A ALCHEMIST LIMITED AND ANR.

v.

STATE BANK OF SIKKIM AND ORS.

MARCH 16, 2007

B [C.K. THAKKER AND LOKESHWAR SINGH PANTA, JJ.]

Constitution of India, 1950:

Article 226(2)—Writ Petition—Territorial jurisdiction—Cause of
C *action—Held, cause of action is relevant and germane and writ petition can be instituted in High Court within the territorial jurisdiction of which cause of action in whole or in part arises—Whether a particular fact constitutes cause of action or not—Held, it must be decided on the basis of facts and circumstances of each case—A particular fact forms part of cause of action*
D *if it is of substance and is material, integral or essential part of* lis *between parties—Even if a small fraction of cause of action arises within the jurisdiction of a Court, that Court would have territorial jurisdiction to entertain the petition—Company having registered office at Chandigarh filing writ petition in Punjab and Haryana High Court alleging that part of cause of action had arisen within the territorial jurisdiction of that Court—In the facts and*
E *circumstances, held, writ petition rightly dismissed by High Court on the ground of want of territorial jurisdiction.*

Respondent No. 2-State of Sikkim was desirous of disinvesting 49% of its equity capital in respondent No. 1`-State Bank of Sikkim to a strategic
F **partner with transfer of management in the respondent No.1-Bank. For that purpose, respondent No.2 issued an advertisement in "Economic Times" on 21.1.2004 and invited offier for strategic partnership. Appellant Company having its Registered and Corporate office at Chandigarh submitted its formal proposal for the strategic business partnership vide its offer dated 3.2.2004. The Board of Directors of respondent No.-1 bank short-listed two entities,**
G **viz. the Appellant Company and another company based in Calcutta. Negotiations took place between Appellant Company and respondent No.1-Bank. The Chairman and Managing Director of respondent No.1-Bank visited Chandigarh for further negotiations. Respondent No.1- Bank asked Appellant to deposit a sum of Rs. 4.50 crore to show its *bona fides* and utilization by**

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the respondent No. 1-Bank for its revival. Appellant deposited the said amount with the State Bank of India, Chandigarh on 16.3.2005. Respondent No.1-Bank through its letter dated 20.2.2004 informed Appellant Company that its proposal was accepted in principle subject to consideration and approval of the Government of Sikkim. Appellant Company on 23.2.2006 received a communication at Chandigarh by which respondent No.1-Bank informed Appellant-Company that the Government of Sikkim had not approved the proposal submitted by Appellant Company and sought to withdraw the communication dated 20.2.2004. Appellant Company filed writ petition before the High Court of Punjab & Haryana under Article 226 of the Constitution challenging the letter-cum-order dated 23.2.2006. High Court did not enter into merits and dismissed the writ petition only on the ground that it did not have territorial jurisdiction to entertain the writ petition as no cause of action had arisen within the territorial jurisdiction of the court. Hence the present appeal by the Appellant Company.

Appellant, Company contended that a part of cause of action had arisen within the territorial jurisdiction of the High Court of Punjab & Haryana on the ground that Appellant-Company has its Registered and Corporate Office at Chandigarh and carries on business at Chandigarh; that acceptance of the offer of the Appellant-Company was communicated to it at Chandigarh; that part performance of the contract took place at Chandigarh inasmuch as Rs. 4.50 crores had been deposited by it at Chandigarh as per the request of the Respondent No. 1-bank; that the Chairmen and Managing Director of respondent No.1-bank visited Chandigarh to ascertain the *bona fides* of Appellant-Company and negotiations were held between the parties at Chandigarh; and that letter of revocation dated 23.2.2006 was received by Appellant-Company at Chandigarh.

Respondent contended that no part of cause of action had arisen within the territorial jurisdiction of the High Court of Punjab & Haryana and all substantial, material and integral facts constituting a cause of action were within the territory of the State of Sikkim on the ground that Registered and Corporate Office of respondent No.1-Bank is at Gangtok, i.e. Sikkim; that Secretariat of respondent No.2-State is situated at Gangtok, i.e. Sikkim; that offers were called for, scrutinized and decision to accepted offer of Appellant-Company was taken by respondent No.1-Bank at Gangtok; that decision of the State Government not to approve the proposal of Appellant-Bank was taken at Gangtok; that resolution withdrawing letter dated 20.2.2004 was passed by the Board of Directors of respondent No.1 -Bank at Gangtok; and that

A communication dated 23.2.2006 was dispatched by respondent No. 1-Bank to Applicant-Company from Gangtok.

Dismissing the appeal, the Court

HELD: 1. Article 226 of the Constitution of India, 1950 as it originally
B enacted had two-fold limitations on the jurisdiction of High Courts with regard to their territorial jurisdiction. *Firstly,* the power could be exercised by the High Court "throughout the territories in relation to which it exercises jurisdiction', i.e. the writs issued by the court cannot run beyond the territories subject to its jurisdiction. *Secondly,* the person or authority to whom the High Court is empowered to issue such writs must be "within those
C territories", which clearly implied that they must be amenable to its jurisdiction either by residence or location within those territories. Cause of action was a concept totally irrelevant and alien for conferring jurisdiction on High Courts under Article 226 of the Constitution. Article 226 was amended by the Constitution (Fifteenth Amendment) Act, 1963 and after
D Clause 1, new Clause (1-A) was inserted. It may be stated that by the Constitution (Forty-second Amendment) Act, 1976, Clause (1-A) was renumbered as Clause (2). The effect of the amendment was that that accrual of causes of action was made an additional ground to confer jurisdiction on a High Court under Article 226 of the Constitution. The legislative history of the constitutional provisions, therefore, make it clear that after 1963, cause
E of action is relevant and germane and a writ petition can be instituted in a High Court within the territorial jurisdiction of which cause of action in whole or in part arises. [Paras 9, 12, 13, 14 and 15] [53-C, D; 55-D; 56-B-D]

Election Commission, India v. *Saka Venkata Rao,* [1953] SCR 1144: AIR
F 91953 SC 210 and *Khajoor Singh* v. *Union of India,* [1961] 2 SCR 528: AIR (1961) SC 532, referred to.

2. It may be stated that the expression 'cause of action' has neither been defined in the Constitution nor in the Code of Civil Procedure, 1908. It may, however, be described as a bundle of essential facts necessary for the plaintiff
G to prove before he can succeed. Failure to prove such facts would give the defendant a right to judgment in his favour. Cause of action thus gives occasion for and forms the foundation of the suit. For every action, there has to be a cause of action. If there is no cause of action, the plaint or petition has to be dismissed. [Paras 17 and 19] [56-G; 57-A]

H *Cooke* v. *Gill,* (1873) 8 CP 107: 42 LJ PC 98, referred to.

3. The test is whether a particular facts(s) is (are) of substance and can be said to be material, integral or essential part of the *lis* between the parties. If it is, it forms a part of cause of action. If it is not, it does not form a part of cause of action. It is also well settled that in determining the question, the substance of the matter and not the form thereof has to be considered. All necessary facts must form an 'integral part' of the cause of action. The fact which is neither material nor essential nor integral part of the cause of action would not constitute a part of cause of action within the meaning of Clause (2) of Article 226 of the Constitution. It is no doubt true that even if a small fraction of the cause of action arises within the jurisdiction of the Court, the Court would have territorial jurisdiction to entertain the suit/petition. Nevertheless it must be a part of 'cause of action', nothing less than that. [Paras 22, 28 and 29] [57-H; 58-A; 60-E; 61-A]

Union of India and Ors. **v.** *Oswal Woollen Mills Ltd. and Ors.,* **[1984] 3 SCR 342 : AIR (1984) SC 1264,** *State of Rajasthan and Ors.* **v.** *M/s Swaika Properties,* **[1985] 3 SCC 217 : AIR (1985) SC 1289;** *Oil and Natural Gas Commission (ONGC)* **v.** *Utpal Kumar Basu and Ors.,* **[1994] 4 SCC 711 : JT (1994) 6 SC 1,** *C.B.I., Anti-corruption Branch, Mumbai* **v.** *Narayan Diwakar,* **[1999] 4 SCC 656: AIR (1999) SC 2362: JT (1999) 3 SC 635,** *Union of India* **v.** *Adani Exports Ltd.,* **[2002] 1 SCC 567 : AIR (2002) SC 126: JT (2001) 9 SC 162,** *Kusum Ingots & Alloys Ltd.* **v.** *Union of India (UOI) and Anr.,* **[2004] 6 SCC 254: JT (2004) Supp.1 475 and** *National Textile Corporation, Ltd. and Ors.* **v.** *Haribox Swalram and Ors.,* **[2004] 9 SCC 786 : JT (2004) 4 SC 508, relied on.**

A.B.C. Laminart Pvt. Ltd. and Anr. **v.** *A.P. Agencies, Salem,* **[1989] 2 SCC 163; AIR (1989) 1239: JT (1989) 2 SC 38, cited.**

4. The facts which have been pleaded by the Appellant Company cannot be said to be essential, inegral or material facts so as to constitute a part of 'cause of action' within the meaning of Article 226(2) of the Constitution. The High Court was wholly justified in upholding the preliminary objection raised by the respondents and in dismissing the petition on the ground of want of territorial jurisdiction. [Paras 21 and 30] [57-G; 61-B]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1426 of 2007.

From the Final Judgment and Order dated 25.04.2006 of the High Court of Punjab & Haryana at Chandigarh in C.W.P. No. 5497 of 2006.

A Soli J. Sorabjee, Siddharth Bhatnagar, Prasenjit Keswani, Ardhendu Mouli Prasad, Sonia Sube, Aarti Khera Sweta Grover and Indra Sawhney for the Appellants.

A. Mariarputham, Aruna Mathur (for M/s. Arputham, Aruna & Co.) for the Respondents.

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The Judgment of the Court was delivered by

C.K. THAKKER, J. 1. Leave granted.

2. A simple issue before this Court in the present appeal is as to C whether a part of the cause of action had arisen within the territorial jurisdiction of the High Court of Punjab & Haryana so as to entertain a writ petition under Article 226 of the Constitution filed by the appellant-Company against the respondents.

3. Brief facts of the case are that the Appellant is a company having D its Registered and Corporate Office at Chandigarh. Respondent No. 1 is the State Bank of Sikkim, and Respondent No. 2 is the State of Sikkim. The second respondent-State of Sikkim was desirous of disinvesting 49% of its equity capital in the first respondent-State Bank of Sikkim to a strategic partner with transfer of management in the first respondent Bank. For that purpose, the E second respondent issued an advertisement in "Economic Times" on January 21, 2004 and invited offers for strategic partnership. Interested parties, firms and companies having management expertise were asked to apply with detailed bio-data profiles to the State Bank of Sikkim at its Head Office at Gangtok on or before February 7, 2004. It was stipulated in the advertisement that the offers made by the parties would be subject to scrutiny by the Board of F Directors of the first respondent-Bank. It was also clarified that the right to accept or reject the offer without assigning any reason was reserved by the Board of Directors.

4. The Appellant Company submitted its formal proposal for the strategic business partnership vide its offer dated February 3, 2004. Several proposals G were received from various entities, and the Board of Directors in its 143rd meeting short-listed two entities, viz. the Appellant Company and another company based in Calcutta. Negotiations took place between the Appellant Company and the first respondent-Bank. The Chairman and Managing Director of the first respondent-Bank visited Chandigarh for further negotiations. The H first respondent-Bank asked the Appellant to deposit a sum of Rs. 4.50 crores

with the State Bank of India in a fixed deposit to show its bona fides and utilization by the first respondent-Bank for its revival. The Appellant deposited the said amount with the State Bank of India, Chandigarh on March 16, 2005, and the photocopies of the receipt were handed over to the executives of the first respondent-Bank at Chandigarh. Through a letter dated February 20, 2004, the first respondent-Bank informed the Appellant Company that its proposal was accepted in principle subject to consideration and approval of the Government of Sikkim. On February 23, 2006, the Appellant Company received a communication at Chandigarh by which the first respondent-Bank informed the Appellant-Company that the Government of Sikkim had not approved the proposal submitted by the Appellant Company and sought to withdraw the communication dated February 20, 2004. The Appellant Company, therefore, filed a writ petition before the High Court of Punjab & Haryana under Article 226 of the Constitution challenging the letter-cum-order dated February 23, 2006.

5. The High Court dismissed the writ petition *only* on the ground that it did not have territorial jurisdiction to entertain the writ petition as no cause of action had arisen within the territorial jurisdiction of the Court. The High Court did not enter into merits of the matter and granted liberty to the Appellant-Company to seek appropriate remedy before an appropriate Court.

6. The said decision of the High Court is challenged by the Appellant-Company in this appeal. We have heard the learned counsel for the parties.

7. The Appellant Company contended that a part of cause of action had arisen within the territorial jurisdiction of the High Court of Punjab & Haryana. The Appellant Company, for such submission, relied on the following facts:

(i) The Appellant-Company has its Registered and Corporate Office at Chandigarh;

(ii) The Appellant-Company carries on business at Chandigarh;

(iii) The offer of the Appellant-Company was accepted on February 20, 2004 and the acceptance was communicated to it at Chandigarh;

(iv) Part performance of the contract took place at Chandigarh inasmuch as Rs. 4.50 crores had been deposited by the Appellant-Company in a fixed deposit at Chandigarh as the per the request of the first respondent;

A (v) The Chairman and Managing Director of the first respondent visited Chadigarh to ascertain the bona fides of the Appellant-Company;

(vi) Negotiations were held between the parties in the third week of March, 2005 at Chandigarh;

B (vii) Letter of revocation dated February 23, 2006 was received by the Appellant-Company at Chandigarh. Consequences of the revocation ensued at Chandigarh by which the Appellant-Company is aggrieved.

C It was, therefore, submitted that at least a part of cause of action had certainly arisen within the territorial jurisdiction of the High Court of Punjab & Haryana and hence it had jurisdiction to entertain the petition. It was, therefore, submitted that the impugned order passed by the High Court deserves to be set aside by directing the Court to decide the writ petition on merits.

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8. The respondents, on the other hand, submitted that neither of the above facts nor circumstances can be said to be a part of cause of action investing jurisdiction in the High Court of Punjab & Haryana. According to the respondents, all substantial, material and integral facts constituting a cause of action were within the territory of the State of Sikkim and, hence, E the High Court of Punjab & Haryana was fully justified in holding that it had no territorial jurisdiction to entertain, deal with and decide the lis between the parties.

The respondents, in this connection, relied upon the following facts;

F (i) Registered and Corporate Office of the first-respondent Bank is at Gangtok, i.e. Sikkim;

(ii) Secretariate of the second-respondent State is situated at Gangtok, i.e. Sikkim;

(iii) Offers were called for from various parties at Gangtok;

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(iv) All offers were scrutinized and a decision to accept offer of the Appellant-Company was taken by the first-respondent Bank at Gangtok;

(v) The State Government's decision not to approve the proposal of H the Appellant-Bank was taken at Gangtok;

(vi) The meeting of the Board of Directors of the first-respondent Bank was convened at Gangtok and a resolution was passed to withdraw the letter dated February 20, 2004 at Gangtok;

(vii) A communication was dispatched by the first-respondent Bank to the Appellant-Company on February 23, 2004 from Gangtok.

The respondents, therefore, submitted that the High Court was wholly right in dismissing the petition on the ground of want of territorial jurisdiction and the order needs no interference by this Court.

9. Before entering into the controversy in the present appeal, let the legal position be examined:

Article 226 of the Constitution as it originally enacted had two-fold limitations on the jurisdiction of High Courts with regard to their territorial jurisdiction. *Firstly,* the power could be exercised by the High Court "throughout the territories in relation to which it exercises jurisdiction", i.e. the writs issued by the court cannot run beyond the territories subject to its jurisdiction. *Secondly,* the person or authority to whom the High Court is empowered to issue such writs must be "within those territories", which clearly implied that they must be amenable to its jurisdiction either by residence or location within those territories.

10. In *Election Commission, India* v. *Saka Venkata Rao,* [1953] SCR 1144 : AIR (1953) SC 210, the petitioner applied to the High Court of Madras under Article 226 of the Constitution for a writ of prohibition restraining the Election Commission, (a statutory authority constituted by the President) having its office permanently located at New Delhi, from inquiring into the alleged disqualification of the petitioner from membership of the Madras Legislative Assembly. The High Court of Madras issued a writ. The aggrieved petitioner approached this Court.

Allowing the appeal and reversing the decision of the High Court, this Court held that the High Court of Madras had no territorial jurisdiction to entertain the petition.

Speaking for the Court, Patanjali Sastri, C.J. made the following observations:

A "[T]he makers of the Constitution, having decided to provide for certain basic safeguards for the people in the new set up, which they called fundamental rights, evidently thought it necessary to provide also a quick and inexpensive remedy for the enforcement of such rights and, finding that the prerogative writs which the Courts in B England had developed and used whenever urgent necessity demanded immediate and decisive interposition, were peculiarly suited for the purpose, they conferred, in the States' sphere, new and wide powers on the High Courts of issuing directions, orders, or writs primarily for the enforcement of fundamental rights, the power to issue such directions, etc., "for any other purpose" being also included with a C view apparently to place all the High Courts in this country in somewhat the same position as the Court of King's Bench in England. But wide as were the powers thus conferred, a two-fold limitation was placed upon their exercise. In the first place, *the power is to be exercised "throughout the territories in relation to which it exercises* D *jurisdiction", that is to say, the writs issued by the court cannot run beyond the territories subject to its jurisdiction. Secondly, the person or authority to whom the High Court is empowered to issue such writs must be "within those territories", which clearly implies that they must be amenable to its jurisdiction either by residence or* E *location within those territories".*

(emphasis supplied)

As to the cause of action, the Court stated: "The rule that cause of action attracts jurisdiction in suits is based on statutory enactment and F cannot apply to writs issuable under Article 226 which makes no reference to any cause of action or where it arises but insists on the presence of the person or authority 'within the territories' in relation to which the High Court exercises jurisdiction".

11. Again, a question arose in *Khajoor Singh* v. *Union of India,* [1961] G 2 SCR 528 : AIR (1961) SC 532. A Bench of seven Judges was called upon to consider the correctness or otherwise of Saka Venkata Rao. The majority (Sinha, C.J., Kapoor, Gajendragadkar, Wanchoo, Das Gupta and Shah, JJ.) reaffirmed and approved the view taken by this Court earlier in *Saka Venkata Rao* and held that the High Court of Jammu & Kashmir was right in not H entertaining the writ petition filed by the petitioner on the ground that it had

no territorial jurisdiction. A

Speaking for the majority, Sinha, C.J., stated:

> "It seems to us therefore that it is not permissible to read in Article 226 the residence or location of the person affected by the order passed in order to determine the jurisdiction of the High Court. That B jurisdiction depends on the person or authority passing the order being within those territories and the residence or location of the person affected can have no relevance on the question of the High Court's jurisdiction".

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12. The effect of the above decisions was that no High Court other than the High Court of Punjab (before the establishment of the High Court of Delhi) had jurisdiction to issue any direction, order or writ to the Union of India, because the seat of the Government of India was located in New Delhi. Cause of action was a concept totally irrelevant and alien for conferring jurisdiction on High Courts under Article 226 of the Constitution. An attempt D to import such concept was repelled by this Court. In the circumstances, Article 226 was amended by the Constitution (Fifteenth Amendment) Act, 1963 and after Clause 1, new Clause (1-A) was inserted which read as under:

> "(1-A) The power conferred by clause (1) to issue directions, E orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories". F

13. It may be stated that by the Constitution (Forty-second Amendment) Act, 1976, Clause (1-A) was renumbered as Clause (2). The underlying object of amendment was expressed in the following words:

> "Under the existing Article 226 of the Constitution, the only High G Court which has jurisdiction with respect to the Central Government is the Punjab High Court. This involves considerable hardship to litigants from distant places. It is, therefore, proposed to amend Article 226. So that when any relief is sought against any Government, authority or person for any action taken, *the High Court within* H

A *whose jurisdiction the cause of action arises may also have jurisdiction to issue appropriate directions, orders or writs".*

(emphasis supplied)

14. The effect of the amendment was that the accrual of cause of action B was made an additional ground to confer jurisdiction on a High Court under Article 226 of the Constitution.

As Joint Committee observed:

> "This clause would enable the High Court within whose jurisdiction C the cause of action arises to issue directions, orders or writs to any Government, authority or person, notwithstanding that the seat of such Government or authority or the residence of such person is outside the territorial jurisdiction of the High Court. The Committee feel that the High Court within whose jurisdiction the cause of action D arises in part only should also be vested with such jurisdiction".

15. The legislative history of the constitutional provisions, therefore, make it clear that after 1963, cause of action is relevant and germane and a writ petition can be instituted in a High Court within the territorial jurisdiction of which cause of action in whole or in part arises.

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16. The question for our consideration is as to whether the assertion of the appellant is well founded that a part of cause of action can be said to have arisen within the territorial jurisdiction of the High Court of Punjab & Haryana. Whereas, the appellant-Company submits that a part of cause of F action had arisen within the territorial jurisdiction of that Court, the respondents contend otherwise.

17. It may be stated that the expression 'cause of action' has neither been defined in the Constitution nor in the Code of Civil Procedure, 1908. It may, however, be described as a bundle of *essential* facts necessary for the G plaintiff to prove before he can succeed. Failure to prove such facts would give the defendant a right to judgment in his favour. Cause of action thus gives occasion for and forms the foundation of the suit.

18. The classic definition of the expression 'cause of action' is found H in *Cooke* v. *Gill,* [1873] 8 CP 107 : 42 LJ PC 98, wherein Lord Brett observed:

A "'Cause of action' means every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court".

19. For every action, there has to be a cause of action. If there is no cause of action, the plaint or petition has to be dismissed.

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20. Mr. Soli J. Sorabjee, Senior Advocate appearing for the Appellant-Company placed strong reliance on *A.B.C. Laminart Pvt. Ltd. & Anr.* v. *A.P. Agencies, Salem,* [1989] 2 SCC 163 : AIR (1989) SC 1239 : JT (1989) 2 SC 38 and submitted that the High Court had committed an error of law and of jurisdiction in holding that no part of cause of action could be said to have C arisen within the territorial jurisdiction of the High Court of Punjab & Haryana. He particularly referred to the following observations:

"A cause of action means every fact, which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the Court. In other words, it is a bundle of facts which D taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an act no cause of action can possibly accrue. It is not limited to the actual infringement of the right sued on but includes all the material facts on which it is founded. It does not E comprise evidence necessary to prove such facts, but every fact necessary for the plaintiff to prove to enable him to obtain a decree. Everything which if not proved would give the defendant a right to immediate judgment must be part of the cause of action. But it has no relation whatever to the defence which may be set up by the defendant F nor does it depend upon the character of the relief prayed for by the plaintiff".

21. In our opinion, the High Court was wholly justified in upholding the preliminary objection raised by the respondents and in dismissing the petition on the ground of want of territorial jurisdiction.

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22. The learned counsel for the respondents referred to several decisions of this Court and submitted that whether a particular fact constitutes a cause of action or not must be decided on the basis of the facts and circumstances of each case. In our judgment, the test is whether a particular fact(s) is (are)

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A of substance and can be said to be material, integral or essential part of the lis between the parties. If it is, it forms a part of cause of action. If it is not, it does not form a part of cause of action. It is also well settled that in determining the question, the substance of the matter and not the form thereof has to be considered.

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23. In *Union of India & Ors.* v. *Oswal Woollen Mills Ltd. & Ors.,* [1984] 3 SCR 342 : AIR (1984) SC 1264, the registered office of the Company was situated at Ludhiana, but a petition was field in the High Court of Calcutta on the ground that the Company had its branch office there. The order was challenged by the Union of India. And this Court held that since the registered C office of the Company was at Ludhiana and the principal respondents against whom primary relief was sought were at New Delhi, one would have expected the writ petitioner to approach either the High Court of Punjab & Haryana or the High Court of Delhi. The forum chosen by the writ petitioners could not be said to be in accordance with law and the High Court of Calcutta could D not have entertained the writ petition.

24. In *State of Rajasthan & Ors.* v. *M/s Swaika Properties,* [1985] 3 SCC 217 : AIR (1985) SC 1289, the Company whose registered office was at Calcutta filed a petition in the High Court of Calcutta challenging the notice issued by the Special Town Planning Officer, Jaipur for acquisition of immovable E property situated in Jaipur. Observing that the entire cause of action arose within the territorial jurisdiction of the High Court of Rajasthan at Jaipur Bench, the Supreme Court held that the High Court of Calcutta had no territorial jurisdiction to entertain the writ petition.

F This Court held that mere service of notice on the petitioner at Calcutta under the Rajasthan Urban Improvement Act, 1959 could not give rise to a cause of action unless such notice was 'an integral part of the cause of action'.

25. In *Oil & Natural Gas Commission (ONGC)* v. *Utpal Kumar Basu* G *& Ors.,* [1994] 4 SCC 711 : JT (1994) 6 SC 1, this Court held that when the Head Office of ONGC was not located at Calcutta, nor the execution of contract work to be carried out in West Bengal, territorial jurisdiction cannot be conferred on the High Court of Calcutta on the ground that an advertisement had appeared in a daily (Times of India), published from Calcutta, or the H petitioner submitted his bid from Calcutta, or subsequent representations

were made from Calcutta, or fax message as to the final decision taken by ONGC was received at Calcutta inasmuch as neither of them would constitute an 'integral part' of the cause of action so as to confer territorial jurisdiction on the High Court of Calcutta under Article 226 (2) of the Constitution.

26. In *C.B.I., Anti-corruption Branch, Mumbai* v. *Narayan Diwakar,* [1999] 4 SCC 656 : AIR (1999) SC 2362 : JT (1999) 3 SC 635, A was posted in Arunachal Pradesh. On receiving a wireless message through Chief Secretary of the State asking him to appear before CBI Inspector in Bombay, A moved the High Court of Guwahati for quashing FIR filed against him by the CBI. An objection was raised by the department that the High Court of Guwahati had no territorial jurisdiction to entertain the writ petition. But it was turned down. The Supreme Court, however, upheld the objection that Guwahati High Court could not have entertained the petition.

27. In *Union of India* v. *Adani Exports Ltd.,* [2002] 1 SCC 567 : AIR (2002) SC 126 : JT 2001 (9) SC 162, a question of territorial jurisdiction came up for consideration. A filed a petition under Article 226 of the Constitution in the High Court of Gujarat claiming benefit of the Passport Scheme under the EXIM policy. Passport was issued by Chennai Office. Entries in the Passport were made by authorities at Chennai. None of the respondents was stationed within the State of Gujarat. It was, therefore, contended that Gujarat High Court had no territorial jurisdiction to entertain the petition. The contention, however, was negatived and the petition was allowed. The respondents approached the Supreme Court.

The judgment of the High Court was sought to be supported inter alia on the grounds; that (i) *A* was carrying on business at Ahmedabad; (ii) orders were placed from and executed at Ahmedabad; (iii) documents were sent and payment was made at Ahmedabad; (iv) credit of duty was claimed for export handled from Ahmedabad; (v) denial of benefit adversely affected the petitioner at Ahmedabad; (vi) *A* had furnished bank guarantee and executed a bond at Ahmedabad, etc.

Allowing the appeal and setting aside the order of the High Court, the Supreme Court held that none of the facts pleaded by A constituted a cause of action. "Facts which have no bearing with the lis or dispute involved in the case, do not give rise to a cause of action so as to confer territorial jurisdiction on the court concerned".

A 28. In *Kusum Ingots & Alloys Ltd.* v. *Union of India (UOI) & Anr.*, [2004] 6 SCC 254 : JT 2004 (Supp. 1) 475, the appellant was a Company registered under the Indian Companies Act having its Head Office at Mumbai. It obtained a loan from the Bhopal Branch of the State Bank of India. The Bank issued a notice for repayment of loan from Bhopal under the Securitisation B and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The appellant Company filed a writ petition in the High Court of Delhi which was dismissed on the ground of lack of territorial jurisdiction. The Company approached this Court and contended that as the constitutionality of a Parliamentary legislation was questioned, the High Court of Delhi had the requisite jurisdiction to entertain the writ petition.

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Negativing the contention and upholding the order passed by the High Court, this Court ruled that passing of a legislation by itself does not confer any such right to file a writ petition in any Court unless a cause of action arises therefor. The Court stated; "A distinction between a legislation and D executive action should be borne in mind while determining the said question".

Referring to *ONGC,* it was held that all necessary facts must form an 'integral part' of the cause of action. The fact which is neither material nor essential nor integral part of the cause of action would not constitute a part of cause of action within the meaning of Clause (2) of Article 226 of the E Constitution.

29. In *National Textile Corporation. Ltd. & Ors.* v. *Haribox Swalram & Ors.*, [2004] 9 SCC 786 : JT (2004) 4 SC 508, referring to earlier cases, this Court stated that:

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> "the mere fact that the writ petitioner carries on business at Calcutta or that the reply to the correspondence made by it was received at Calcutta is not an integral part of the cause of action and, therefore, the Calcutta High Court had no jurisdiction to entertain the writ petition and the view to the contrary taken by the Division Bench G cannot be sustained."

From the aforesaid discussion and keeping in view the ratio laid down in catena of decisions by this Court, it is clear that for the purpose of deciding whether facts averred by the petitionerappellant, would or would not constitute a part of cause of action, one has to consider whether such fact constitutes

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a *material, essential,* or *integral* part of the cause of action. It is no doubt true that even if a small fraction of the cause of action arises within the jurisdiction of the Court, the Court would have territorial jurisdiction to entertain the suit/petition. Nevertheless it must be a 'part of cause of action', nothing less than than.

30. In the present case, the facts which have been pleaded by the Appellant Company, in our judgment, cannot be said to be essential, integral or material facts so as to constitute a part of 'cause of action' within the meaning of Article 226(2) of the Constitution. The High Court, in our opinion, therefore, was not wrong in dismissing the petition.

31. For the foregoing reasons, we see no infirmity in the order passed by the High Court dismissing the petition on the ground of want of territorial jurisdiction. The appeal, therefore, deserves to be dismissed and is accordingly dismissed. In the facts and circumstances of the case, however, we leave the parties to bear their own costs.

A.K.T. Appeal dismissed.