

Gautam Singh Vs. Clyde Bergemann Incia Pvt. Ltd. & Ors.

06.06.2024

Pr: None.

Matter was listed for order on the point of territorial jurisdiction of this court to entertain the present matter.

1. The question of territorial jurisdiction was raised by the defendant's counsel orally.

2. Brief facts of the present case relevant for the disposal of the said issue are the plaintiff had joined services of the defendant no. 1 company in January, 2010 as Deputy Manager-BEd and got promotion time to time due to his sincerity and hard work and also received annual increments and appreciations. The defendant company has its registered office at S-1, Second Floor, Sachdeva Arcade, B-15, DDA Local Shopping Center, Mayur Vihar-II, Delhi-91. Defendant no. 2 is holding company of defendant no. 1 registered office at Clyde Bergemann Power Group, LLC, Schill Wiese 20, 46485, Wesel, Germany. Defendant no. 3 is Managing Director of defendant no. 1 who signed impugned communication regarding allegedly illegal termination of services of plaintiff.

3. Arguments heard. Material perused. Considered.

4. Written submissions filed on behalf of both the parties.
5. Ld. Counsel for the plaintiff relied upon the following judgments:-
 - (i) Isha Distribution House Pvt. Ltd. Vs. Aditya Birla Nuvo Ltd.& Ors. (MANU)/SC/0340/2019).
 - (ii) Aruna Kumari Vs. Ajay Kumar [AIR 1991 J & K1].
 - (iii) Bela Goyal Proprietor of Ispat Sangrah (India) Vs. V II PL – MIPL JV (Jaipur) & Ors. CS (COMM) 1217/2018.
 - (iv) Piccadily Agro Industries Ltd. Vs. Ashok Narwal & Anr. CS(OS) 2550/2015.
6. Ld. Counsel for the defendant relied upon the following judgments:-
 - (i) Patel Roadways Ltd. Vs. Tropical Agro systems Pvt. Ltd. [1991(4) SCC 270].
 - (ii) Eastern Coalfields Ltd. and Ors. Vs. Kalyan Banerjee (2008) 3 SCC 456.
 - (iii) V. G. Jagdishan Vs. Indofos Industries Ltd. (2022) 6 SCC/67.
 - (iv) Balaji Vs. The Hindu Nw Delhi & Anr.
7. I have gone through the judgments relied upon by both the counsels. In the present case, the base of the plaintiff's case is an

appointment letter wherein it is mentioned that basic place of work would be at Delhi. Perusal of plaint reveals that the plaintiff worked at the Branch of defendant no. 1 company located at C-7, Phase-II, Noida-201305, District Gautam Budh Nagar. All the invoices placed by the plaintiff on record further clears that the plaintiff during his tenure of work with defendant no. 1 company before termination was working at Gautam Budh Nagar Branch of defendant company. It is further pertinent to note that the appointment letter dated 12.01.2010 relied by the plaintiff and defendant shows that while appointment of plaintiff was made, the basic place of work of plaintiff was decided to be at Delhi. Relevant clause of appointment letter is reproduced herein below:-

“(2) PLACE OF WORK

You will be based at our office in Delhi/NCR, but may be required to work in any of our establishments within India or overseas from time to time.

Your position will require extensive travel across India and overseas to effectively fulfill your duties.”

8. Perusal of record reveals that the defendant has also relied upon appointment letter dated 12.01.2010. Further, it is not the case of defendant that defendant no. 1 has no registered office at Mayur Vihar

Delhi. However, defendant no. 1 admittedly has its registered office at Mayur Vihar Delhi and Branch office at Gautam Budh Nagar, Noida.

9. In view of above observations, this court is of the opinion that the question of territorial jurisdiction in the present case is mixed question of law and fact, hence, is required to be determined after giving opportunity to lead evidence to both the parties. It is further pertinent to note that vide order dated 20.04.2023, the Ld. Predecessor of this court has already framed the issue no. 5 as regards to territorial jurisdiction of this court to try this matter. In light of above-said discussion this court is of the considered view that the present issue of territorial jurisdiction shall be decided at the time of final disposal of present matter.

Put up for cross-examination of PW-1 on **05.07.2024**.

(Pooja Jain)
ADJ-03(East)
KKD Courts-06.06.2024