

A BOARD OF TRUSTEES FOR THE PORT OF  
CALCUTTA AND ANR.

v.

**BOMBAY FLOUR MILLS PVT. LTD. AND ANR.**

OCTOBER 7, 1994

[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

Civil Procedure Code, 1908—Section 20—Territorial Jurisdiction—Suit for mandatory injunction to release goods—Consignment imported at Port of Calcutta and unloaded at Netaji Subhas Docks—Failure to clear goods—Appellant's office is at Calcutta—Held : Only Court competent to take cognizance is court at Calcutta.

D The respondent had consignment of Rolling Mills imported at the Port of Calcutta and got unloaded at Docks of the appellants. The respondent was required to obtain delivery of the goods as per the prescribed Scale of Rates but he failed to have them cleared after making payment of demurrage. The respondent approached the District Court at Bharatpur, Rajasthan and obtained an ex-parte mandatory injunction directing the appellant to release the goods. Appeal filed against the order was dismissed by the High Court.

**This appeal by special leave arises from the order of the Rajasthan High Court.**

**Allowing the appeal, this Court**

**HELD : 1.** The cause of action had arisen at Calcutta when the goods were imported and they were unloaded at Netaji Subhas Docks of the appellants and the liability of payment had also arisen and on its failure to clear the goods the respondent instituted the suit in Rajasthan. No part of cause of action arose in Rajasthan. The appellant's office is at Calcutta. Under Section 20 Civil Procedure Code, the only court competent to take cognizance of the action is the appropriate Court at Calcutta. The order passed by the District Court, Bharatpur in the suit filed by the respondent, is without jurisdiction and is void. When the appellant, approached the High Court, it has dismissed the case. Therefore the High Court has committed manifest error of law on refusing to interfere with such an

**obviously illegal and void order. Therefore, the impugned order passed by the High Court and District Court are set aside. [420-B-D]** A

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7382 of 1994.

From the Judgment and Orders dated 7th February 1994 of the High Court of Judicature for Rajasthan Jaipur Bench at Jaipur in D.B. Civil Special Appeal (Writ) No. 409 of 1992. B

Shankar Ghosh, G. John, H.S. Parihar and G. Kandpal for the Appellants. C

The following Order of the Court was delivered :

Pursuant to the Order passed by this Court on September 5, 1994 the appellant had taken substituted service, and served respondents by publishing 'Court Notice' in Hindustan Times Newspaper, New Delhi, Monday dated 19th September, 1994 (Annexure B) at page 115. Although nobody appears for the respondents, notice must be deemed to have been served on the respondents. D

Leave granted.

This appeal by special leave arises from the order of Division Bench of the Rajasthan High Court dated 7.2.1994 made in Civil Appeal (Writ) No. 409 of 1992. E

The respondent had consignment of Rolling Mills in 63 cases, imported at the Port of Calcutta in October 1988 and got unloaded at No. 3 shed, Netaji Subhas Docks of the appellants between October 11 to 17, 1988. The respondent No.1 was required to obtain delivery of the goods as per the prescribed Scale of Rates but he failed to have them cleared after making payment of demurrage. He made a representation on March 27, 1989 requesting the appellants to waive the port charges and release the goods. Since the appellant refused to do so, on April 18, 1989, the respondent approached the District Court at Bharatpur, Rajasthan and obtained an *ex parte* ad-interim mandatory injunction on 22nd April, 1989 directing the appellant to release the goods within two days on payment of the sum of Rs. 2,26,674.00 (Two lacs twenty six thousand, six hundred and seventy four only) being made while the respondent was due in a sum of Rs. F  
G  
H

- A 7,37,400 to the appellant. When the appellant approached the High Court of Rajasthan by way of Civil Appeal (Writ), the High Court dismissed the same.

- B It is seen that the cause of action had arisen at Calcutta when the goods were imported and they were unloaded at Shed No. 3, Netaji Subhas Docks of the appellant and the liability of payment had also arisen and on its failure to clear the goods the respondent instituted the suit in District Court at Bharatpur, Rajasthan. No part of the cause of action arose at Bharatpur. The appellant's office is at Calcutta. Under s.20 CPC the only court competent to take cognizance of the action is the appropriate court at Calcutta. The order passed by the District Court, Bharatpur in the suit filed by the respondent, is without jurisdiction and is void. When the appellant, approached the High Court, it has dismissed the case. Therefore, High Court has committed manifest error of law in refusing to interfere with such an obviously illegal and void order. Therefore, the impugned order passed by the High Court of Rajasthan and District Court, Bharatpur are set aside. The appeal is accordingly allowed. No costs as none appears in the court.

A.G.

Appeal allowed.