

(1987) 03 P&H CK 0005
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 1131 of 1979

Firm M/s India Esectrodes Co. Sunam	APPELLANT
Vs	
H. J. Industrial Corporation Sandhya Deep 15 Community Centre, East Of Kailash, New Delhi-110024	RESPONDENT

Date of Decision : 11-03-1987

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 20(c)

Citation : (1987) 03 P&H CK 0005

Hon'ble Judges : J.V. Gupta, J

Bench : Single Bench

Advocate : Viney Mittal, for the Appellant; K.S. Grewal, for the Respondent

Final Decision : Allowed

Judgement

J.V. Gupta, J.—This revision petition is directed against the order of the Additional District Judge Sangrur, dated January 25, 1979, whereby the order of the trial Court returning the plaint for want of territorial jurisdiction was maintained.

2. The Plaintiff-Petitioner filed the suit for recovery of Rs. 9,896.78 on account of the refund of security amount and the interest thereon. According to the Plaintiff, on November 14, 1974, a talk had taken place between it and the Defendant at Sunam in the farmer's office whereby the latter agreed to supply rock weld electrols to it and it was to be the sole distributor for them in Punjab. The Defendant agreed that he will not supply them to any one else in Punjab territory. A sum of Rs. 10,000/-was paid to the Defendant as security. A receipt in that behalf was issued to the Plaintiff. The Defendant, later on, stopped the supply of the said articles to the Plaintiff. The Plaintiff owed some money to the Defendant. After deducting the same, he was entitled to the refund of its security deposit, along with interest at the rate of 1 per cent, per month, which came to Rs. 9,896 78. The suit was contested by the Defendant inter alia on the ground that the alleged amount of Rs. 10,000/-was paid at Delhi and not at Sunam.

Therefore, the Court at Sunam had no jurisdiction to try the suit. Both the Courts below found that the alleged security of Rs. 10,000/- was paid at Delhi and, therefore, the Court at Sunam had no territorial jurisdiction to entertain the suit. Dissatisfied with the same, the Plaintiff has filed this revision in this Court.

3. The learned Counsel for the Petitioner submitted that even if the security amount was paid at Delhi, the Court at Sunam had the jurisdiction to entertain the suit because a part of the cause of action had arisen at Sunam because the goods were to be supplied to the Plaintiff firm at Sunam for which the security was deposited. Thus, argued the learned Counsel, the Court at Sunam had the jurisdiction to try the suit. The learned Counsel for the Defendant-Respondent contended that it was never the plea taken by the Plaintiff in the plaint. The plea taken in this behalf therein was that since the amount of Rs. 10,000/- was paid at Sunam, the Court had the jurisdiction to try the suit there. Once it is so found, then the Plaintiff cannot be allowed to take a different plea at this stage.

4. After hearing the learned Counsel for the parties and going through the pleadings, I find that the Plaintiff was claiming the refund of the security because the Defendant had failed to perform his part of the contract to supply the goods. The payment of security was not an independent act by itself. It was for the performance of the contract according to which the goods were to be supplied at Sunam. In these circumstances, it is evident that a part of the cause of action had arisen at Sunam as contemplated u/s 20(c) of the Code of Civil Procedure. Therefore, the Court at Sunam had the jurisdiction to try the suit.

5. Consequently, this revision petition succeeds and is allowed. The impugned orders are set aside. The Plaintiff may present the plaint in the Court at Sunam. It will restore the suit to its original number and decide the same in accordance with law. The parties are directed to appear in the trial Court on April 21, 1987. It is further directed that in order to expedite the hearing of the suit which was filed in the year 1977, the parties will lead their evidence at their own responsibility for which Dasti Summans may be given if so desired.