
(1985) 11 DEL CK 0025

In the Delhi High Court

Case No : Civil Revision Appeal No. 333 of 1976

East India Hat Co.

APPELLANT

Vs

Prakash Road lines (P) Ltd.

RESPONDENT

Date of Decision : 25-11-1985

Acts Referred:

Citation : (1986) 1 ACC 108 : (1986) 2 ARBLR 39 : (1986) 29 DLT 94 : (1986) 10 DRJ 133

Hon'ble Judges : Gian Chand Jain, J

Bench : Single Bench

Advocate : Arun Kumar and Ramesh Chandra, for the Appellant;

Judgement

G.C. Jain, J.

(1) M/S. East India Hat Co., the petitioner, entrusted one wooden case containing caps at Delhi to M/s. Parkash Road lines (P) Ltd., the respondent at Delhi for carriage to Panjim under goods receipt No. 879698 dated March 18, 1974. Alleging that the said goods had not been delivered it filed a suit for recovery of Rs. 600.00 towards the price of the said goods.

(2) The respondent filed an application staling that this court bad no territorial jurisdiction to try the case. Under the agreement between the parties the courts in Banglore alone bad jurisdiction in respect of claims and matters arising under the consignment or of the goods entrusted to for transport. Learned Addl. Judge. Small Cause Court, came to the conclusion that Banglore courts also had jurisdiction to try the suit. In view of the agreement between the parties the suit could be filed at Banglore city alone. The said agreement was binding and consequently the Delhi courts had no jurisdiction to try the suit. He consequently dismissed the suit.

(3) Mr. Arun Kumar, learned counsel for the petitioner, contended that the amount in suit was a petty amount and it would be very hard for the petitioner if he was pushed to Banglore for such a petty claim. It was urged that such an

agreement was oppressive and was liable to be ignored. Reliance was placed on the decision of the Gujarat High Court in *Snehalkumar Sarabhai Vs. Economic Transport Organisation and Others*, .

(4) It was not disputed before me that the head office of the respondent company was at Bangalore. Thus the suit could be filed at Bangalore where the respondent was carrying on business or at Delhi where the part of cause of action arose. It was also not disputed that there was an agreement between the parties under which such a claim could be filed at Bangalore only. The question for determination is whether such an agreement was binding on the parties or was liable to be ignored.

(5) It is settled law that the parties were not competent by agreement to invest a court with jurisdiction which it does not otherwise possess but if there are more than one forums where a suit can be filed, it is open to the parties by agreement to select a particular forum and exclude the other forums in regard to claims which one party may have against the other under a contract. (See *Globe Transport Corporation Vs. Triveni Engineering Works and Another*, . In view of this principle of law laid down by the Supreme Court, the contention of learned counsel for the petitioner, that the agreement was liable to be ignored, could not be accepted. The Gujarat High Court in *Snehal Kumar's* case (supra), has no doubt laid down that such an agreement could be ignored if found oppressive. With respect I cannot accept this view in view of the Supreme Court's judgment in *Globe Transport Corporation's* case (supra). The Supreme Court has held that such an agreement was valid. A valid agreement, in my view, could not be ignored only because the amount involved in the suit was petty amount. It may be very hard on the petitioner to go to Bangalore to claim such a petty amount but he entered into the agreement with open eyes. Rule laid down by the Supreme Court calls for no exception. 1. consequently, hold that Delhi Courts had no jurisdiction to try the case.

(6) LEARNED.ADDL. Judge Small Cause Court had dismissed the suit This part of the order, however, cannot be maintained as he was bound to return the plaint for presentation to the competent court. I consequently accept the petition partly and set aside the order of dismissal and instead direct that the plaint be returned to the petitioner for presentation to the court of competent jurisdiction at Bangalore. Parties are left to bear their own costs.

(7) The main revision petition has been decided by a separate order. After the decision the parties have entered into a settlement. A sum of Rs. 300.00 has been paid to learned counsel for the petitioner by learned counsel for the respondent in full and final settlement of the claim.