
(1994) 09 CAL CK 0022
In the Calcutta High Court

In Re: Rajendra Prasad Agarwal

Date of Decision : 21-09-1994

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : 99 CWN 307

Hon'ble Judges : U.C. Banerjee, J

Bench : Single Bench

Advocate : Saptangshu Basu and Ashish Kumar Chatterjee, for the Appellant; N.K. Bhattacharya, for the Respondent

Final Decision : Dismissed

Judgement

U.C. Banerjee, J.—It appears on the basis of the admitted state of facts that the tender was floated from Vyzag, the tender was deposited at Vyzag, the earnest money was also deposited at Vyzag and the contract to be executed at Vyzag. No part, as such of the cause of action, far less a dominant part of the cause of action has arisen within the territorial limit of this Court. Be it noted here that the citus theory in terms of the amendment of Article 226 of the Constitution super 1976 enactment leaves no manner of doubt as to the scope of the exercise of jurisdiction under Article 226 of the Constitution. Be it further noted that recently the Supreme court in the case of Oil and Natural Gas Commission Vs. Utpal Kumar Basu and Others, has deprecated this exercise of jurisdiction in no uncertain terms and has awarded a cost against the party moving this Court to the extent of Rs. 50,000/-. In another case reported in the same volume of Aligarh Muslim University v. Vinay Engineering Enterprises Ltd., (1994) 4 SCC 710 similar observation was made by the Supreme Court and a cost of Rs. 10,000/- was awarded against the party invoking the jurisdiction of this Court. The whole intent and purport of the judgment is to give a proper meaning to the expression "cause of action" or the citus theory as propounded in the constitution. In order to attract jurisdiction of this Court, either the cause of action or the citus theory as envisaged under Article 226 of the constitution, as amended, must be satisfied and in the event there is a contra-finding, it would lead to an anomalous situation for every High Court to exercise jurisdiction over

every matter. Be it noted further that Metal Scrap Trade Corporation, though, has office at Calcutta, but that does not mean and imply that this Court will have jurisdiction pertaining to a tender issued from Vyzag and when the supply under the tender was also to be effected from Vyzag. In that view of the matter this Court has no jurisdiction to try, entertain and hear out this writ application. This writ application, therefore, fails and is accordingly, dismissed without any order as to costs.

2. This order, however, would not prevent the writ petitioner to move before the appropriate forum if he is otherwise entitled to do so in accordance with law. Let xerox copies of this order be given to the learned Advocates appearing for the parties upon compliance of usual formalities.