

(1995) 12 AHC CK 0051

In the Allahabad High Court

Case No : Civil Revision No. 348 of 1984 Connected with Civil Revision No. 349 of 1984

Union of India

APPELLANT

Vs

Om Prakash Gupta & Ors.

RESPONDENT

Date of Decision : 14-12-1995

Acts Referred:

Arbitration Act, 1940 — Section 14, 2C
Civil Procedure Code, 1908 (CPC) — Section 20

Citation : (1995) 12 AHC CK 0051

Hon'ble Judges : R.K.Mahajan, J

Final Decision : Disposed Of

Judgement

R.K.Mahajan, J.—This order will dispose of two revision petitions i.e. Civil Revision No. 348 of 1984 and Civil Revision No. 349 of 1984. Civil Revision No. 348 of 1984 has been filed against the order of Additional Civil Judge, Allahabad dated 421984 in Suit No. 3 of 1983 by virtue of which the Court held that Allahabad Civil Court has jurisdiction to entertain the matter under Section 20 of the Arbitration Act as the cause of action arose within the jurisdiction of Allahabad Civil Court jurisdiction. Another revision petition arose out of the objections filed against the award. The brief facts of the case are as follows: that the tender of the applicant for supply of ballast at Sultanpur and the work was to be executed also in the area of Sultanpur. Railway administration alleged to have committed various breaches of contract as a result of which it became difficult to carry out the work. The matter was referred in terms of the agreement clause to the Arbitrator. The grievance of the revisionist is that Allahabad Civil Court has no jurisdiction under Section 20 of C.P.C. to entertain the application for arbitration and jurisdiction was only of Civil Court within the jurisdiction of Lucknow Civil Court. This plea was repelled by lower court holding that the actual payment regarding some of the work done was made in the branch of Bank of Baroda in Allahabad through cheque and as such it gave rise to jurisdiction to Allahabad Civil Court. The impugned order has been assailed, that the contract

was executed at Lucknow and the work was also executed at places/stations falling under the subdivision of Sultanpur district and as such lower Court's finding is erroneous and illegal. It has been further submitted by the Counsel for the revisionist that merely some amount was deposited as security amount in the branch of Bank of Baroda does not confer any jurisdiction either under Section 14 of the Arbitration Act to Allahabad Civil Courts.

2. I have heard the learned Counsel for the revisionist. Shri A.K. Tripathi, later on appeared and supported the judgment of the lower court. I am of the view that the trial court's order cannot be sustained on the following reasonings firstly Section 20 of the Arbitration Act would be referred which defines the Court:

"Court" means a Civil Court having jurisdiction to decide the questions forming the subjectmatter of the reference if the same had been the subjectmatter of a suit, but does not except for the purpose of arbitration proceedings under Section 21, include a Small Cause Court;

Section 20 of C.P.C. would also be referred :

"20. Other suits to be instituted where defendants reside or cause of action arises. Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction

(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business or personally work for gain as aforesaid, acquiesce in such institution; or

(c) The cause of action, wholly or in part, arises."

In this case defendant's Head office i.e. General Manager is at Delhi and Chief Engineer's Office is also at Delhi and the Divisional Engineer's Office is at Lucknow. Even Arbitrator's office is at Delhi.

3. The cause of action is a bundle of facts which gives rise to the claim and to agitate the matter in a Court. It would be wholly fallacious and illogical to accept the trial Court's view that merely cheques were cashed at Allahabad it would confer jurisdiction to Civil Courts of Allahabad. The reasoning of the lower Court on this aspect is entirely untenable.

4. Learned Counsel for the revisionist has cited AIR 1974 Madras (sic). It was held in this authority that if subjectmatter or arbitration falls within the jurisdiction of Calcutta High Court in that eventuality the Calcutta High Court had a jurisdiction to try the arbitration matter. Merely the agreement was executed at Madras will not confer the jurisdiction to Madras High Court. Main emphasize was

drawn on carrying of the activities within the jurisdiction of the High Court and not inconsequential or incidental facts. Another case within has been relied upon is AIR 1965 Allahabad (sic), Zila Parishad (District Board) v. Smt. Shanti Devi. This ruling is being quoted with respect of a cause of action :

"A cause of action consists of all facts which it is essential for the plaintiff to allege and to establish (if denied or controverted) e.g. The bundle of facts which taken with the law applicable to them gives him a right to some relief against the defendants. The plaintiff cannot create a cause of action solely by his own effort; it must be created for him by some act of the defendant. Some act of the defendant therefore must be a part of the cause of action.

A plain must state not only the cause of action but also other circumstances such as that the Court has jurisdiction and that the cause of action has not been dead or discharged. But these circumstances which are stated in the plaint do not become part of the cause of action on account of their being stated alongwith the cause of action in the plaint."

5. In my view merely the cheques were cashed in Bank of Baroda at Allahabad and it was the voluntary act of respondents and does not confer any jurisdiction to Allahabad Civil Court. The Court is to see the entire bundle of facts in a proper prospective and not take isolated view and a cause of action arose within the jurisdiction of Lucknow Civil Court.

6. For the reasons recorded above and also in the facts and circumstances of the case the impugned order cannot be sustained and it is set aside. I accept the revision petition. Another connected revision petition is also accepted for the same reasons.

7. The lower court is to return the application and relevant record for presenting before the proper Court having jurisdiction and in case they are filed in the proper court. The court is directed to expedite the matter as early as possible.

8. The revision petitions are disposed of in the light of the above directions.

Revision disposed of.