

# THE HIGH COURT OF SINDH, KARACHI

## Suit No. 141 of 2012

[M/s. Habib Sugar Mills Ltd., versus Province of Sindh & another]

Plaintiff : M/s. Habib Sugar Mills Ltd., through Mr. Ahmed Hussain, Advocate.

Defendant 1 : Province of Sindh through the Secretary, Agricultural Department, through Mr. Rajendar Kumar, A.A.G. Sindh.

Defendant 2 : Market Committee Nawabshah, District, Shaheed Benazirabad, through Mr. Muhammad Nawaz Abbasi, Advocate.

Date of hearing : 07-03-2024

Date of decision : 07-03-2024

## ORDER

**Adnan Iqbal Chaudhry J.** - The suit is against the Province of Sindh (defendant No.1) and the Market Committee Nawabshah at Shaheed Benazirabad (previously Nawabshah) (defendant No.2). It is pleaded that by two notifications dated 07.02.2011 issued under section 27 of the Agricultural Produce Markets Act, 1939, the Government of Sindh amended the Agricultural Produce Markets Rules, 1940 to increase market fee and license fee chargeable by Market Committees in Sindh. Pursuant thereto, the Market Committee Nawabshah raised a demand on the Plaintiff *vide* notice dated 18-02-2011 to pay market fee and license fee at the enhanced rates. It is contended *inter alia* that the increase is arbitrary, exorbitant and confiscatory; that such power could not have been exercised under the Act of 1939 after it was repealed by the Sindh Act of 2010; hence prayers for declarations to that effect and for consequential relief.

2. By order dated 04.09.2019, the Court had questioned the territorial jurisdiction of this Court to entertain the suit at Karachi. The written statements too raise that objection. By order dated

09.03.2020 the Court had observed that such objection would be decided before settlement of issues; hence this order.

3. The suit does not attract sections 16 to 19 CPC and it is only section 20 CPC that comes into play.

4. The impugned demand for market fee and license fee was raised at Shaheed Benazirabad. The activity for which such fee was charged was also carried on by the Plaintiff at Shaheed Benazirabad. Para 10 of the plaint also acknowledges that the cause of action arose when the impugned demand was made i.e. at Shaheed Benazirabad. Per learned counsel for the Plaintiff, the suit could nonetheless be filed at Karachi as the notification amending the Rules to enhance market and license fee was issued by the Government of Sindh at Karachi, and hence a part of the cause of action arose at Karachi under section 20(c) CPC. If that argument were to be accepted, then all suits emanating anywhere in Sindh seeking a declaration in respect of a Provincial statute could be brought to Karachi from where the statute is usually notified. It can then also be argued that all suits emanating anywhere in Sindh seeking a declaration in respect of a Federal statute could also be filed at Islamabad. I do not think that to be the intent of section 20(c) CPC.

5. The word 'arises' in section 20(c) CPC is significant. When a statute comes into operation, it is for all territory for which it is enacted, and therefore the place of its enactment or notification would not figure into section 20(c) CPC as the place where the cause of action 'arises'. In such cases what is intended by section 20(c) is the place where the statute affects the rights of the plaintiff so as to give him a cause of action to sue. In this case, admittedly, that place was Shaheed Benazirabad. No part of the cause of action arises at Karachi.

6. Needless to state that the test of territorial jurisdiction of the High Court under Article 199 of the Constitution is different and does not govern civil suits. Section 120 CPC, though not argued, is not

relevant here. The circumstances in which that provision is triggered has already been discussed by this Court in *Muhammad Naveed Aslam v. Aisha Siddiqui* (2011 CLC 1176) and *Kaim Khani and Brothers v. Province of Sindh* (2022 YLR 2188).

7. Therefore, in view of the foregoing, it is the civil court at Shaheed Benazirabad that has territorial jurisdiction under section 20(c) CPC to entertain the suit. The plaint shall therefore be returned under Order VII, Rule 10 CPC while retaining a copy for purposes of record.

**JUDGE**