated beyond the territorial jurisdiction of this Court.

10. For the aforesaid reasons, the writ petition is dismissed for lack of territorial jurisdiction. Needless to state it will be open for the petitioner to approach the appropriate forum having territorial jurisdiction, if so advised.