ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Civil Rev. Application No.S-2 of 2021

Date of hearing: 22.04.2021
Date of announcement: 26.04.2021

Applicants: NADRA through Mr. Safdar Kamal, advocate.

Respondents: Muhammad Sikandar & Safdar Ali.

O R D E R

KHADIM HUSSAIN TUNIO, J- Through captioned revision application, the applicant (NADRA) has impugned the order dated 06.11.2020 passed by learned Additional District Judge-I, Khairpur whereby in an appeal against T.C Suit No. 05 of 2020, the learned Judge set-aside the order dated 21.10.2020 passed by learned Civil Judge-I, Kotdiji whereby he returned the plaint to the plaintiff, by consent of parties, while allowing an application u/o VII Rule 10 r/w S. 151 CPC.

2. Learned counsel for the applicants has argued that the learned appellate court acted illegally when it passed the impugned order by ignoring settled law that there lies no appeal in consent orders; that the impugned order is illegal, void and without jurisdiction; that the learned trial Court has failed to consider that the applicants/defendants are running their business at Islamabad and from the contents of the plaint, the cause of action had accrued in Khairpur whereas learned trial Court was at Taluka Kotdiji, therefore the Judge at Taluka Kotdiji had no jurisdiction to entertain the case.

3. Needless to mention here that this application is governed by S. 20 of the Civil Procedure Code which is as follows; ---

> "Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction ----.
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> (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
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> (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
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> (c) the cause of action, wholly or in part, arises.
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> Explanation I---Where a person has a permanent dwelling at one place and also a temporary residence at another place, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary residence.
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> Explanation II---A corporation shall be deemed to carry on business at its sole or principal office in the Provinces and the Capital of the Federation or, in respect of any cause of action arising at any place where it has also subordinate office, at such place."

4. Explanations are ratified by the legislature to explain what would otherwise be doubtful or ambiguous legislation. To the extent that it explains a stipulated situation its function is definite inasmuch as it clarifies or defines the legal position in a supposed state of facts. Therefore, despite the words 'shall be deemed' in Explanation 2 in terms defines the words 'carries on business' used in clauses (a) and (b) of the section, and means that where the defendant is a corporation, it is deemed to be carrying on business at its sole or principal office irrespective of whether the cause of action has arisen there, as well as at the place where it has its subordinate office, provided the cause of action arises there. In the present case, defendant No. 1 (NADRA) has its head office situated in Islamabad, defendant No. 2 has its regional office at Sukkur and defendant No. 3 has its sub-ordinate office (branch) at Khairpur. A perusal of the above provision of S. 20 Civil Procedure Code states that a *lis* can be brought against a defendant in a place where it *"carries on business"* and the explanation provided by the legislature states that a corporation shall be deemed to carry on its business at its *"sole or principal office in the Provinces and the Capital of the Federation"* or its *"subordinate office"* given that cause of action, partly or whole, arose there. It is a matter of record that NADRA has its main/principal office situated at the Capital Islamabad whereas the cause of action accrued to the plaintiffs at Khairpur. The regional office for the give region is located at Sukkur, however a subordinate office of NADRA is available in Khairpur as well

where the cause of action arose. Therefore, while complying with the provision of S. 20 CPC, the respondents have the option readily available to them to file the suit at Khairpur rather than Kotdiji, a point that has been properly adjudicated by the learned 1st Civil Judge, Kotdiji. Reliance in this respect is placed on the case law reported as ***United Distribution Pakistan Ltd v. Al-Syed Agrochemicals Services and others (2005 CLC 1659)*** and ***Messrs Brady & Co. (Pakistan) Ltd v. Messrs Sayed Saigol Industries Ltd (1981 SCMR 494).***

5. Resultantly, instant civil revision application is allowed and the impugned order dated 06.11.2020 passed by Additional District Judge-I Khairpur is set-aside. Consequently, order of the 1st Civil Judge dated 21.10.2020 for return of plaint for presentation before a Court having jurisdiction is restored. It is directed that plaint be returned to the respondents/plaintiffs so that it can be filed in the civil Court at Khairpur.

Parties are left to bear their own costs.

JUDGE