
(2007) 12 JH CK 0008
In the Jharkhand High Court

OTS Limited

APPELLANT

Vs

United India Insurance Company Ltd. and Others

RESPONDENT

Date of Decision : 06-12-2007

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 20

Citation : (2008) 2 JCR 183

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—By this application the defendant/petitioner has challenged the order dated 4.8.2007 passed by Sub-Judge-IV at Bokaro in Money Suit No. 21 of 2006 whereby he has rejected the application filed by the petitioner making a prayer for return of the plaint on the ground that the Court at Bokaro has no jurisdiction to (sic) the suit.

2. The plaintiff-United India Insurance Company filed suit against the present petitioner and others for a decree for payment of Rs. 15,17,889/- which the plaintiff-Insurance Company paid to the insured in terms of the Insurance Policy. The insured/Bokaro Steel Plant purchased certain machines and machineries from M/s I harat Aluminium Company Limited, Korba. The insured had booked the muehineries for transportation of the same from Korba to Bokaro Steel City with defendant/petitioner. Defendant/petitioner was entrusted with the said insured goods for its transportation to Bokaro. When the goods were not delivered by the petitioner to the consignee-Bokaro Steel Plan at Bokaro, claim was lodged with the plaintiff/Insurance Company. The, plaintiff in terms of the insurance policy settled the claim and (sic) the insured by making payment of Rs. 15,17,849/- (Rupees fifteen lacs seventeen thousand eight hundred (sic)). In consideration of the settlement, the insured executed letter of Shbrogation and Special Power of Attorney in favour of the plaintiff for recovery of the said amount from the petitioner/carrier. Hence, this suit was filed.

3. According to the learned Counsel appearing for the petitioner, the Court at Bokaro has no jurisdiction to entertain the suit for the reasons that the goods were not delivered at Bokaro. Learned Counsel further contended that by agreement, parties agreed to vest the jurisdiction to Calcutta Court. I do not find any substance in the submission of the learned Counsel.

4. Admittedly, goods were booked from Korba for safe delivery to the destination station at Bokaro. In my considered opinion, the Court at a place where goods were to be delivered has jurisdiction to entertain the suit both under the provisions of Sales of Goods Act and also u/s 20 of the Code of Civil Procedure.

5. The law with regard to cause of action and jurisdiction of Court has been well settled by the Supreme Court in the case of A.B.C. Laminart Pvt. Ltd. and Another Vs. A.P. Agencies, Salem, . Their Lordships observed:

15 In the matter of a contract there may arise causes of action of various kinds. In a suit for damages for breach of contract the cause of action consists of the making of the contract, and of its breach, so that the suit may be filed either at the place where the contract was made or at the place where it should have been performed and the breach occurred. The making of the contracts part of the cause of action. A suit on a contract, therefore, can be filed at the place where it was made. The determination of the place where the contract was made is part of the law of contract. But making of an offer on a particular place does not form cause of action in a suit for damages for breach of contract. Ordinarily, acceptance of an offer and its intimation result in a contract and hence a suit can be filed in a court within whose jurisdiction the acceptance was communicated. The performance of a contract is part of cause of action and a suit in respect of the breach can (sic) be filed at the place where the contract should have (been) performed or its performance (sic). If the contract is to be performed at the place where it is made, the suit on the contract is to be filed there and nowhere else. In suits for agency actions the cause of action arises at the place where the contract of agency was made or the place where actions are to be rendered and payment is to be made by the agent. Part to cause of cause of action arises where money is expressly or impliedly payable under a contract. In cases of repudiation is received is contract the place where repudiation is (sic) is the place where the suit would lie. If a contract is pleaded as part of the cause of action giving jurisdiction to the Court where the suit is filed and that contract is found to be invalid, such part of cause of the action disappears. The above are some of the connecting factors.

6. The Court below has, therefore, rightly held that it has jurisdiction to entertain the suit for recovery of damages for non-delivery of consignment in the Bokaro City. For the reasons aforesaid, I do not find any merit in this writ application, which is, accordingly, dismissed.