

IN THE COURT OF THE SUB JUDGE, MUVATTUPUZHA

Present:- Sri. Aravind B. Edayodi, Sub Judge
Wednesday, the 6th day of July 2022/15th Ashadha 1944

O.S No. 84/2019**Plaintiff:-**

Vincent Varghese S/o Varghese aged 57 years, residing at Mundackal (h) Kadalikadu Post, Pin-686670, Manjalloor village, Muvattupuzha Taluk, Ernakulam Dist. Kerala state.

By Adv. Sri. Tomy John Kalambattuparambil

Defendant:-

K.J.Cheriyen aged 37 years S/o K.C.Jose residing at Karikkattu (h), Marne Village, Karkala Taluk, Uduppi Dist, Karnataka state.

By Adv. M/s. P M Rafeek & George Alex

This suit is coming for hearing on 06.07.2022 and court on the same day passed the following:-

ORDER

Defendant contended that this court has no territorial jurisdiction to entertain the suit as defendant is residing out of territorial jurisdiction of this court and no cause of action or part of cause of action for the suit arose within the jurisdiction of this court.

2. Heard both sides on the issue regarding 'Whether the court is having territorial jurisdiction to entertain the suit'?

3. The suit is instituted on an allegation that defendant entered into an agreement for sale of property of plaintiff for Rupees One Crore and on that basis plaintiff transferred property in favour of defendant as per sale deed No. 1-2467/2018-19, of SRO Karkala. The cheques issued by defendant towards balance sale

consideration was lapsed due to not presenting the cheque on time.

4. When plaintiff demanded the balance amount from defendant when defendant visited the house of plaintiff at Manjallore Village, defendant issued two cheques, one cheque was dated 30.09.2019, of Federal Bank Hebri branch, for ₹15,00,000/- and another cheque was for ₹8,25,000/- dated 31.01.2020 in favour of plaintiff.

5. When cheque for ₹15,00,000/- presented before Ernakualm District Co-operative Bank Vazhakulam branch for collection, cheque was dishonoured with a memo dated 29.11.2019 with endorsement 'funds insufficient'. On the basis of above cause of action plaintiff filed the suit against defendant to realise ₹15,00,000/- with future interest @ 12% per annum from the defendant stating cause of action arose within the jurisdiction of the court, as the place of handing over cheque is at Manjallore village and the collecting bank situates within the jurisdiction of the court.

6. Section 20 of Civil Procedure Code says, "Other suits to be instituted where defendants reside or cause of action arises:- *Subject to the limitations aforesaid, every suit shall be instituted 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 the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or

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

7. From the pleading in the plaint it could be seen that defendant issued the cheque dishonoured at the residence of plaintiff at Manjallore village and the cheque was dishonoured when it was presented before Ernakulam District Co-operative Bank Vazhakulam branch for collection. Hence from the pleading it could be seen that the part of the cause of action for the suit on the basis of dishonoured cheque arose within the jurisdiction of this court. Hence this court has territorial jurisdiction to try the suit and I find the issue in favour of plaintiff.

Dictated to Confdl.Asst., typed by her directly into computer, corrected by me and pronounced in open court on this the 6th day of July 2022.

Sd/-
Aravind B. Edayodi
Sub Judge

Appendix : Nil

Id/-
Sub Judge

//True Copy//

(By Order)

Sheristadar

Copied by: stn/-
Compd by: svb/-

Copy of Order in
O.S No. 84/2019
Dated : 06.07.2022