
(2003) 09 AHC CK 0135
In the Allahabad High Court
Case No : C.M.W.P. No's. 37962, 37909 of 2003

Harish Chandra

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 04-09-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 4 AWC 3190

Hon'ble Judges : Jagdish Bhalla, J; Ghanshyam Dass, J

Bench : Division Bench

Advocate : Shesh Kumar, for the Appellant;

Final Decision : Dismissed

Judgement

Jagdish Bhalla, J.—Since similar question is involved in both the writ petitions, hence they are being disposed of by a common order.

2. Haryana Financial Corporation, one of the opposite parties of the writ petitions have financed M/s. Cee Labs (P) Ltd. (opposite party No. 5 in the Writ Petition No. 37962 of 2003) situated in the State of Haryana and the recovery has been issued by the Collector, Rampur on the request of Haryana Financial Corporation through Collector, Sonapat who in turn requested the Collector, Rampur for issuing the same. According to the petitioner, his late father Brij Nandan Prasad was one of the Director of M/s. Cee Labs (P.) Ltd., he was wrongly shown as one of the guarantor and the ground of guarantee was alleged to be executed on 25.4.1996 whereas Sri Brij Nandan Prasad died on 1.11.1993. A letter of request was received by the Collector, Rampur, on the basis of the same recovery was issued. The petitioner has challenged impugned citation of said recovery dated 17.7.2003.

3. The cause of action accrued to the petitioners within the territorial jurisdiction of Punjab and Haryana High Court. However, the issuance of recovery by the Collector, Rampur and the consequential order was on the request of Haryana

Financial Corporation, through the Collector, Sonapat, Haryana. The Collector, Rampur is only acting on behalf of Haryana Financial Corporation.

4. According to the petitioners, the jurisdiction to quash the recovery is within the territorial limits of this Court as the recovery has been issued by the Collector, Rampur. He has relied upon *Navinchandra N. Majithia v. State of Maharashtra and Ors.* 2000 (4) AWC 3040 (SC), wherein it has been held as under :

"The mere fact that F.I.R. was registered in a particular State is not the sole criterion to decide that no cause of action has arisen even partly within the territorial limits of jurisdiction of another State. Nor can any person create a fake cause of action or even concoct one by simply jutting into the territorial limits of another State or by making a sojourn or even a permanent residence therein. The place of residence of the person moving a High Court is not the criterion to determine the contours of the cause of action in that particular writ petition. The High Court before which the writ petition is filed must ascertain whether any part of the cause of action has arisen within the territorial limits of its jurisdiction. It depends upon the facts in each case."

5. He further relied upon *Brij Mohan Vs. Central Administrative Tribunal and Others*, wherein it is provided as under :

"Tested on the principles as laid down by the Hon"ble Apex Court in the case of *Navin Chandra N. Majithia (supra)*, it is amply clear that this Court at Allahabad has full jurisdiction to entertain the present writ petition inasmuch as the petitioner was appointed at Allahabad, his services were terminated at Allahabad and his original application was filed at Allahabad. Mere transfer of original application to Principal Bench of the Tribunal at New Delhi, will not oust the Jurisdiction of this Court in entertaining the writ petition and granting the requisite reliefs."

6. In view of above discussions, we are of the considered opinion (hat the cause of action does not accrue at the place of residence of the party. Since the agreement has been entered upon and the factory is situated in Haryana, accordingly in light of above two judgments, this Court cannot assume territorial jurisdiction to entertain this petition.

7. In light of above, these writ petitions are not maintainable before this Court. The writ petitions are, therefore, dismissed.