

(1985) 11 P&H CK 0007

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 1556 of 1985

The Director, Indian Road
Construction Corpn. Ltd.

APPELLANT

Vs

Sh. Amolak singh and others

RESPONDENT

Date of Decision: Nov. 19, 1985

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 80

Hon'ble Judges: Rajendra Nath Mittal, J

Bench: Single Bench

Advocate: J.B. Choudhary, for the Appellant; H.S. Mann, for Respondent No 1., for the Respondent

Judgement

Rajendra Nath Mittal, J.

This revision petition has been filed by the Defendant against the order of the Subordinate Judge 1st Class Pathankot, dated 13th December, 1984, holding that the Court had the jurisdiction to try the suit.

2. Briefly, the facts are that the Plaintiff was in serving in General Reserve Engineer Force (G.R.E.F.) since 1962. He was sent on deputation from the parent department to the Indian Road Construction Corporation Limited (I.R.C.C.) to serve in Libra Hit services were terminated by I R C C. and he was repatriated to India He served a notice on the Defendant u/s 80, CPC (hereinafter referred to as "the Code", claiming certain relief's from the Defendant. The reafter, he instituted a suit in the Court of Subordinate Judge 1st Class, Pathankot for the said relief's. The suit was contested by the Defendant inter alia on the ground that the Civil Court at Pathankot had no jurisdiction to try the suit. The issue regarding jurisdiction was tried as a preliminary issue by the Court and it was held that the Court at Pathankot had the jurisdiction, as the Plaintiff had sent notice u/s 80 of the Code and wrote various letters from Pathankot to the Defendant. The Defendant has come up in revision to this Court.

3. The only question that arises for determination is whether the Civil Court at Pathankot had the jurisdiction to try the suit. The learned Counsel for the Petitioner has argued that no part of cause of action arose at Pathankot. He further submits that merely because the Plaintiff-Respondent sent a notice and wrote various letters to the Petitioner from Pathankot does not confer jurisdiction on the Court at Pathankot.

4. I have heard the learned Counsel for the parties at a considerable length and find force in the contention of the learned Counsel for the Petitioner. The facts of the case are not disputed. The last employment of the Respondent was in Libya. No part of cause of action arose at Pathankot. Merely because the Respondent served notice u/s 80 of the Code from Pathankot or he sent letters from there does not confer jurisdiction on the Civil Court at Pathankot in this matter. I get support from the observations in [Union of India \(UOI\) Vs. Firm Balwant Singh Jaswant Singh](#), wherein it was observed that mere service of notice u/s 80 CPC at Delhi did not constitute part of the cause of action and therefore did not give the Court at Delhi jurisdiction. A statutory notice required by the provisions of the Railways Act as well as the CPC though no doubt an essential preliminary step for the valid institution of a suit, would not make such a notice part of the cause of action for the suit itself. A similar view was taken by a Division Bench of Calcutta High Court in [Niranjan Agarwalla Vs. Union of India \(UOI\)](#). I am in respectful agreement with the above observations. Consequently, I hold that the Court at Pathankot has no jurisdiction to try the suit.

5. For the aforesaid reasons, I accept the revision, set aside the order of the trial Court and direct that Court to return the plaint to the Plaintiff for presentation to the Court having jurisdiction in the matter. No order as to costs.