

Director, Indian Road Construction Corp. Ltd. v. Amolak Singh and others (R. N. Mittal, J.)

Before : R. N. Mittal, J.

DIRECTOR, INDIAN ROAD CONSTRUCTION CORP. LTD.,

—Petitioner

versus

AMOLAK SINGH AND OTHERS,—Respondents.

Civil Revision No. 1556 of 1985

November 19, 1985.

Code of Civil Procedure (V of 1908)—Sections 20 and 80—Suit instituted at a place from where notice under section 80 was sent—Some correspondence also addressed from that place—Cause of action, however, accruing at a different place—Mere service of the notice at a particular place or addressing communications from that place—Whether constitutes a part of cause of action at that place—Courts at that place—Whether have jurisdiction of entertaining the suit.

Held, that where no part of cause of action arose at a place but merely because the plaintiff served notice under section 80 of the Code of Civil Procedure from that place or he sent letters from there does not confer jurisdiction on the civil Courts at that place. A statutory notice required by the provisions of the Act though, no doubt, an essential preliminary step for the valid institution of a suit, would not make such a notice part of the cause of action for the suit itself.

(Para 4)

Petition under Section 115 C.P.C. for revision of the order of the court of Shri Dalip Singh, Sub Judge Ist Class, Pathankot, dated the 13th December, 1984 holding that the Court had the jurisdiction to try the suit.

J. B. Choudhary, Advocate, for the Petitioner.

H. S. Mann, Advocate for Respondent No. 1.

JUDGMENT

Rajendra Nath Mittal, J. (Oral)

(1) This revision petition has been filed by the defendant against the order of the Subordinate Judge Ist Class, Pathankot, dated 13th

Decemr, 1984, holding that the Court had the jurisdiction to try the suit.

(2) Briefly, the facts are that the plaintiff was serving in General Reserve Engineer Force (G.R.E.F.) since 1962. He was sent on deputation from the parent department to the Indian Road Contruaction Corporation Limited (I.R.C.C.) to serve in Libia. His services were terminated by I.R.C.C. and he was repatriated to India. He served a notice on the defendant under section 80, Code of Civil Procedure (hereinafter referred to as 'the Code'), claiming certain reliefs from the defendant. Thereafter, he instituted a suit in the Court of Subordinate Judge Ist Class, Pathankot for the said reliefs. The suit was contested by the defendant *inter alia* on the ground that the Civil Court at Pathankot had no jurisdiction to try the suit. The issue regarding jurisdiction was tried as a preliminary issue by the Court and it was held that the Court at Pathankot had the jurisdiction, as the plaintiff had sent notice under section 80 of the Code and wrote various letters from Pathankot to the defendant. The defendant has come up in revision to this Court.

(3) The only question that arises for determination is whether the Civil Court at Pathankot had the jurisdiction to try the suit. The learned counsel for the petitioner has argued that no part of cause of action arose at Pathankot. He further submits that merely because the plaintiff-respondent sent a notice and wrote various letters to the petitioner from Pathankot does not confer jurisdiction on the Court at Pathankot.

(4) I have heard the learned counsel for the parties at a considerable length and find force in the contention of the learned counsel for the petitioner. The facts of the case are not disputed. The last employment of the respondent was in Libia. No part of cause of action arose at Pathankot. Merely because the respondent served notice under Section 80 of the Code from Pathankot or he sent letters from there does not confer jurisdiction on the Civil Court at Pathankot. In this matter, I get support from the observations in *Union of India v. Firm Balwant Singh Jaswant Singh* (1) wherein it was observed that mere service of notice under section 80 Civil Procedure Code at Delhi did not constitute part of the cause of action and therefore did not give the Court at Delhi jurisdiction. A statutory notice required by the provisions of the Railways Act as well as the Code of Civil Procedure though no doubt an essential

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preliminary step for the valid institution of a suit, would not make such a notice part of the cause of action for the suit itself. A similar view was taken by a Division Bench of Calcutta High Court in *Niranjan Agarwalla v. Union of India* (2). I am in respectful agreement with the above observations. Consequently, I hold that the Court at Pathankot has no jurisdiction to try the suit.

(5) For the aforesaid reasons, I accept the revision, set aside the order of the trial Court and direct that Court to return the plaint to the plaintiff for presentation to the Court having jurisdiction in the matter. No order as to costs.

N.K.S.

(1) A.I.R. 1957 Punjab 27.

(2) A.I.R. 1960 Calcutta 391.