
(2011) 04 AP CK 0065

In the Andhra Pradesh High Court

Case No : Trans Civil Miscellaneous Petition No. 707 of 2010

Shriram Energy Systems Ltd., K. Gopala Krishna Murthy and
G. Sunil Rao

APPELLANT

Vs

Burugu Iddaiah

RESPONDENT

Date of Decision : 11-04-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 20

Citation : (2011) 04 AP CK 0065

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : D.V.N. Acharya, for the Appellant; V. Atchuta Ram, for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—The Respondent filed O.S. No. 59 of 2009 in the Court of District Judge, Nalgonda, against the Petitioners for recovery of an amount of Rs. 72,34,518/-. It was pleaded that the Respondent is partner of three Rice Mills at Miryalaguda, Nalgonda District, and that the Petitioners have entered into agreement with him for supply of rice husk, to be used as fuel for their power plants. According to him, as against the supplies made between 2006 to 2009 to the tune of Rs. 73,29,518/-, only Rs. 1,00,000/- was paid and that there is balance of Rs. 72,34,518/-. The Petitioners received summons in the suit. They filed this transfer civil miscellaneous petition with a prayer to transfer the suit to a Court of competent jurisdiction at Hyderabad. According to them, the suit is required to be filed at a place where the Defendants reside and the 1st Petitioner being a Private Limited Company, the suit must be filed at Hyderabad, where its registered office is situated. Reliance is placed upon the judgment of the Honourable Supreme Court in M/s. Patel Roadways Limited, Bombay Vs. M/s. Prasad Trading Company,

2. Heard the learned Counsel for the Petitioners and the learned Counsel for the

Respondent.

3. The suit was filed in the Court of the District Judge, Nalgonda, stating that the cause of action has arisen within the territorial jurisdiction of that Court. The only ground on which the Petitioners seek transfer of the suit is that the registered office of the 1st Petitioner is situated at Hyderabad and that the other two Petitioners are also residents of Hyderabad. The emphasis is more upon the location of the registered office of the 1st Petitioner.

4. Section 20 CPC stipulates the guidelines for choosing the forum for institution of a suit. A suit can be instituted in the Court within whose territorial jurisdiction the Defendant, or each of the Defendants, reside and carry on business; or if there are more Defendants, one of them voluntarily resides or carries on business; or within whose territorial jurisdiction the cause of action has arisen wholly, or in part. A perusal of the plaint in the present suit discloses that the forum was chosen on account of the fact that the cause of action has arisen within the jurisdiction of that Court.

5. The Petitioners lay more emphasis upon the explanation added to Section 20 Code of Civil Procedure. It reads:

Explanation-A corporation shall be deemed to carry on business at its sole or principal office in India or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

6. According to this, a corporation shall be deemed to be carrying on business at its sole or principal office in India or, in respect of any cause of action arisen at any place where it has also subordinate office, at such place.

7. The Petitioners rely upon the judgment in Patel Roadways Limited case (Supra) to contend that irrespective of the place at which cause of action has arisen, and notwithstanding the other factors mentioned in the relevant provisions of Code of Civil Procedure, a suit against a corporation/company can be filed only in the Court within whose territorial jurisdiction its registered office is located. The judgment, in fact, does not support such a contention. In categorical terms, the Honourable Supreme Court held that the explanation does not at all restrict the scope of Clause (c) of Section 20 Code of Civil Procedure, dealing with the place where cause of action has arisen, wholly or in part. At the most, the explanation details the scope of Clause (a) of Section 20 Code of Civil Procedure. In a way, it draws a distinction between the Defendants, who are individuals and a Defendant, which is a corporate agency. Except that, it does not have the effect of restricting the scope of any provision and particularly Clause (c) of Section 20 Code of Civil Procedure. The Petitioners do not dispute that they have received supply of husk from the Mills at Miryalaguda. The suit was properly instituted in the Court at that place. At any rate, if the trial Court lacked territorial jurisdiction, it is a matter to be decided by that very Court.

8. Hence, the Transfer Civil Miscellaneous Petition is dismissed. There shall be no

order as to costs.