

(2023) 03 TEL CK 0059
In the Telangana High Court
Case No : Writ Petition No. 5252 Of 2023

K. Padmaja

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 23-03-2023

Acts Referred:

Constitution Of India, 1950 — Article 226, 226(2), 227
Insurance Act, 1938 — Section 110H
Code Of Civil Procedure, 1908 — Section 10

Citation : (2023) 03 TEL CK 0059

Hon'ble Judges : K. Lakshman, J

Bench : Single Bench

Advocate : C. Ramachandra Raju, V.T. Kalyan

Final Decision : Dismissed

Judgement

1. Heard Mr. C. Ramachandra Raju, learned counsel for the petitioner and Mr. V.T. Kalyan, learned Standing Counsel appearing on behalf of the respondents.

2. This writ petition is filed seeking a direction to respondent No.2 to extend the license period of the petitioner by ten (10) months and to refund the GST amount of Rs.9,00,000/- (Rupees Nine Lakhs Only) collected from the petitioner and reduce the license fee of the petitioner for the loss sustained by her due to the renovation work undertaken by respondent No.2 by declaring the inaction of respondent No.2 in not considering the representations of the petitioner dated 29.12.2022, 30.01.2023 and 02.02.2023, as illegal.

3. Mr. V.T. Kalyan, learned counsel appearing for the respondents, raised a preliminary objection with regard to maintainability of the present writ petition on the following grounds:

i. There is no cause of action, much less part of cause of action within the territorial jurisdiction of this Court;

ii. The agreement entered between the petitioner and respondent No.2 dated

04.07.2018 is in Pune, Maharashtra State;

iii. Respondent No.3 is also located at Pune,Maharashtra;

iv. The petitioner did not seek any relief against respondent No.1 and respondent No.1 is only a formal party;

v. Just because the petitioner is resident of Hyderabad and residing within the territorial jurisdiction of this Court, since there is no cause of action, much less part of cause of action, the present writ petition is not maintainable.

4. On the other hand, Mr. C. Ramachandra Raju, learned counsel for the petitioner, would submit that the petitioner is resident of Hyderabad and she is residing within the territorial jurisdiction of this Court. She had submitted the aforesaid representations dated 29.12.2022, 30.01.2023 and 02.02.2023 to respondent No.2 with a request to extend the license fee from Hyderabad. Therefore, the present writ petition is maintainable.

i) Referring to the object of establishment of High Court for each State, he would submit that the underlying principle of establishing separate High Court for each and every Federal State is that the people of every State can approach the concerned High Court of their native State, for enforcement of their fundamental rights or other legal rights, against the Union Executive and not only against their concerned federal State Executive and also against any other Federal State Executive or any other authority, irrespective of the fact that the seat of the Union Executive or the State Executive of other State is situated outside the territorial jurisdiction of the concerned High Court of their State, to avoid inconvenience of the people in approaching the High Courts of other States. Citizens of India, who are permanent residents of a particular State, can approach the concerned High Court of their native State, for their grievances, which are amenable to Article - 226 of the Constitution of India.

ii) The limitation of territorial jurisdiction imposed on High Court is only meant for confining the jurisdiction of the High Courts to the people of their concerned States, but not to confine to the legal issues those taken place within their territorial jurisdiction. Article -226 of the constitution of India speaks about cause of action as the deciding factor for deciding territorial jurisdiction of a particular High Court. Cause of action is nowhere defined in any law and remained vague even after several decades of independence of India. Therefore, the Indian Courts are interpreting the cause of action in different ways from time to time without any consistency and without any certainty, causing lot of hardship to the litigant public.

iii) He would further submit that the first and foremost aspect that forms part of cause of action is the permanent residence of the person who approaches the Court, as the Courts are meant for the Citizens, who are residing within the territorial jurisdiction of the Courts. A citizen of India, who is residing within the territorial jurisdiction of a particular Court, his every legal grievance against

anyone, whether the respondent is residing within the jurisdiction of that particular or not, shall be dealt with by the particular Court within whose jurisdiction the citizen is a permanent resident. The same is also in conformity with the doctrine of 'Forum Convenience'. The aspect of place of residence of a Citizen of India was not taken into consideration by the Courts in deciding the place of cause of action.

iv) He has also placed reliance on the principle laid down by a Division Bench of High Court of Judicature of Andhra Pradesh at Hyderabad in P.S.R. Krishna v. Union of India (2006) 6 ALT 593 (DB) and a Division Bench of High Court of Delhi in Sterling Agro Industries v. Union of India 2011 (122) DRJ 693 (FB).

5. There is no dispute that the petitioner herein is resident of Hyderabad and she is residing within the territorial jurisdiction of this Court. There is also no dispute that the petitioner and respondent No.2 have entered into an agreement dated 04.07.2018 in Pune of Maharashtra State and that respondent No.2 is also located at Pune. The petitioner had submitted the aforesaid three (03) representations dated 29.12.2022; 30.01.2023 and 02.02.2023 from Hyderabad to respondent No.2 at Pune with a request to extend the agreement period by ten (10) months. The aforesaid agreement is with regard to operate and maintain cleanliness of public toilet-cum-urinal block in Station Premises at Pune (All Platforms-09 locations) Railway Station. Thus, except the fact that the petitioner is resident of Hyderabad and she has sent the aforesaid three (03) representations to respondent No.2 from Hyderabad with a request to extend the agreement period for ten (10) months, there is no cause of action, much less part of cause of action within the territorial jurisdiction of this Court.

6. The Division Bench of Andhra Pradesh High Court of Judicature at Hyderabad in P.S.R. Krishna (2006) 6 ALT 593 (DB), had an occasion to deal with territorial jurisdiction of High Court, legislative history of Article- 226 of the Constitution of India and doctrine of Forum Convenience. In the said case, the petitioners have filed one writ petition challenging order of the Central Administrative Tribunal, Hyderabad Bench in O.A. No.358 of 2005 and on its being renumbered as O.A. No.1954 of 1954, dated 31.10.2005 before the Principal Bench of the Central Administrative Tribunal, New Delhi. In the said case, the petitioners have challenged the absorption process of ITS Group-A Officers, as contemplated in proceedings dated 24.03.2005. Thus, the petitioners therein are the residents of Hyderabad and cause of action was in Hyderabad. Initially, they have filed the aforesaid O.A. before the Central Administrative Tribunal, Hyderabad Bench. Thereafter, the same was transferred to the Principal Bench of Central Administrative Tribunal, New Delhi, which has passed the aforesaid order. Considering the said facts and also the fact that there is cause of action within the territorial jurisdiction of Hyderabad, the Division Bench held that the writ petition filed by the petitioners therein is maintainable.

7. In Sterling Agro Industries 2011 (122) DRJ 693 (FB), an order passed by the Revisionary Authority, Government of India, Ministry of Finance, Department of

Revenue, was under challenge. In the said case, the petitioner Industry is situated at Malanpur in the State of Madhya Pradesh. The initial order was passed by the Assistant Commissioner of Customs, ICD, Malanpur, District Bhind, Madhya Pradesh. The appellate order was passed by the Commissioner (Appeals) - I, Customs and Central Excise & Service Tax at Indore, Madhya Pradesh. The Revisionary Authority is in Delhi. In the said case, the Division Bench of the Delhi High Court, referring to the legislative history of Article - 226 of the Constitution of India and amendments thereto, and also the principle laid down by the Full-Bench of Delhi High Court and the Hon'ble Supreme Court, referred the matter to Larger Bench. The Larger Bench of Delhi High Court considering icause of action and the principle laid down by the Full-Bench in *New India Assurance Company Limited v. Union of India* [AIR 2010 Delhi 43 (FB)], and several other judgments, laid certain conclusions in paragraph No.33 which are relevant and the same are extracted below:

"14. Presently, we shall refer to the decision of the Full Bench in *New India Assurance Company Limited* (supra) to perceive how it has dealt with the concept of jurisdiction regard being had to the concept of cause of action and the appreciation of the ratio by the Full Bench of various citations referred to by it. It is worth noting that the matter traveled to the Full Bench by reference made by the Division Bench while hearing a letters patent appeal from an order of the single Judge who had dismissed the writ petition summarily on the ground that significant part of the cause of action could not have been said to have arisen within the territorial jurisdiction of this Court and merely because the order under challenge had been passed by the appellate authority located within the territorial jurisdiction, the same could not be sufficient enough for conferment of jurisdiction. The learned single Judge, to arrive at the said conclusion, had placed reliance on the decisions in *Ambica Industries v. Commissioner of Central Excise*, 2007 (213) ELT 323 (SC), *Bombay Snuff (P) Ltd. v. Union of India*, 2006 (194) ELT 264 (Del) : 2006 (86) DRJ 300 [DB], *Rajkumar Shivhare v. Assistant Director of Enforcement*, Mumbai 154 (2008) DLT 28 and *West Coast Ingots (P) Ltd. v. Commissioner of Central Excise*, New Delhi, 2007 (209) ELT 343 (Del). The Full Bench referred to the arguments canvassed at the Bar, took note of the legislative history of Article 226 of the Constitution of India and referred to the decisions of the Apex Court in *Collector of Customs, Calcutta v. East India Commercial Co. Ltd.*, Calcutta, AIR 1963 SC 1124, *Kishore Rungta v. Punjab National Bank*, 2003 (151) ELT 502 (Bom), *Indian Institute of Technology v. P.C. Jain*, 45 (1991) DLT 42 and *Kusum Ingots & Alloys Ltd. v. Union of India*, (2004) 6 SCC 254 and expressed the view that it affirms the view taken in *Sri Nasiruddin v. State Transport Appellate Tribunal*, (1975) 2 SCC 671 and further placing reliance on the decision in *Navinchandra N. Majithia* (supra) eventually held thus:

"29. As held in *Nasiruddin's* case, even where part of the cause of action arose, it would be open to the litigant, who is the dominus litis to have his forum conveniens. In the present case, since the Appellate Authority is situated at New

Delhi, the Delhi High Court has the jurisdiction under Article 226 of the Constitution of India and, therefore, there was no occasion for the learned single Judge to apply the principle of forum conveniens to refuse to exercise the jurisdiction. The principle of forum nonconveniens originated as a principle of international law, concerned with Comity of Nations. A domestic court in which jurisdiction is vested by law otherwise ought not to refuse exercise of jurisdiction for the reason that under the same law some other courts also have jurisdiction. However, the remedy under Article 226 being discretionary, the court may refuse to exercise jurisdiction when jurisdiction has been invoked mala fide. There is no such suggestion in the present case. Nothing has been urged that it is inconvenient to the contesting respondent to contest the writ before this Court. The counsel for the contesting respondent has not disputed the jurisdiction of this Court; his main contention is of possibility of conflict. We do not find any merit in this contention of the counsel for the contesting respondent. First, that is not the case in hand. The contesting respondent is not aggrieved by the order of the appellate authority and has not assailed the same before any High Court. Thus, there is no possibility of conflicting judgments or confusion in the present case. Secondly, even if in a given case such a situation were to arise, the same is bound to be brought to the notice of the court and the likelihood of both courts proceeding with the writ petition and conflicting judgments is remote. In such a situation, following the principle in Section 10 of the Code of Civil Procedure, the subsequently filed petition may be stayed in view of the earlier petition entailing similar questions or the court may ask the petitioner to approach the High Court where the earlier petition has been filed. In our opinion, it will be inappropriate to refuse to exercise jurisdiction merely on the basis of possibility of conflict of judgments, particularly in view of the clear language of Article 226(2).

30. Having held that this Court has jurisdiction, it cannot be said that only a insignificant or miniscule part of the cause of action has accrued within the jurisdiction of this Court or that the substantial cause of action has accrued within the jurisdiction of the High Court of Andhra Pradesh. In fact, the sole cause of action for the writ petition is the order of the appellate authority and which cause of action has accrued entirely within the jurisdiction of this Court and this Court would be failing in its duty/function if declined to entertain the writ petition on the ground of the contesting respondent being situated within the jurisdiction of the High Court of Andhra Pradesh. Though the petition has been filed under Article 226 of the Constitution, it cannot be lost sight of that jurisdiction in such cases under Article 226 is overlapping with Article 227. Article 227 is clear in this regard. The power of superintendence over Tribunals is vested in the High Court within whose jurisdiction the Tribunal is situated. In that light of the matter also, it cannot be said that only insignificant or miniscule part of the cause of action has accrued within the jurisdiction of this Court. The appellate authority in the present case having passed the order which is impugned in the petition, being situated within the jurisdiction of this Court, even if the cause of action doctrine were to be invoked, substantial part of the cause

of action has accrued within the jurisdiction of this Court only. Even the language of the impugned order giving rise to the cause of action in the writ petition, discloses significant cause of action to have accrued within the jurisdiction of this Court.

This Court while deciding this writ petition is not required to issue any direction, order or writ to any person outside its jurisdiction. Section 110H of the Insurance Act provides for appeal to the Central Government, seat whereof is admittedly within the jurisdiction of this Court.

CONCLUSION

31. For the foregoing reasons, we hold that where an order is passed by an appellate authority or a revisional authority, a part of cause of (sic action) arises at that place. When the original authority is situated at one place and the appellate authority is situated at another, a writ petition would be maintainable at both the places. As the order of appellate authority constitutes a part of cause of action, a writ petition would be maintainable in the High Court within whose jurisdiction it is situate having regard to the fact that the petitioner is dominus litis to choose his forum, and that since the original order merges into the appellate order, the place where the appellate authority is located is also forum conveniens.” [Emphasis added]

15. On a keen perusal of the decision of the Full Bench, it is clear as day that it has expressed the view which can be culled out in seriatim as follows:

(i) Once the Court comes to hold that it has jurisdiction, the plea that only an insignificant or miniscule part of the cause of action has accrued within the jurisdiction of the Court or that the substantial cause of action has accrued in another State is inconsequential.

(ii) The sole cause of action emerges when an order by the appellate authority situated within the territorial jurisdiction of Delhi is passed and when the sole cause of action accrues entirely within the jurisdiction of this Court, declining to entertain the writ petition would amount to failure of duty of the Court.

(iii) This Court has jurisdiction under Article 227 since it has the power of superintendence over tribunals situated within its jurisdiction and judged in that light, it cannot be said that only insignificant or miniscule part of the cause of action has accrued within the jurisdiction of this Court.

(iv) Even if the doctrine of cause of action is adopted or invoked, the substantial part of the cause of action arises because the order under assail is that of the appellate authority/tribunal which is situated in Delhi.

(v) The petitioner is dominus litis to choose the forum. The place where the appellate forum is situated is also the forum conveniens.

(vi) The remedy under Article 226 being discretionary, the Court may refuse to exercise jurisdiction when jurisdiction has been invoked mala fide.

Thus, the larger Bench of Delhi High Court also categorically held that there should be cause of action much less part of cause of action within the territorial jurisdiction of a particular High Court to entertain a writ petition under Article - 226 of the Constitution of India.

8. The Apex Court in Union of India (UOI) vs. Adani Exports Ltd. [MANU/SC/0696/2001 - AIR 2002 SC 126], it was held as follows:-

"17. It is seen from the above that in order to confer jurisdiction on a High Court to entertain a writ petition or a special civil application as in this case, the High Court must be satisfied from the entire facts pleaded in support of the cause of action that those facts do constitute a cause of action so as to empower to court to decide a dispute which has, at least in-part, arisen within its jurisdiction. It is clear for the above judgment that each and every fact pleaded by the respondents in their application does not ipso facto lead to the conclusion that those facts give rise to a cause of action within the court's territorial jurisdiction unless those facts pleaded are such which have a nexus or relevance with the lis that is involved in the case. Facts which have no bearing with the lis or the dispute involved in the case, do not give rise to a cause of action so as to confer territorial jurisdiction on the court concerned.

12.1. The Apex Court in N. Kumara Swamy vs. UCO Bank[MANU/AP/0590/2012], it was held as follows:-

"24. Considering the legal position as settled by the decisions aforesaid, it is already noticed that there are no pleadings on the part of the petitioner, as to how any part of cause of action arises within the territorial jurisdiction of this Court. On the contrary, taking the averments, as noted above, no part of cause of action arises within the territorial jurisdiction of this Court inasmuch as on the date of service of show cause notices, which were originally impugned at the time of filing of the writ petition and when the charge memos were sought to be served on the petitioner, he was working at head office at Kolkata. It is not only essential for the petitioner to show that a part of cause of action has arisen within the jurisdiction of this Court but he must also show that the said cause of action is an integral part having nexus to the substantial cause of action. The mere residence of the petitioner at Hyderabad after his retirement and merely because the charges relate to the alleged omissions and commissions of the branch of the respondent bank at Hyderabad, in my view, has no nexus with the cause of action relating to initiation of disciplinary proceedings against the petitioner. In a given case, the charges may relate to any event happening in any branch in any part of India but the situs with respect to initiation of disciplinary proceedings cannot be said to have any integral nexus with the omissions and commissions at all/any of such branches. The show cause notices as well as the charge memos in the present case incidentally refer to omissions and commissions at Banjara Hills branch at Hyderabad, but even if it could have been at some other branch in Karnataka or Kerala, it would not be permissible, under Article 226(2) of the Constitution of India, for the petitioner to invoke the

territorial jurisdiction of the High Court within whose territorial limits, such branch is situated. The preliminary objection raised by the learned senior counsel for the respondents has, therefore, to be held as well founded and sustainable and consequently, the writ petition is liable to be dismissed on this ground alone.

12.2. the Apex Court in *Navinchandra N. Majithia vs. State of Maharashtra* [MANU/AP/0590/2012] , it was held as follows:-

"40. Even in the context of Article 226(2) of the Constitution this Court adopted the same interpretation to the expression "cause of action wholly or in part arises" vide *State of Rajasthan v. Swaika Properties* MANU/SC/0304/1985 : [1985]3SCR598 . A three Judge Bench of this Court in *Oil and Natural Gas Commission v. Utpal Kumar Basu and Anr.* MANU/SC/0759/1994 : (1994)4SCC711 observed that it is well settled that the expression 'cause of action' means that bundle of facts which the petitioner must prove, if traversed to entitle him to a judgment in his favour. Having given such a wide interpretation to the expression Ahmadi, J. (as the learned Chief Justice then was) speaking for M.N. Venkatachalliah. CJ. and B.P. Jeevan Reddy. .J.. utilised the opportunity to caution the High Courts against transgressing into the jurisdiction of the other High Courts merely on the ground of some insignificance event connected with the cause of action taking place within the territorial limits of the High Court to which the litigant approaches at his own choice or convenience. The following are such observations: If an impression gains ground that even in cases which fall outside the territorial jurisdiction of the Court, certain members of the Court would be willing to exercise jurisdiction on the plea that some event, however, trivial and unconnected with the cause of action had occurred within the jurisdiction of the said Court, litigants would seek to abuse the process by carrying the cause before such members giving rise to avoidable suspicion. That would "lower the dignity of the institution and put the entire system to ridicule. We are greatly pained to say so but if we do not strongly depreciable the growing tendency we will, we are afraid, be failing in our duty to the institution and the system of administration of justice. We do hope that we will not have another occasion to deal with such a situation.

12.3. The Apex Court in *Kusum Ingots and Alloys Ltd. vs. Union of India (UOI)* [MANU/SC/0430/2004 -AIR 2004 SC 2321], it was held as follows:-

30. We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum convenience. (See *Bhagar Singh Bagga v. Dewan JagbirSawhany*, AIR 1941 Cal; *Mandal Jalan v. Madanlal*,; *Bharat Coking Coal Limited v. Jharia Talkies & Cold Storage Pvt. Ltd.*; *S.S. Jain & Co. and Anr. v. Union of India and Ors.* (1994) CHN 445; *New Horizon Ltd. v. Union of India*, MANU/DE/0014/1994 : AIR1994Delhi126)."

9. In N. Anjamma v. South Central Railway Order in W.P. No.29528 of 2022, decided on 28.09.2022, the notification was for awarding of license for installation and operation of multipurpose stalls at four locations in three Stations for a period of five years over Vijayawada Division. Respondent No.2 therein is stationed at Vijayawada. Respondent No.1 has no role at all in the entire tender process. There is no cause of action, much less part of cause of action within the territorial jurisdiction of this Court. Considering the said facts and also the law laid down by the Apex Court in the aforesaid judgments, this Court dismissed the writ petition on the ground that there is no part of cause of action within the territorial jurisdiction of this Court. A similar view was taken by this Court in Dumpala Madhusudhana Reddy v. State of Maharashtra Order in W.P.No.6470 of 2022, decided on 09.02.2022.

10. In view of the law laid down by the Apex Court, as discussed above, in the present case, there is no cause of action, much less part of cause of action within the territorial jurisdiction of this Court. Except the fact that the petitioner herein is residing in Hyderabad, there is no cause of action within the territorial jurisdiction of this Court. Therefore, the present writ petition is not maintainable and the same is liable to be dismissed.

11. The present Writ Petition is accordingly dismissed. The interim order granted earlier stands vacated. However, there shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition shall also stand closed.