

landlord from enjoying the fruits of his decrees. S. Harbhajan Singh
 Mr. Bahri requests that as these tenants may have
 some difficulty in finding alternative accommoda-
 tion they may perhaps be permitted to stay on in
 these premises for another two months and in the
 meantime look for other accommodation. Mr.
 Gosain, who appears for the landlord, has no
 objection to this small concession being given.

v.
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For these reasons, I would uphold the order of the learned Sing'e Judge and dismiss the appeals with costs. The tenants will be allowed two months within which to vacate the premises.

BISHAN NARAIN, J.—I agree.

Bishan Narain,
 J.

LETTERS PATENT APPEAL

Before Bhandari, C.J. and Bishan Narain, J.

MESSRS JAWAHAR SINGH-SOBHA SINGH,—

Plaintiff-Appellant

versus

UNION OF INDIA AND OTHERS,—*Defendants-Respondents*

Letters Patent Appeal No. 38 of 1953.

*Code of Civil Procedure (Act V of 1908)—Section 20—
 Cause of action—Meaning of—When accrues.*

1956

*Cotton Cloth and Yarn (Control) Order, 1945—Permit
 issued under, for purchase and sale of cloth—Whether consti-
 tutes a contract.*

June. 29th

Held, that a cause of action arises when a person fails to do something which ought to be done or when he does something which ought not to be done. The existence of a cause of action implies the existence of a legal right in the

plaintiff to have something done, the existence of a corresponding duty on the part of the defendant to do something, a breach of that duty by the defendant and damage caused to the plaintiff as a result of the breach of the said duty.

Held also, that a permit or a license can by no stretch of imagination be regarded as a contract between the authority by whom and the person to whom it is issued. It is only a personal privilege to be exercised under existing restrictions and such as may thereafter be reasonably imposed.

Letters Patent Appeal under para 10 of the Letters Patent against the judgment passed by Honourable Mr. Justice Falshaw, on 29th September, 1952, in F.A.O. 123 of 1951, affirming that of Shri K. S. Ghambir, Sub-Judge, 1st Class, Amritsar, dated the 3rd October, 1951, directing that the plaint be returned to the plaintiffs for presentation to the proper Court.

N. L. SALOOJA, for Appellants.

D. K. MAHAJAN, for Respondents.

JUDGMENT

Bhandari, C.J. BHANDARI, C.J.—This appeal under clause 10 of the Letters Patent raises a somewhat unusual question, namely whether an officer of Government who passes an order in exercise of the powers conferred upon him by a statute can be said to enter into an agreement with the person to whom the said order is issued.

The Cotton Cloth and Yarn (Control) Orders which were promulgated in the years 1943 and 1945 impose a number of restrictions on manufacturers and dealers in cloth. Paragraph 18B empowered the Textile Commissioner to direct any manufacturer or dealer to sell to such person or persons such quantities of cloth or yarn as the

Textile Commissioner may specify and not to sell or deliver cloth or yarn of a specified description except to such person or persons and subject to such conditions as the Textile Commissioner may specify.

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and others

In pursuance of the provisions of these orders certain cloth dealers of Amritsar, including the plaintiffs, were empowered to purchase and sell cloth in accordance with the directions which were issued to them from time to time. The Textile Commissioner delegated his functions to the District Magistrate of Amritsar and the District Magistrate of Amritsar delegated his functions to S. Sarnagat Singh, Textile Control Officer, Amritsar. On the outbreak of communal disturbances in the Punjab, S. Sarnagat Singh was transferred to Bombay from where he continued to exercise his powers as Textile Control Officer of Amritsar.

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In the year 1947, S. Sarnagat Singh issued a permit to the plaintiffs authorizing them to purchase a consignment of cloth consisting of 49 bales of piecegoods at Bombay and to despatch it to Qilla Sheikhupura where delivery was to be taken against payment by a nominee of the District Magistrate. The goods were delivered to the consignees in the Sheikhpura District, but in view of the unsettled conditions in the Punjab no payment could be made to the plaintiffs.

On the 29th July, 1950 the plaintiffs brought a suit out of which this appeal has arisen for the recovery of a sum of Rs. 40,507-10-0 on account of the value of cloth which was supplied under the orders of S. Sarnagat Singh and for which no payment had been made. The suit was brought at Amritsar against the Union of India and the State

Messrs of Punjab (India) and the State of Punjab
 Jawahar Singh- (Pakistan). The State of Punjab (Pakistan) did
 Sobha Singh not appear in Court, but the Union of India and
 v. the State of Punjab (India) appeared and objected
 Union of India to the jurisdiction of the Courts at Amritsar to
 and others deal with this case. The trial Court upheld the
 Bhandari, C.J. objection and returned the plaint for presentation
 to the appropriate Court and the order of the
 trial Court was upheld by a learned Single Judge
 of this Court. The plaintiffs are dissatisfied with
 the order and have come to this Court in appeal
 under clause 10 of the Letters Patent.

Mr. Salooja who appears for the plaintiffs contends that all purchases made and sales effected by his clients were to be made or effected under the orders of the Textile Commissioner, that the Textile Commissioner had delegated his functions to the District Magistrate of Amritsar, that the District Magistrate of Amritsar had delegated his powers to S. Sarnagat Singh, Textile Control Officer, Amritsar and that as the bales of piece-goods were consigned to Sheikhpura under the orders of the Textile Control Officer, Amritsar at Bombay, the cause of action must be deemed to have arisen at Amritsar.

A cause of action arises when a person fails to do something which ought to be done or when he does something which ought not to be done. The existence of a cause of action implies the existence of a legal right in the plaintiff to have something done, the existence of a corresponding duty on the part of the defendant to do something, a breach of that duty by the defendant and damage caused to the plaintiff as a result of the breach of the said duty. These elements are missing in the present case and it seems to me therefore that the plaintiffs have no cause of action against Government. The

provisions of the Cotton Cloth and Yarn (Control) Order, 1945, make it quite clear that Government merely controlled the procurement and distribution of cloth and empowered the Textile Controller or the person to whom the authority of the said Controller was delegated to issue permits and licences for the purchase and sale of cloth. A permit or a licence can by no stretch of imagination be regarded as a contract between the authority by whom and the person to whom it is issued. It is only a personal privilege to be exercised under existing restrictions and such as may thereafter be reasonably imposed. The Textile Control Officer at Bombay did not enter into any agreement with the plaintiffs in this case and cannot be required to indemnify them for any losses sustained by them. The plaintiffs were under no obligation to make any purchase of cloth from Bombay, but if they made any purchases in accordance with the provisions of the Order of 1945 they were under an obligation to sell the cloth only in accordance with the directions issued to them from time to time. There was, in my opinion, no agreement whatsoever between Government on the one hand and the plaintiffs on the other. The Textile Commissioner and the several District Magistrates merely purported to act in exercise of the statutory powers conferred upon them by this Order and did not enter into agreements with the dealers. The contention therefore that the plaintiffs in the present case entered into an agreement with the District Magistrate of Amritsar at Amritsar is wholly devoid of force. The agreement, if any, was between the plaintiffs and the person to whom the goods were to be supplied. That being so, there can be no question of the Courts at Amritsar having jurisdiction to deal with the case. It is significant that the suit has been brought only against the three

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Messrs Governments concerned and not against any of the
 Jawahar Singh- persons to whom the goods were actually delivered.
 Sobha Singh

v.
 Union of India For these reasons I am of the opinion that the
 and others plaintiffs have failed to establish that any part of
 _____ the cause of action accrued to the plaintiffs at
 Bhandari, C.J. Amritsar. The order of the learned Single Judge
 must therefore be affirmed and the appeal dismissed.
 As the plaintiffs have already sustained a
 considerable loss on account of goods sent by them
 to Sheikhupura, I am of the opinion that the parties
 should be allowed to bear their own costs.

Bishan Narain,
 J.

Bishan Narain, J.—I agree.

LETTERS PATENT APPEAL

Before Bhandari, C.J. and Bishan Narain, J.

CH. HARDIAL SINGH, (*Judgment-debtor*) Appellant

versus

RISALDAR MAJOR PARMODH SINGH AND OTHERS,—(*Decree-
 holders*) Respondents

Letters Patent Appeal No. 53 of 1952.

1956

April, 2nd

*Code of Civil Procedure (V of 1908)—Section 48—
 ‘Subsequent Order’—Meaning and Scope of—Execution
 proceedings—Parties entering into a compromise—Execu-
 tion application decided in accordance therewith—No sepa-
 rate order or direction for payment made—Effect of—Exe-
 cuting Court—Powers of—Whether competent to make a
 subsequent order within the meaning of section 48(I)(b)—
 Whether such an order can be enforced by fresh execution.*

*Held, that section 48, Civil Procedure Code, does not
 lay down that the order must expressly direct payment of
 money. If the substance of the order is to the effect that
 the judgment debtor is directed to pay money, it would
 be covered by section 48, Civil Procedure Code.*