

Rahdey Lal Vs. the Chief Administration, Haryana Urban Development Authority

Rahdey Lal Vs. the Chief Administration, Haryana Urban Development Authority

SooperKanoon Citation : sooperkanoon.com/684822

Court : Delhi

Decided On : Jan-15-2008

Reported in : 2008(101)DRJ121

Judge : Mukundakam Sharma, C.J. and; Reva Khetrapal, J.

Acts : [Constitution of India](#) - Article 226(2); Code of Civil Procedure (CPC) - Sections 16

Appeal No. : LPA 19/2008

Appellant : Rahdey Lal

Respondent : The Chief Administration, Haryana Urban Development Authority

Advocate for Def. : Nemo

Advocate for Pet/Ap. : Rakesh Mudgal, Adv

Disposition : Appeal dismissed

Judgement :

Mukundakam Sharma, C.J.

1. This appeal is directed against the order dated 14th of September, 2007 whereby the learned Single Judge has dismissed the writ petition of the appellant on the ground that the Delhi Court does not possess territorial jurisdiction to entertain the writ petition.

2. The appellant as petitioner filed the aforesaid writ petition seeking a direction for allotment of a plot measuring 8 marla in Sector 8 and 9 Urban Estate Karnal in terms of the memorandum dated 16th March, 1996, which was annexed as annexure-P-1 in the writ petition. The appellant also sought for quashing of the letter issued by the Chief Administrator, HUDA, Panchkula whereby the appellant was informed that he was ineligible for allotment of a plot. Even in the writ petition the appellant pleaded that in 1989 some plots were allotted in a discretionary quota, which were later set aside by a judgment of the Punjab & Haryana High Court and consequent upon the said judgment, the Haryana Urban Development Authority was under a legal obligation to allot a specific plot to the appellant which it failed to do and therefore, the writ petition.

3. We have perused the averments made in the memorandum of appeal wherein the appellant has stated that a part of the cause of action arose in Panchkula where the property is situated and a part of the cause of action arose in Delhi where all the correspondence was received by the appellant, who was permanently residing in Delhi after retirement. In the writ petition, however, no averment had been made as to how the jurisdiction of this Court is sought to be invoked. Admittedly, the land, for which application for allotment was made, is a residential plot at Urban Estate, Karnal, Haryana and a direction to Haryana Urban Development Authority, Panchkula, is again sought for.

4. In our considered opinion, the cause of action for filing any proceedings challenging the action of the respondent of non-allotment of plot in question would not lie in the Delhi Court. The learned Single Judge was, therefore, justified in holding that this Court does not have territorial jurisdiction. While coming to the aforesaid conclusion, we are fortified by the decision of this Court in *Harshad Chiman Lal Modi v. D.L.F. Universal Ltd.* reported in : 85(2000)DLT501 , which was upheld by the Supreme Court : AIR 2005 SC4446 , wherein a similar issue

came up for consideration.

5. In the said case, a suit for decree for specific performance of agreement to sell and for delivery of possession of property was filed in the Delhi Court although the property was situated in Gurgaon. In the said case it was found that in addition to passing decree the Court was also required to deliver possession of the property. In the aforesaid facts it was held that the such a relief can be granted only by sending the concerned person for delivery of possession to Gurgaon.

6. Having held thus, it was held that Delhi Courts do not have jurisdiction to get the aforesaid decree enforced, for the property situated outside the territorial jurisdiction of Delhi High Court. This Court referred to the provisions of Section 16 of the CPC and held that the location of institution of a suit would be guided by the location of the property in respect of which and for determination of any right or interest whereof the suit is instituted. The proviso to Section 16 CPC is also not applicable to the case, as the relief sought for cannot be entirely granted or obtained through the personal obedience of the respondent. For enforcing the relief, if granted, in respect of delivery of possession, a representative will have to go to the place where the property is located and deliver possession at site. It was also held that a Court cannot derive jurisdiction in respect of a matter in respect of which otherwise the said Court does not have jurisdiction merely because the parties have agreed to vest jurisdiction on the said Court. We may also refer to the decision of the Supreme Court in *Mosaraf Hossain Khan v. Bhagheeratha Engg. Ltd.* reported in : 2006 CriLJ1683 , 20 and 21 of the aforesaid case are extracted hereinbelow for reference:

19. Cause of action within the meaning of Clause (2) of Article 226 shall have the same meaning as is ordinarily understood. The expression 'cause of action' has a definite connotation. It means a bundle of facts which would be required to be proved.

20. In *State of Rajasthan and Ors. v. Swaika Properties and Anr.* : [1985]3SCR598 this Court observed that service of notice was not an integral part of 'cause of action' within the meaning of Article 226(2) of the [Constitution of India](#).

21. In *Aligarh Muslim University and Anr. v. Vinay Engineering Enterprises Pvt. Ltd. and Anr.* : (1994)4SCC710 a three Judge Bench opined that only because the office of the firm was at Calcutta, the High Court of Calcutta could not exercise any jurisdiction, stating : (SCC p.711, para 2)...We are constrained to say that this is a case of 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. There are number of other decision which also reiterate the same position like *Union of India v. Adani Exports Ltd.* reported in : 2001(134)ELT596(SC) . In the said case, the Supreme Court observed:

It is seen from the above that in order to confer jurisdiction on a High Court to entertain a writ petition or a special civil application as in this case, the High Court must be satisfied from the entire facts pleaded in support of the cause of action that those facts do constitute a cause so as to empower the court to decide a dispute which has, at least in part, arisen within its jurisdiction. It is clear from the above judgment that each and every fact pleaded by the respondents in their application does not ipso facto lead to the conclusion that those facts give rise to a cause of action within the court's territorial jurisdiction unless those facts pleaded are such which have a nexus or relevance with the lis that is involved in the case. Facts which have no bearing with the lis or the dispute involved in the case, do not give rise to a cause of action so as to confer territorial jurisdiction on the court concerned.

8. In view of the aforesaid ratio of the decisions of the Supreme Court and of this Court and the aforesaid question of law being settled now, we have no hesitation to hold that this appeal has no merit and the same is dismissed accordingly.