

(2015) 03 BOM CK 0124
In the Bombay High Court
Case No : Admiralty Suit No. 31 of 1995

V.M. Salgaocar and Bros. Ltd.

APPELLANT

Vs

M.V. Priyamvada and Others

RESPONDENT

Date of Decision : 18-03-2015

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 140, 16, 17, 19, 20
Merchant Shipping Act, 1958 — Section 2, 3(15), 3(18), 3(23), 3(29)
Penal Code, 1860 (IPC) — Section 120

Citation : (2015) 6 ABR 434

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

Bench : Single Bench

Advocate : A.M. Vernekar, for the Appellant; Vasant Kotwal, instructed by R.A.K. Najames Sani, Advocates for the Respondent

Judgement

K.R. Shriram, J.—Almost 20 years ago, on or about 5th June 1994, there was a collision at the port of Marmagao, Goa between m.v.Sanjeevani owned by the plaintiffs and the 1st defendant vessel owned by the 2nd defendant. It is the case of the plaintiffs that the collision was entirely due to the negligence and total and wanton dis-regard to good seamanship, collision regulations and other principles of safety and navigation by those manning the 1st defendant-vessel. The plaintiffs are claiming a sum of Rs. 13,33,70,000/-together with interest @ 18% p.a. on the said amount.

2. The defendants filed written statement and counter claim on 30.4.1996, almost 19 years ago, in which it is alleged that the incident of collision was caused by acts or omissions of the plaintiffs-vessel m.v. Sanjeevani and her complement. In the alternative it is claimed that the incident was occasioned by act of God and/or perils of the sea. The defendants are counter claiming for a decree in the sum of Rs. 10,95,330/- with interest @ 18% p.a. and in the alternative are seeking to limit their liability to a sum of Rs. 58,43,811.20/-under Sections 350 and 352(B) of the Merchant Shipping Act 1958.

Both the plaintiffs and the defendants have proceeded on the basis that this court has jurisdiction.

3. After lot of water had flown under the bridge, as I would explain later, sometime in January-2010, i.e., almost 16 years after the plaintiffs filed the suit and 14 years after the defendants filed their written statement and counter claim, a Chamber summons was taken out by the defendants questioning the jurisdiction of the Bombay bench of this Hon"ble Court. The defendants wanted this court to decide as to whether the Bombay bench of this Hon"ble Court had or has no jurisdiction to try the suit and whether the plaint and proceedings be returned for presentation to the Goa bench of this Court for being entertained, heard and disposed of.

4. While disposing the said Chamber summons, this court by its order dated 15.4.2010, framed additional issues to be heard and tried as preliminary issues on jurisdiction. The two additional issues are as under :-

(I) Whether Bombay Bench of this Court has no jurisdiction to entertain and try the suit and whether the suit is required to be filed and/or heard only by the Goa Bench of this Court ?

Ans.: Bombay Bench of this court has jurisdiction.

(II) Whether the defendant has acquiesced to the jurisdiction of this Bench by making a counterclaim or otherwise and whether by acquiescence or consent, this Bench would get jurisdiction to entertain and try the suit ?

Ans. : Yes.

5. The reason why the defendants raised this issue of jurisdiction is, according to the defendants, the cause of action in this suit had arisen wholly within the port of Marmagao within the territory of the State of Goa and any suit in respect thereof can only be filed and/or entertained and tried by the Goa Bench alone. The defendants submitted that the Bombay bench of this court lacked inherent jurisdiction to accept or entertain the suit and it ought to have been filed before the Goa bench. The case of the defendants is as under :-

A) A plaintiff must set out in the plaint the basis on which jurisdiction is claimed. In this case the plaintiff has failed to set out any basis on which it is claiming jurisdiction.

As regards this submission, the court's view is it is irrelevant as the defendant has not raised this issue before and has even filed the written statement and also proceeded with the trial.

B) A movable in respect of which a claim is made should be within the jurisdiction of the court.

The ships in the instant case were within the waters abutting the State of Goa. If these waters form part of the inland waters of the State of Goa they would form

part of the territory of the State of Goa and this Court would have no jurisdiction unless the ships were within its jurisdiction.

A court has jurisdiction to deliver a judgment in rem which may be enforced or recognised in an Indian Court provided that the subject matter of the action is property, whether movable or immovable within the jurisdiction of that Court. (See *R. Viswanathan Vs. Rukn-ul-Mulk Syed Abdul Wajid*, .

A decree passed by a court deciding right title and interest in respect of movables where the movable are not within its jurisdiction is a nullity. The judgment would be coram non judice.

This principle is enunciated in Sec. 19 of the Code of Civil Procedure (CPC) as is evident from the following : "19. Suits for compensation for wrongs to person or movables :

"Where a suit is for compensation for wrong done to the person or to movable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the suit may be instituted at the option of the plaintiff in either of the said Courts."

Sec. 120 of CPC :

Provisions not applicable to High Court in original civil jurisdiction.

(1) The following provisions shall not apply to the High Court in the exercise of its Original Civil Jurisdiction, namely, sections 16, 17 and 20.

Application of Sec. 19 is not expressly excluded.

In *M.V. Al Quamar Vs. Tsavliris Salvage (International) Ltd. and Others*, the Supreme Court observed : "The learned single Judge in our view has rightly decided the applicability of the Code of Civil Procedure even in Admiralty jurisdiction."

Therefore, unless the movables in respect of which adjudication of right title and interest is sought are situate within the jurisdiction of the particular court, the court will have no jurisdiction.

These are totally irrelevant because this court assumes jurisdiction over a vessel by issuing the warrant of arrest. The position relating to vessels is different from other movables.

C)

(a) Relying on the decision in *Queen Vs. Keyn*¹ the judgment in *M.V. Umang and Ors. vs. Kamla Kamte Dube and Anr.* (Division Bench per Srikrishna, J, as he then was)² (*m.v. Umang*) erroneously holds that state boundary ends at land mass and every Admiralty Court has jurisdiction in respect of any incident occurring on water beyond the land mass.

(b) The correctness of the decision in Umang (ibid) has been left open by the Supreme Court in the SLP filed against it. ("In view of the settlement, the question of territorial jurisdiction raised by the Appellants and does not require consideration and is left open.")

(c) The decision in Umang is per incuriam and this court is entitled to draw to its own conclusion.

D)

(a) The jurisdiction of a state High Court extends over the land mass as well as the waters adjacent to the county, which are, regarded as internal waters by the law of sea, custom, judicial decisions and conventions.

(b) All waters landwards of the baseline are regarded as internal waters of the adjacent county.

(c) Drawing of the base line depends on the nature of the land mass and always included waters in gulfs bays in which case the base line is drawn at the mouth of the bay/gulf.

The instant incident occurred in port in Marmagoa Bay well within the internal waters of State of Goa.

E) Submissions C and D hereinabove, are interconnected and are basic to the decision in this case. If these submission are accepted, the conclusion must follow that at the time of incident the ships were within the territory of Goa and this Hon"ble Court cannot grant any reliefs and in particular, the prayers of the plaint.

F) According to the defendants" counsel, Umang decision is per incuriam; because, the territory ends at land mass and all water beyond is sea were never correct and rejected by the Parliament and Courts of the United Kingdom and by our Hon"ble Court and by customary law as well as conventions.

In R.Keyn (supra) the majority of seven judges held that mere opinions of Jurists however eminent nor such consensus was sufficient to confer such jurisdiction on the Admiral and hence on the Central Criminal Court. It meant that British Sovereignty ended at the land mass and Courts had no jurisdiction over the waters adjacent to the shore, which was all high sea.

The Hon"ble Supreme Court of India, has held, in the matter of Mobarik Ali Ahmed Vs. The State of Bombay, "Now the main debate in that case was whether the sea up to a three mile limit from the shore is part of British territory or whether in respect of such three mile limit only limited and defined extra territorial British jurisdiction extended which did not include the particular criminal jurisdiction under consideration. In respect of this question, as a result of the judgment, the Parliament had to enact the Territorial Waters Jurisdiction Act, 1878 (41 and 42 Vict., c.73) which in substance overruled the view of the majority and of the learned Chief Justice on this point."

G) It was never the law even prior to R.Keyn (supra) that irrespective of the geographical configuration of the coast line territorial sea commences from the low water mark from every point on the coast.

This was amply made clear by the judgment of Cockburn J in R. Keyn itself : "If an offence was committed in a bay, gulf, or estuary, inter fauces terrae, the common law could deal with it, because the parts of the sea so circumstanced were held to be within the body of the adjacent county or counties ; but, along the coast, on the external sea, the jurisdiction of the common law extended no further than to low-tide water mark."

In respect of portions of the sea that are by reason of their geographical configuration deemed to be parts of English counties.

The Convention on Law of Sea 1982 (LOS) also defines "internal waters. (Art.7 of LOS) "Except as provided in Part IV, waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State." Article 86 of the LOS deals with High seas : The provisions of this Part apply to all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State. This article does not entail any abridgement of the freedoms enjoyed by all States in the exclusive economic zone in accordance with article 58". Article 87 then lays down the freedom of high seas. India signed the 1982 Convention in 1982 itself, but ratified the same in 1994. It is irrelevant that the Convention at the time of incident was not ratified. The Hon'ble Division Bench of this Court has held that the Mahim Creek is a bay. Hoary Reality and Anr. v. Municipal Corporation of Greater Mumbai and Ors³

6. Mr.Vernekar appearing for the plaintiffs, in short, stated that jurisdiction is a non issue at this stage and in any event this court has jurisdiction.

Mr.Vernekar, in short, submitted that :-

(a) Objection to the jurisdiction raised by the defendants is at a belated stage and not maintainable ;

(b) The defendant has acquiesced to the jurisdiction of this court and hence this court in any event has jurisdiction ;

(c) that the High Court of Bombay at Goa does not exercise admiralty jurisdiction and even if it does exercise jurisdiction, the jurisdiction of the principal Seat of this court at Bombay to entertain the plaintiffs' suit in admiralty and vice admiralty jurisdiction is not ousted because the jurisdiction of the admiralty court is not limited territorially or otherwise ;

(d) The present suit is covered under part X and the counter claim filed by the defendants is covered under part-X and X-A of the Merchant Shipping Act 1948 and hence this court has jurisdiction to entertain this suit.

Hence, this court should hold that the Bombay bench has jurisdiction to entertain

and try the suit in its admiralty and vice admiralty jurisdiction.

7. Before I proceed to deal with the submissions, it is necessary to list the factual matrix.

(i) 5th June 1994 :-

Collision between the 1st defendant-vessel and m.v.Sanjeevani while m.v.Sanjeevani was afloat and securely anchored awaiting allotment of berth by the Marmagao Port authority.

(ii) 2nd March 1995 :-

Suit lodged.

(iii) 30th April 1996 :-

Written statement and counter claim declared.

(iv) 3rd July 1999 :-

Written statement to the counter claim filed.

(v) 20th March 2001 :-

Issues were framed.

(vi) 30th January 2002 :-

Defendants' affidavit of documents and compilation of documents filed.

(vii) 14th August 2002 :-

Issue no. 11 as originally framed was re-framed. The parties were also directed to file their affidavit in lieu of examination-in-chief and Commissioner to record evidence was appointed. It was also directed that the cross-examination will be before the Commissioner.

(viii) 9th October 2002 :-

Time to complete recording of evidence extended.

(ix) 25th November 2002 :-

Plaintiffs filed affidavit of evidence of witnesses.

(x) 2003 :-

The Court Commissioner commenced recording of evidence.

(xi) 23rd January 2004 :-

The order appointing Commissioner was cancelled in order to decide the application of the defendants as to whether assessor was required to be appointed or not.

It is the plaintiffs' case that recording of evidence had to be stopped on account of proceedings taken out by the defendants raising objection as to the recording of evidence by way of affidavit of evidence by the Original Side of the Bombay High Court and on account of the evidence required to be recorded by the Court in the presence of assessors as required under Section 140 of the Code of Civil Procedure.

(xii) 23rd June 2005 : -

Two assessors appointed under Section 140 of the Code of Civil Procedure.

(xiii) 19th January 2010 :-

Chamber summons No. 115 of 2010 filed by the defendants raising plea of lack of jurisdiction of this court.

(xiv) 15th April 2010 :-

Issue regarding jurisdiction framed.

8. In the case of AL Qamar (supra) relied upon by the defendants the question that is raised today was not directly an issue before the Apex court and hence is of no relevance.

9. As regards the issue no. 1 the Bombay High Court has its principal seat at Mumbai. The Bombay High Court, under Section 20 of the Goa, Daman and Diu Reorganization Act, 1987 (GDDR Act) has been constituted as the Common High Court with effect from the appointed day. Hence in the assignments of work made by Hon'ble The Chief Justice, while Nagpur and Aurangabad are called Benches, as far as Panaji Goa is concerned it is called "High Court of Bombay at Goa".

10. The High Court of Bombay at Goa does not exercise Admiralty Jurisdiction. It does not appear, moreover, any notification has been issued so far by The Hon'ble The Chief Justice assigning the admiralty matters to the High Court of Bombay at Goa ever since the High Court of Bombay was constituted as the Common High Court for the states of Maharashtra and Goa pursuant to the GDDR Act. That is the reason, in the assignment of the Judicial work made by The Hon'ble The Chief Justice to the Hon'ble Judges sitting at the High Court of Bombay at Goa, there is no Admiralty work assigned to any Judges sitting at the High Court of Bombay at Goa. Therefore, as the High Court of Bombay at Goa does not exercise Admiralty and Vice Admiralty Jurisdiction, the question of Plaintiffs filing the present Admiralty Suit in The High Court of Bombay at Goa also does not arise.

11. In any event, the Defendants plea of lack of Jurisdiction of this Hon'ble Court at its principal Seat at Bombay to entertain the Suit is based on the contention that the cause of action in this Suit has arisen solely in the Port of Mormugao within the territory of the State of Goa and hence the Suit can only be filed and tried by the Goa Bench. The premise on which the said submission is based is

incorrect in as much as the incident giving rise to the loss and Damage to the Plaintiff on account of the collision of the Defendant Vessel with the Plaintiff's Vessel has occurred in the Territorial Waters of India. The Jurisdiction of the District or County as it is called in Great Britain ends at low water mark and seawards of that boundary was and is accepted as the exclusive Jurisdiction of the Admiralty and every tort on the high seas was and is within admiralty jurisdiction. [Kamlakar Mahadev Bhagat V/s Scindia Steam Navigation Co. Ltd.] AIR 1961 BOMBAY 186 It is also necessary to note that though in the Head Note in the judgment of M.V. Elisabeth and Others Vs. Harwan Investment and Trading Pvt. Ltd., Hanoekar House, Swatontapeth, Vasco-De-Gama, Goa, indicates that the Hon''ble Supreme Court has overruled the decision in the case of Kamlakar Mahadev Bhagat V/S. Scindia Steam Navigation Co. Ltd. (supra), the observations in paragraph No. 69 of M. V. Elisabeth, it is not specifically stated so. However, it does appear what is overruled in the said Judgment is only the restrictive view of the Court's Admiralty Jurisdiction that was taken in the said authority to limit it to the Admiralty Jurisdiction as exercised by the High Court of Admiralty in England in 1890 when the Colonial Courts of Admiralty was passed by the British Parliament. Such restrictive view which was taken by the Hon''ble Bombay High Court in Kamlakar Mahadev (Supra) is only deemed to have been over ruled by the Hon''ble Supreme Court.

12. The issue of territorial limits of a district had come up for consideration before The Division Bench of this Court in m.v.Umang (supra). Though the defendants' submission was the said judgment was per incuriam, it is not so. In m.v.Umang, the territorial limits issue was answered by holding that the Jurisdiction of the District ceases on the Seaward side of the low tide Mark. In view thereof it is not correct on the part of the Defendants to contend that incident giving rise to the cause of action has occurred within the local limits / territorial limits of the State of Goa. Since the incident giving rise to the Claim has arisen in the territorial Waters of India and the Plaintiff's Claim in the Suit being a Maritime Claim against the Defendants for damage done by a Ship, it was the choice of the Plaintiff to file the Suit in the High Court of Judicature at Bombay, i.e., in this Hon''ble Court or in the High Court of Bombay at Goa even if we assume that High Court of Bombay at Goa can exercise Admiralty Jurisdiction.

13. The Letters patent governing the exercise of admiralty jurisdiction by this court is subject to Legislative Competence of the Parliament under clause-34 of the Letters Patent. Subsequent to the issuance of the Letters Patent, Admiralty Act 1891 came into force under which there were only 3 admiralty courts. Section 2 of the 1891 Act reads as under :-

"2. Appointment of Colonial Courts of Admiralty-The following Courts of unlimited civil jurisdiction are hereby declared to be Colonial Courts of Admiralty, namely-

- (1) the High Court of Judicature at Fort William in Bengal ;
- (2) the High Court of Judicature at Madras [and]

(3) the High Court of Judicature at Bombay."

This position has not been changed as could be seen from *m.v Umang* judgment (*supra*).

14. In *m.v.Umang* (*supra*) also similar objection as to the Jurisdiction of this Hon"ble Court as raised in the matter, was raised. It was contended that no cause of action has arisen within the local limits of this Hon"ble Court nor any of the Plaintiff's or Defendants resided or did any business within the Jurisdiction of this Court. The court did not accept these contentions and went on to hold that this court has jurisdiction and it extends to the whole of India.

15. Section 2 of The Merchant Shipping Act, 1958 (hereinafter referred to as "The said Act") makes the Act applicable to any Vessel which is Registered in India or which is required by the Act to be so Registered or to any other Vessel which is owned wholly by persons to each of whom any of the descriptions specified in Clause (a) or in Clause (b) or in Clause (c) as the case may be, of Section 21 applies, wherever the Vessel may be. Section 21 defines an Indian Ship to mean a ship owned by a citizen of India or a Company or a body established by or under any Central or State Act which has its principal place of business in India or a Co-operative Society which is registered or deemed to be registered under the Co-operative Societies Act, 1912 or any other law relating to Co-operative Societies for the time being in force in any state.

16. Under Section 3(55) of the said Act, Vessel includes any Ship, boat, sailing Vessel, or other description of Vessel used in navigation. Ship is defined under Section 3(18) of the Act to mean a Ship Registered as such under the Act and includes any Ship Registered at any Port in India which is recognized as an Indian Ship. Section 3(29) defines "Port of Registry" in relation to a ship or a sailing Vessel to mean the Port at which she is Registered or to be Registered. Section 3(23) defines the owner in relation to a ship to mean a person to whom the Ship or a Share in the Ship belongs. Section 3(15) which is relevant for our purpose defines High Court in relation to a Vessel to mean the High Court within the limits of whose Appellate Jurisdiction (a) the Port of Registry of the Vessel is situate or (b) the Vessel is for the time being or (c) the cause of action wholly or in part arises.

17. Since both the Vessels involved in the collision were Registered at the Port of Mumbai, in relation to both the Vessels High Court means High Court of Judicature at Bombay Having its principal Seat at Bombay. High Court under Section 3(15) of The Merchant Shipping Act, 1958 would mean the Admiralty Division of the High Court if the Vessel is Registered within its Appellate Jurisdiction irrespective where the cause of action has arisen. It has been so held in the matter of *Shipping Corporation of India Ltd. Vs. Hindustan Shipyard Ltd.*, Also see the *Shipping Development Fund Committee V/S M. V. Charisma* and Another AIR 1981 BOMBAY 42

18. Based on the Judgment in the case of *AL-QUMAR* (*supra*) of the Hon"ble

Supreme Court, it is submitted by the Defendants that for this Hon''ble Court to entertain the Suit in its Admiralty Jurisdiction, the res and her owner ought to have been situated within the Jurisdiction of this Hon''ble Court as required under Section 19 of the Code of Civil Procedure, 1908. But in the case of AL-Quamar (supra), the Hon''ble Supreme Court was dealing with the execution of Decree of a foreign superior Court under Section 44-A of CPC and in that context, the Hon''ble Supreme Court has held that the competence of the Andhra Pradesh High Court as a Executing Court cannot be questioned as even otherwise the Andhra Pradesh High Court as an Admiralty Court would have had jurisdiction to entertain the Suit if initially filed instead of filing the same in English Court. Therefore, reliance on the Ratio of AL-Quamar (supra) by the Defendants to buttress their contention that this Hon''ble Court has no territorial Jurisdiction to entertain the Suit in its Admiralty Jurisdiction is misplaced.

19. It was sought to be submitted by the Defendants that once the permanent bench is constituted by The Bombay High Court pursuant to Goa, Daman and Diu Reorganization Act, 1987 there is territorial bifurcation of Jurisdiction of the Court.

20. While there can be no dispute regarding the territorial bifurcation once a permanent bench is constituted for a particular territory, Admiralty Courts, viz., High Court of Bombay at its principal Seat at Bombay, could have entertained action in rem and in personam for such tort since Jurisdiction of the Admiralty Courts is not confined territorially or otherwise irrespective of where the place of residence or business of the owner of the Vessel involved is situate as long as the Vessel at the time of institution of the Suit was within the territorial waters of India and could have been proceeded against.

21. The Defendants have sought to find fault with the Judgment of the Hon''ble Division Bench of this Court in M. V. Umang (supra). The said Judgment, as on date, is good law and squarely applicable to the facts of the present Suit.

The Defendants have also sought to rely upon Territorial waters Jurisdiction Act, 1878 of the English Parliament and have quoted passages from Hyde's International law and Openheim's International law. Reliance on the same is misplaced in as much as it deals with the Criminal Jurisdiction as to the offences committed in territorial waters. This Court in the present Suit is not considering the Criminal Jurisdiction of this Hon''ble Court.

22. In the light of the above, this Hon''ble Court in its principal place at Bombay has Jurisdiction to entertain and try the Suit in its Admiralty and Vice Admiralty Jurisdiction.

23. The answer to issue no. 2 is also in the affirmative. The defendants have not only filed their written statement without challenging jurisdiction, the defendants have also filed a counter claim, the defendants had also participated in the trial where, evidence by way of examination-in-chief was filed by the plaintiffs and even recording of evidence by the Commissioner also commenced.

24. The defendants further submitted that the Apex court in the matter of Harshad Chiman Lal Modi Vs. D.L.F.Universal Ltd. and Ors. held that even if the issue of jurisdiction was raised after 8 years of filing of the written statement, the court was justified in considering the same and the High Court was justified in ignoring Section 21 of the Code of Civil Procedure. Therefore, there was nothing wrong in the defendants raising the issue of jurisdiction at this stage.

25. The reason why the Apex court did not uphold the contention that the lower courts were wrong in allowing the amendment and ignoring Section 21 of the Code is spelt out in paragraph-28 of the said judgment which reads as under :-

"28. We are unable to uphold the contention. The jurisdiction of a court may be classified into several categories. The important categories are (i) Territorial or local jurisdiction; (ii) Pecuniary jurisdiction ; and (iii) Jurisdiction over the subject matter. So far as territorial and pecuniary jurisdictions are concerned, objection to such jurisdiction has to be taken at the earliest possible opportunity and in any case at or before settlement of issues. The law is well settled on the point that if such objection is not taken at the earliest, it cannot be allowed to be taken at a subsequent stage. Jurisdiction as to subject matter, however, is totally distinct and stands on a different footing. Where a court has no jurisdiction over the subject matter of the suit by reason of any limitation imposed by statute, charter or commission, it cannot take up the cause or matter. An order passed by a court having no jurisdiction is nullity."

In that case the dispute was relating to the property which was situated in Gurgaon which was not within the Delhi High Court jurisdiction. The issue was the jurisdiction over the subject matter. Hence the Apex court said the High Court was not wrong in ignoring Section 21.

26. In this case it was not a case where the court has no jurisdiction. The issue here is territorial jurisdiction and not jurisdiction over the subject matter. The Apex court has held in paragraph-28 that so far as territorial and pecuniary jurisdiction are concerned, objection to such jurisdiction has to be taken at the earliest possible opportunity and in any case at or before settlement of issues, and if such objection is not taken at the earliest, it cannot be allowed to be taken at subsequent stage.

27. In this case it is not only that issues have been framed but even the trial has commenced and therefore, the defendants cannot at this belated stage raise the issue of jurisdiction.

28. In view of the above, the suit be placed for directions.

1 (1876-77) L.R.3 Ex.D.63 2 Appeal No. 59 of 2000 in Notice of Motion No. 1153/1998 in Admiralty Suit No. 33/1997 dated 20.7.2001. 3Writ Petition (Log.) No. 2383 of 2014 decided on 7.10.2014.