
(1983) 03 SC CK 0017

In the Supreme Court Of India

Case No : Civil Appeal No. 3994 Of 1983

Globe Transport Corporation

APPELLANT

Vs

Triveni Engineering Works and Another

RESPONDENT

Date of Decision : 31-03-1983

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 19, 20

Citation : (1984) 2 ACC 34 : (1984) ACJ 465 : (1984) 86 PLR 259 : (1983) 4 SCC 707

Hon'ble Judges : Sabyasachi Mukherjee, J; P. N. Bhagwati, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Special leave granted.

2 This appeal by special leave is directed against an order made by the High Court of Allahabad rejecting the revision application preferred by the appellant against an order made by the Court of Civil Judge, Allahabad holding that it had jurisdiction to entertain the suit filed by the respondents against the appellant claiming damages for the loss suffered by them in respect of the goods Carried by the appellant. The goods were entrusted by the consignor to the appellant for, carriage at Baroda and under the consignment , note issued by the appellant, the goods were to be carried to Naini. It appears that the truck in which the goods were carried met with an accident, as a result of which the goods were damaged and since the goods were delivered to the first respondent who were the endorsees of the consignment note, in damaged condition, the respondents, filed a suit claiming damages for the loss suffered by the first respondent. The consignment note contained various terms and conditions of the carriage and one of the terms and conditions was that set in Clause 17 which provided that 'The Court in Jaipur City alone shall have jurisdiction in respect of all claims and matters arising (sic) under the consignment or. of the goods entrusted for transportation". Notwithstanding this term of the Contract of Carriage, the suit

was filed by the respondents in the Court of the Civil Judge, Allahabad which had jurisdiction over Naini, being a place where goods were to be delivered and were in fact delivered to the first respondent. The appellant, therefore, raised an objection before the Court of the Civil Judge, Allahabad contending that the Court had no jurisdiction to entertain the suit since the Court in Jaipur City alone had jurisdiction by reason of the term embodied in Clause 17 of the Contract of Carriage. The answer made by the respondents to this preliminary objection was that a part of the cause of action had arisen in Naini which was within the jurisdiction of the Court of Civil Judge, Allahabad and that Court had, therefore, jurisdiction to entertain the suit and Clause 17 did not have the effect of ousting the jurisdiction of the Court of Civil Judge, Allahabad, because the Court in Jaipur City had no jurisdiction to entertain the suit and it was not competent to the parties by agreement to confer on the Court jurisdiction which it did not possess. The Court of Civil Judge, Allahabad rejected the preliminary objection of the appellant and held that since a part of the cause of action had arisen in Naini, the Court had jurisdiction to entertain the suit. The appellant being aggrieved by this order made by the Civil Judge, Allahabad preferred a revision application in the High Court, but the High Court agreed with the view taken by the Court of Civil Judge, Allahabad and held that since no part of the cause of action had arisen in Jaipur, the Civil Court in Jaipur had no jurisdiction to entertain the suit and hence Clause 17 of the Contract of Carriage was ineffectual. The appellant there-upon preferred the present appeal by special leave obtained from this Court.

3. It is now settled law that it is not competent to the parties 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 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. Clause 17 of the Contract of Carriage could therefore, validly confer exclusive jurisdiction on the Court in Jaipur City only if it could be shown that the Court in Jaipur City would have jurisdiction to entertain the suit filed by the respondents against the appellant. It is true and there we agree with the respondents that part of the cause of action in the present case arose in the City of Jaipur, and therefore, the jurisdiction of the Court in Jaipur City could not be invoked on the ground that the cause of action or a part thereof has arisen in Jaipur. But the jurisdiction of a court whether u/s 19 or Section 20 of the CPC can also be invoked on the ground that the defendant resides or carries on business or personally works for gain within the jurisdiction of the court and here it could not be disputed that the appellant does carry on business in the City of Jaipur and if that be so, there can be no doubt that the Court in Jaipur City would have jurisdiction to entertain the suit filed by the respondents against the appellant. In that event, Clause 17 of the Contract of Carriage conferring exclusive jurisdiction on the Court in Jaipur City and excluding the jurisdiction of other courts would be valid and effective.

4. We are therefore, of the view that the High Court was in error in taking the view that the jurisdiction of the Court of Civil Judge, Allahabad was not

excluded by Clause 17 of the Contract of Carriage and that Court had jurisdiction to entertain that suit. We accordingly allow the appeal, set aside the judgment of the High Court as also the order passed by the Civil Judge, Allahabad and taking view the Court of the Civil Judge, Allahabad has no jurisdiction to entertain the suit, we direct that the plaint may be returned to the respondents for presentation to the appropriate court in Jaipur City. We may make it clear that since the respondents have in good faith pursued their claim before the Court of Civil Judge, Allahabad which was found to have no jurisdiction by reason of Clause 17 of the Contract of Carriage the period during which they prosecuted their suit before the Court of Civil Judge Allahabad, would be liable to be excluded in computing the period of limitation for filing the suit in the appropriate court in Jaipur City. There will be no order as to costs.