

(1977) 02 KAR CK 0012
In the Karnataka High Court

The Union of India

APPELLANT

Vs

C.R. Prabhanna and Sons

RESPONDENT

Date of Decision : 14-02-1977

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 20, 20 (c)
Railways Act, 1890 — Section 80

Citation : AIR 1977 Kar 132 : (1977) ILR (Kar) 545 : (1977) 1 KarLJ 247

Hon'ble Judges : E.S. Venkataramiah, J

Bench : Single Bench

Advocate : N.S. Balakrishna, for the Appellant; S. Udayashankar, for the Respondent

Judgement

1. the question that arises for consideration in this second appeal relates to the jurisdiction of the trial court to entertain the suit out of which this appeal arises.

2. The plaintiffs in O. S. No 581 of 1967 on the file of the Munsiff, Tumkur, instituted the said suit for recovery of damages or compensation for loss of goods, which had been consigned by defendant 3 under Railway Receipt No. 344699 Invoice No. C-42 dated 18-9-1965 at Wadi Bunder Railway Station, Bombay, in favour of the plaintiffs. The place of destination of the goods was mentioned as Bangalore City Railway Station in the said Railway Receipt, Defendant 3 sent the Railway Receipt to the plaintiffs through the State Bank of Mysore, Tumkur Branch, Tumkur. The plaintiffs paid the amount payable to defendant 3 through the State Bank of Mysore, Tumkur, and took delivery of the Railway Receipt with the endorsement made in their favour by the Bank. The goods in question were not delivered to the plaintiffs till about January 1966. The plaintiffs, therefore, issued a notice to the Chief Commercial Superintendent of the Southern Railway and thereafter filed the suit on 4-10-1967 in the Court of the Munsiff, Tumkur, for compensation or damages for loss of goods which had been booked in their favour by defendant 3. The suit was contested on the ground that the Court of the Munsiff at Tumkur had no territorial jurisdiction to

entertain the suit in view of the provisions of S. 80 of the Indian Railways Act as substituted by the Indian Railways (Amendment) Act, 1961 (39 of 1961). The trial court overruled the objection of the Southern Railway regarding the territorial jurisdiction and decreed the suit. The lower appellate court has affirmed it. Hence this second appeal by the Union of India.

3. Section 80 of the Indian Railways Act as it is in force now reads: -

"80. A suit for compensation for loss of the life of, or personal injury to a passenger or for loss, destruction, damage, deterioration or non-delivery of animals or goods may be instituted,

(a) If the passenger was or the animals or goods were, booked from one station to another on the railway of the same railway administration, against that railway administration;

(b) If the passenger was, or the animals or goods were, booked through over the railway of two or more railway administrations, against the railway administration from which the passenger obtained his pass or purchased his ticket or to which the animals or goods were delivered for carriage, as the case may be, or against the railway administration on whose railway the destination station lies, or the loss, injury, destruction, damage or deterioration occurred;

and, in either case, the suit may be instituted in a court having jurisdiction over the place at which the passenger obtained his pass or purchased his ticket or the animals or goods were delivered for carriage, as the case may be, or over the place in which the destination station lies, or the loss, injury, destruction, damage or deterioration occurred."

We are concerned in this case with the latter part of S. 80 which deals with the territorial jurisdiction of the Courts which can entertain suits against the railways for compensation for loss of the life of, or personal injury to a passenger or for loss, destruction, damage, deterioration or non delivery of animals or goods booked from one railway station to another. It provides that such a suit may be instituted in a court having jurisdiction over the place at which the passenger obtained his Pass or purchased its ticket or the animals or goods were delivered for carriage or over the place over which the destination station lies, or the loss, injury, destruction, damage or deterioration occurred. It is not disputed that the railway station at which the goods in this case were booked and the place of destination are not within the jurisdiction of the Court of the Munsiff, Tumkur. Nor is it in the case of the plaintiffs that the loss, injury, destruction, damages or deterioration of the goods in question occurred at any place within the territorial jurisdiction of that court.

4. It is however argued on behalf of the plaintiffs that the railway receipt in question which had been sent by defendant 3 having been endorsed in favour of the plaintiffs on payment of the amount due to defendant 3 at the State Bank of Mysore, Tumkur Branch, Tumkur, which was situate within the Jurisdiction of the

trial court, had jurisdiction to try the suit by virtue of Clause (c) of S. 20 of the Civil P. C. It is argued that S. 20 of the Civil P. C. which is a general provision dealing with the territorial jurisdiction of the Civil Courts to try the suits continues to be applicable to cases falling under S. 80 of the Railways Act even after the said section was substituted by the Indian Railways (Amendment) Act, 1961. Sri Udayashankar, learned counsel for the plaintiffs, relied upon the decision of the High Court of Assam and Nagaland in *Assam Cold Storage Co. v. The Union of India* AIR 1971 Nag. 69 and contended that S 20 of the Civil P. C. remained untargeted even after the substitution of S. 80 of the Railways Act by Act 39 of 1961. It is no doubt true that the said decision fully supports the case of the plaintiffs. In that case it was argued on -behalf of the plaintiff that as S. 20 of the Civil P. C. had not been expressly repealed and as the said section had also not been repealed by implication by S. 80 of the Railways Act as substituted by Act 39 of 1961, the court within whose jurisdiction any part of the cause of action arose had the jurisdiction by virtue of Clause (c) of S, 20 of the Civil P. C. The High Court of Assam and Nagaland concurred with the above submission and held that it was possible to institute suits in a court other than those referred to in S. 80 of the Railways Act provided it had jurisdiction under S. 20 of the Civil P. C. With great respect to the learned Judges who decided that said case I have to express my disagreement with the view taken by them.

5. Section 80 as it originally stood laid down that notwithstanding anything in any agreement purporting to limit any liability of railway administration, a suit for compensation for loss of goods could be filed either against the railway administration from which the goods were booked or against the railway administration on whose railway the loss, injury, destruction or deterioration of the goods occurred. There was no reference to the territorial jurisdiction of the courts in which such suits for compensation under S. 80 could be instituted. By Act 39 of 1961, S. 80 was substituted by the new section extracted above. While doing so, the Parliament specifically mentioned in that section the courts before whom such suits could be filed. I am of the view that the Parliament when it enacted the new S. 80 intended to specify the courts before whom alone suits under S. 80 of the Railways Act could be filed. It should be remembered that S. 20 of the Civil P. C. was in existence even at the time when S. 80 was substituted in the year 1961, If the Parliament intended that S. 20 of the Civil P. C. should continue to be applicable, then there was no need for specifying in S. 80 the courts which could entertain the suits referred to therein as they would also fall within the category of courts specified in S. 20 of the Civil P. C. While interpreting statutory provisions we should bear in mind that no legislature would ordinarily indulge in superfluity. If we accept the argument, which appealed to the High Court of Assam and Nagaland, we have got to attribute to the Parliament the error of enacting a provision, which would amount to a surplusage.

6. Section 80 of the Railways Act enacts a complete Code regarding the courts before whom suits referred to therein can be filed. Special provisions enacted in S. 80 exclude the operation of the general provisions of S. 20 of the Civil P. C. It

is well known that special provision; exclude the operation of general provisions. [See The South India Corporation (P) Ltd. Vs. The Secretary, Board of Revenue Trivandrum and Another, and Delhi Administration Vs. Ram Singh, The object of specifying the courts having jurisdiction to try suits under S. 80 is also clear. The Parliament apparently did not wish that any court in India merely because the Railway Receipt was negotiated within its jurisdiction should have jurisdiction to try a suit falling under S. 80 against the Railway as it would cause a good deal of inconvenience to the railway administration to defend suits at courts far removed from the booking station, place of destination and the place where the loss of goods had occurred, when they were not concerned with the negotiation of the railway receipt. It cannot also be said that the Union of India either resides or carries on business or works for gain in every part of India wherever a railway station is situated. The suits against the Union of India under S 80 have to be filed only in the courts specified therein. I am, therefore, of the view that S. 20 of the C. P. C. has to be read as not being applicable to suits falling under S. 80 of the Railways Act after Act 39 of 1961 came into force. Since it is not disputed that the trial court is not one of the courts referred to in S. 80 of the Railways Act, the trial court had no jurisdiction to try the suit. The decrees passed by the courts below are, therefore, set aside. The trial court is directed to return the plaintiffs for presentation to proper court.

7. Appeal allowed.