

**JUDGMENT SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

**F.A.O No. 74/2018**

Pakistan Poverty Alleviation Fund (PPAF)

Versus

M/s Khajji Cooperative Society (KCS) and others.

Appellant by: Mr. Muhammad Qasim Qureshi, Advocate

Respondents by: Mr. Muhammad Usman Rashid, Advocate

Date of Decision: 11.09.2020.

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**MOHSIN AKHTAR KAYANI, J.** Through the instant appeal, the appellant Pakistan Poverty Alleviation Fund (PPAF) has assailed the order dated 03.04.2018, passed by learned Civil Judge, 1<sup>st</sup> Class (West), Islamabad, whereby plaint filed by the appellant has been returned due to lack of territorial jurisdiction.

2. Learned counsel for the appellant contends that appellant Pakistan Poverty Alleviation Fund (PPAF) has filed a suit for recovery of Rs.20,870,316/- as repayment under Financing Agreement dated 15.04.2010 alongwith refund of additional amount under Endowment Fund through Financing Agreement dated 10.05.2011 against the respondent Society as well as its officials at Islamabad, which was contested by the respondents, however, an application under Order VII Rule 10 CPC was filed by the respondents mainly on the ground that cause of action has been accrued to the plaintiff/appellant at District Khairpur and even the transaction amount was disbursed to Khajji Abadgars at District Khairpur and even five of the defendants/respondents are also residing in the said jurisdiction. He further contends that the claim of the appellant falls within the purview of Section 20(C) in conjunction with Section 19 of the CPC, where part of

cause of action has arisen at Islamabad, especially when the Pakistan Poverty Alleviation Fund (PPAF) entered into an agreement with the respondents/defendants at Islamabad, even the payment has been released from Islamabad, which was not returned as per the agreed term of the Financing Agreement. It has lastly been contended that the negotiable instruments i.e. cheques and promissory note were executed at Islamabad and even negotiable instruments have been dishonoured within this jurisdiction.

3. Conversely, learned counsel for the respondents contends that they have entered into Financing Agreement with the appellant Pakistan Poverty Alleviation Fund (PPAF) with a clear objective stated that the Financing Agreement dated 15.04.2010 alongwith second agreement dated 10.05.2011, to help the poor, landless and asset-less people of District Khairpur through Microfinance Innovation and Outreach Program (MOIP) funded by International Fund for Agricultural Development (IFAD). It has further been argued that the fund so released by the appellant has to be utilized in accordance with the scheme provided in the Financing Agreement Clause 9 to 15, but the appellant has withheld the said payment and resultantly, entire scheme lost its character. It has lastly been contended that the entire relationship of the parties was settled to implement the plan within District Khairpur, where the defendants/respondents ordinarily reside and on this ground plaint was returned by the Court through the impugned order.

4 Arguments heard and record perused.

5. Perusal of record reveals that appellant and respondents are in agreement on the basis of Financing Agreement (loan) executed between Pakistan Poverty Alleviation Fund (PPAF) and Khajji Cooperative Society (KCS), which was executed on 15.04.2010 and another agreement dated 10.05.2011 at Islamabad, which itself is admitted between the parties and was made basis of entire relationship.

6. There is no cavil to the proposition that appellant Pakistan Poverty Alleviation Fund (PPAF) has extended different loans for Microfinance schemes to be utilized in the District Khairpur, however, it has not been denied that agreement through which the funds were provided was executed at Islamabad, which clearly spells out that the requirements of Section 20 (C) **“cause of action wholly or in part arises”** although the respondents are ordinarily residing and carry on business within the District Khairpur, but the amount so released was transmitted from Islamabad on the basis of agreement and as such it is the choice of the plaintiff/appellant in this case to opt for filing of the suit in particular jurisdiction on the basis of their office while considering the execution of agreement, especially when the parties had not settled appropriate jurisdiction in the terms of the agreement.

7. It has been referred in Clause 50 of the Financing Agreement to settle the dispute through arbitration mechanism in terms of the Arbitration Act, 1940 and a notice in this regard was also issued to the respondents prior to filing of the suit as referred in the plaint in Para-16, but the respondents have not entered into the said channel.

8. In view of above discussion, the term **“cause of action”** referred in Section 20(C) CPC has to be considered on the basis of its ingredients under Order VII Rule 1(E), **“the facts constituting the cause of action and would it arose”**, hence the material facts have to be stated in the pleadings and by virtue of this clause of the material, documents and pleadings as a whole are considered to constitute cause of action, which includes the execution of agreement, which is an admitted documents between the parties, same were initiated from the head office of the appellant constituted at Islamabad and on the basis of said documents, a relationship between the parties was developed, hence all these aspects if considered in terms of Section 20 (C), CPC the matter falls within the jurisdiction of Islamabad. Reliance is placed upon case law reported as

**1995 MLD 384 [Karachi] (Messrs. Universal Business equipment (Pvt.) Ltd. Vs. Messrs. Kokusai Commerce Inc. and others.)**. All these aspects have not been considered by the learned Trial Court while adjudicating the matter, however, there is no bar to settle this question after recording of evidence for the purpose of clarity.

9. For what has been discussed above, instant appeal is **ALLOWED**. The impugned order dated 03.04.2018, passed by learned Civil Judge, 1<sup>st</sup> Class (West), Islamabad is hereby **SET-ASIDE** and the matter is remanded to the learned Trial Court seized with the matter to decide the case within period of Eight (08) months under intimation to this Court.

**(MOHSIN AKHTAR KAYANI)**  
**JUDGE**

RAMZAN