
(1951) 09 P&H CK 0018
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 20 of 1951

Firm Brij Raj and Co.

APPELLANT

Vs

Firm Sagarmal Dhan Raj

RESPONDENT

Date of Decision : 25-09-1951

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 20

Citation : AIR 1952 P&H 119

Hon'ble Judges : Kapur, J

Bench : Single Bench

Advocate : Kishori Lal Mehra, for the Appellant; Y.P. Gandhi, for the Respondent

Final Decision : Dismissed

Judgement

Kapur, J.—This is a rule directed against an order passed by Mr. Ishwar Das, Senior Subordinate Judge, Amritsar, dated the 2nd November 1950 confirming the order of the trial Court by which it had been held that the Courts at Amritsar had no jurisdiction to try the suit.

2. The plaintiff brought a suit for accounts against the defendant alleging that the latter was his agent working at Calcutta for the purchase of tea and that the contract of agency was entered into at Amritsar, the contract being that the defendant was to purchase tea on behalf of the plaintiff at Calcutta and was to forward the same to the plaintiff in accordance with the instructions sent to him from Amritsar. He was to receive a commission of eight annas per cent on the transactions completed. It was further alleged that the defendant in accordance with the contract made purchases and sent tea as an agent and was liable to render accounts. A preliminary objection was taken by the defendant that Amritsar Courts had no jurisdiction to try the suit. The learned Senior Subordinate Judge has after considering the evidence come to the conclusion that the contract of agency was entered into at Calcutta, that the entire work of agency was carried on at Calcutta and that the tea was sent from Calcutta to Amritsar in accordance with the orders sent by the plaintiff who was to pay the

railway freight the bank charges and all other expenses. On these findings the learned Judge held that the Courts at Amritsar had no jurisdiction, and it is against this order that the plaintiff has come up in revision to this Court.

3. The learned Advocate for the petitioner submits that the opposite party was a "pucca arhtia" and therefore it was his duty to render accounts to the plaintiff at Amritsar and in support he has relied on a judgment of the Bombay High Court in "Kedarmal v. Surajmal", 33 Bom 364, where it was held by the appeal Court that as on the foot of the agency accounts profit was payable to the plaintiff at Bombay and the suit was for the recovery of the same and for agency accounts, the suit was triable in the High Court of Bombay. In the first place, in this case the suit was for recovery of money on an account stated and then this view of the Bombay High Court has been dissented from in "Mohammed Haji v. Jute and Gunny Brokers Ltd. 33 B L R 1364, and in Lahore the view has consistently been that a suit against a commission agent lies at the place where the commission agent carries on business. This was held by a Division Bench of the Lahore High Court in "Bham-boo Mal v. Ram Narain", 9 Lah 455 and the same view was taken in "Firm Ramditta Mal Sant Lal v. Firm Jot Ram Kidar Nath AIR 1940 Lah 171. In a case which was heard by me sitting as a Single Judge "Jagan Nath Kuthalia v. Khushi Ram", F. A. O. No. 25 of 1949, -- I took the same view, and I am of the opinion that the learned Judge has rightly held that the Amritsar Courts had no jurisdiction to try the suit.

4. I therefore dismiss this petition for revision and discharge the rule. The opposite party will have his costs in this Court and in the Courts below.