

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

F.A.O. No.01 of 2011

M/s DJM Security (Pvt.) Limited
Versus
M/s Muhammad Ahmed Nadeem, etc

Appellant by: Syed Asad Ali Saeed, Advocate
Respondent No.1 by: Fazli Raziq Janjua, Advocate.
Respondent No.2 by: Hafiz Ali Asghar, Advocate.
Date of Decision: 21st January, 2020.

FIAZ AHMAD ANJUM JANDRAN, J.- This appeal is directed against the order dated 08.11.2010, passed by the learned Civil Judge 1st Class, Islamabad whereby application under Order VII Rule 10 read with Section 20 of the Code of Civil Procedure {CPC} filed by the appellant has been dismissed.

2. The facts leading to the filing of present appeal are that respondent No.1 filed suit for recovery of Rs.210.47 Million, Permanent and Mandatory Injunction against the appellant and respondents 2 to 4. The appellant instead of filing written statement filed an application under Order VII Rule 10 CPC for return of plaint, to be presented in the Court having the jurisdiction in the matter said application was rejected by the learned Trial Court vide order dated 08.11.2010, hence, this appeal.

3. Learned counsel contends that the appellant is stationed at Karachi, where he carries on business, while business of respondent No.3 is also based at Karachi and cause of action, if any had arisen at Karachi, therefore, the learned Civil Court Karachi has the jurisdiction to adjudicate upon the matter, in case respondent No.1 retains any grievance.

4. Conversely, learned counsel for respondent No.1 submits that to chose a particular place for filing a suit, is at the whims of the plaintiff, so present suit before the learned Civil Court at Islamabad

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was competent and, therefore, impugned order does not warrant any interference.

5. Heard and record perused.

6. Section 19 & 20 of the Civil Procedure Code, are relevant for decision of controversy between the parties, as the same lay down parameters for determination of the jurisdiction of the Civil Court in suits for compensation of wrongs to person or movables and other suits, to be instituted where defendants reside or cause of action arises. For ease of reference, Section 19 & 20 of CPC are reproduced hereunder:

19. 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.

20. Subject to the limitations aforesaid, every suit shall be 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 of the Court is given, or the defendants who reside, or carry on business, or personally work as aforesaid, acquiesce in such institution; or

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

7. The concept of jurisdiction has been very well decided by the Hon'ble Supreme Court of Pakistan in case reported as PLD 2017 SC 53 {Province of Punjab through Secretary to Government of Punjab, Communication and Works Department, Lahore and another Vs. Messrs Muhammad Tufail And Company through Muhammad Tufail (deceased) through Legal Heirs} in following manner:-

"It is to be noted that Section 20, C.P.C. confers jurisdiction on a Court in two ways. Firstly, on the basis of where a defendant(s) resides, carries on business or works for gain within its local limits. Secondly on the basis of where the cause of action wholly or in part arose within its local limits. Jurisdiction means the authority to decide. The concept of jurisdiction of a Court encompasses (i)

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territorial jurisdiction, (ii) pecuniary jurisdiction and (iii) subject matter jurisdiction. The concept of jurisdiction has its genesis in the physical power of a Court to issue process to persons within the reach of the Court. Shorn of all extraneous 'frills', this is the essence of jurisdiction. A Court is to decide matters when persons relating thereto are within its reach. This basic jurisdiction is then regulated by defining the limits of that 'reach' by setting pecuniary limits, or by assigning different 'subjects' within one territory to different Courts, for example, by assigning banking and environmental matters to different Courts within one territory."

8. In order to ascertain as to whether the impugned order is in consonance with the spirit of above provisions, the plaint, available at Page 6 of the appeal, is examined whereby it reveals that not only respondents 1,2 & 4 are stationed at Karachi but the place of working of respondents 1&2 is also Karachi and the transaction, as alleged by the respondent also took place at Karachi.

9. It is also matter of record that the main claim of respondent No.1/plaintiff is for the recovery of amount against the appellant and none else and that respondent No.1/plaintiff himself mentioned the address of the appellant that of Karachi. The plaint and the claim therein, do attract application of Section 19 & 20(a) CPC and in both the eventualities, the plenary jurisdiction in the matter, if it is so, vests with the Civil Court Karachi and not at Islamabad.

10. In the light of above stated position, the instant appeal is allowed; impugned order dated 08.11.2010 is set-aside and the application filed by the appellant for return of plaint is allowed. No orders as to costs.

(AAMER FAROOQ)
JUDGE

(FIAZ AHMAD ANJUM JANDRAN)
JUDGE

Suhail