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**(2000) 06 KAR CK 0059**  
**In the Karnataka High Court**  
**Case No : Writ Appeal No. 3487 of 1999**

Union of India and Others

APPELLANT

Vs

Alisab

RESPONDENT

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**Date of Decision :** 20-06-2000

**Acts Referred:**

Karnataka High Court Act, 1961 — Section 4

**Citation :** (2000) 7 KarLJ 419

**Hon'ble Judges :** Mrs. Manjula Chellur, J;G. C. Bharuka, J

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## Judgement

G.C. Bharuka, J.-The present writ appeal has been filed against the order dated 21-1-1999 passed by the learned Single Judge in W.P. No. 12000 of 1996. The said writ petition was filed by the respondent against the order of termination dated 16-3-1996 passed by the Deputy Inspector General, Central Industrial Security Force, Eastern Zone Head Quarters, Patna.

2. For the reasons stated in the impugned order, the learned Single Judge has quashed order of termination though no cause of action had arisen within the territorial jurisdiction of this Court and thus it has no jurisdiction to entertain the writ petition. The petitioner had moved this Court only because he is the resident of this State.

3. Answer to the question regarding the extent of territorial jurisdiction of the High Courts lies in Article 226 of the Constitution. Clauses (1) and (2) whereof are material for the said purpose, which are reproduced hereunder:-

"Article 226. Power of High Courts to issue certain writs.-(1) Notwithstanding anything in Article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, Prohibition, quo warranto and certiorari or any of them, for the enforcement of any of the rights conferred by part III and for any other purpose.

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises, for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories".

4. Clause (2) of Article 226 of Constitution was inserted by the Constitution (15th Amendment) Act, 1963. This clause empowers High Courts to exercise writ jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises.

5. In the context of Article 226(2) of the Constitution itself, the Supreme Court in the case of *State of Rajasthan v M/s. Swaika Properties*, AIR 1985 SC 1289, has held that "'cause of action" is a bundle of facts which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. Their Lordships repelled the contention that mere service of notice under sub-section (2) of Section 52 of the Rajasthan Urban Improvement Act, 1959 on the respondents at their registered office in Calcutta i.e., within the territorial limits of the Calcutta High Court, could give rise to a cause of action".

6. The Supreme Court in the case of *Aligarh Muslim University v Vinay Engineering Enterprises (Private) Limited*, (1994)4 SCC 710, has held that:-

"We are surprised, not a little, that the High Court of Calcutta should have exercised jurisdiction in a case where it had absolutely no jurisdiction. The contracts in question were executed at Aligarh, the construction work was to be carried out at Aligarh, even the contracts provided that in the event of dispute the Aligarh Court alone will have jurisdiction. The Arbitrator was from Aligarh and was to function there. Merely because the respondent was a Calcutta based firm, the High Court of Calcutta seems to have exercised jurisdiction where it had none by adopting a queer line of reasoning. We are constrained to say that this is a abuse of jurisdiction and we feel that the respondent deliberately moved the Calcutta High Court ignoring the fact that no part of the cause of action had arisen within the jurisdiction of that Court. It clearly shows that the litigation filed in the Calcutta High Court was thoroughly unsustainable".

7. Similarly, in the case of *M/s. Trishala Shoes (Private) Limited v Union of India*, 1991(1) Kar. L.J. 294, this Court has held that:

"Article 226(2) in no way enlarges the High Court's jurisdiction to issue the writs to the Central Government and its departments, solely because, the Central Government's presence can be traced throughout India. The inaction or the action complained of against the Central Government and its departments should have a reasonable nexus, within the High Court's territorial jurisdiction, to the cause pleaded by the petitioner, to entitle the petitioner to move the particular High Court".

8. Keeping in view the law laid down by the Supreme Court in the above referred cases, it can be held without any hesitation that since no cause of action or part thereof has arisen within the territorial jurisdiction of the Karnataka High Court and only because the respondent claims to be resident of this State, no relief as claimed could have been granted by the learned Single Judge.

9. Learned Counsel for the respondent states that since the question of jurisdiction was not raised by the appellant before the learned Single Judge either in the pleadings or during the course of the arguments, therefore, it is not competent for us to enter into that question. We do not agree with the said contention inasmuch as it is well-settled that the question of jurisdiction can be raised at any stage of the proceedings and can be gone into even suo motu by the Court even if it is not raised by either of the parties. It is a trite law that if the Court has no jurisdiction to decide a cause then no party can confer the same if it is not objected to by the contesting party.

10. In the case of Pandurang v State of Maharashtra, AIR 1987 SC 535, it has been held that "even a "right" decision by a "wrong" forum is no decision. It is non-existent in the eye of law. And hence a nullity".

11. For the aforesaid reasons, the order of the learned Single Judge is set aside. The appeal is allowed. No costs.