

me to be any such manifest or gross injustice disclosed as would justify the exercise of the extraordinary power. All that has happened is that the respondent's appeal regarding assessment has been allowed in part by the Additional District Magistrate invested with powers of a District Magistrate. This Court should, in my opinion, decline in its discretion to interfere with the impugned order on this highly belated petition. This writ petition; therefore, fails and is hereby dismissed. No order as to costs.

Cantonment  
Board, Ambala  
Cantonment  
v.  
Messrs  
Lachhman Das-  
Hari Ram  
and another  
Dua, J.

R. S.

APPELLATE CIVIL

*Before Daya Krishan Mahajan, and Prem Chand Pandit,  
JJ.*

MESSRS KASHMIRI MAL-OM PARKASH,—Appellant  
*versus*

MESSRS DURGA PARSHAD-GULZARI LAL AND ANOTHER,—  
*Respondents.*

First Appeal from order No. 72 of 1959

*Code of Civil Procedure (Act V of 1908)—Section 20—  
Assignment of a debt—When entitles the assignee to file a  
suit in the Court within whose jurisdiction the assignment  
took place.*

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*Held, that before the assignment of a debt entitles the  
assignee to file the suit in the Court within whose jurisdic-  
tion the assignment took place, it must be proved that the  
assignment in fact took place and that it was not a bogus  
transaction effected only to give jurisdiction to that Court.*

*First Appeal from the order of the Court of Shri Kartar  
Singh, Senior Sub-Judge, Jullundur, dated the 8th July,  
1959, directing that the plaint be returned to the plaintiff  
for presentation to the proper Court.*

H. L. SARIN AND K. K. CUCCRIA, ADVOCATES, for the  
Appellants.

K. C. NAYAR AND S. S. DHINGRA, ADVOCATES, for the  
Respondents.

## JUDGMENT.

The judgment of the Court was delivered by:

Pandit, J.

PANDIT, J.—This is an appeal from an order dated 8th July, 1959, passed by the learned Senior Subordinate Judge, Jullundur, returning the plaint for presentation to the proper Court on the ground that the Jullundur Courts had no jurisdiction to try this suit.

It appears that the firm Messrs Durga Parshad-Gulzari Lal of Orria (U.P.), defendant No. 1, had a *bahi* account with the Kanpur Branch of the firm Messrs Khushi Ram-Raghunath Rai of Jullundur, defendant No. 2. In the said account Rs. 10,039-8-3 were due by defendant No. 1 to defendant No. 2. Defendant No. 1 had also agreed to pay interest at the rate of R. 0-12-0 per cent per mensem and was thus liable to pay Rs. 1,505-14-0 by way of interest. The total amount, therefore, due to defendant No. 2 was Rs. 11,545-6-3. On 4th September, 1958, defendant No. 2 is alleged to have sold all their rights in this account to the plaintiff-firm Messrs. Kashmiri Lal-Om Parkash of Jullundur for Rs. 2,000 only by means of an unregistered sale-deed, Exhibit P. 1. On the basis of this assignment, on 4th October, 1958, the plaintiff filed the present suit against defendants 1 and 2 for the recovery of Rs. 11,500, giving up his claim to interest to the extent of Rs. 45-6-3. This suit was filed in the Court of the Senior Subordinate Judge at Jullundur.

The suit was contested by defendant No. 1, who raised a preliminary objection that the Jullundur Courts had no jurisdiction to try the same, because there was an agreement between defendant No. 1 and defendant No. 2 that in case of a dispute between them, only the Courts at Kanpur would have jurisdiction to try the same. It was also averred that the assignment of the debt by defendant No. 2 in favour of the plaintiff was without consideration, collusive and was a fictitious transaction, which was entered into merely to give jurisdiction to the Courts at Jullundur to

try this suit. It may be mentioned that defendant No. 2 supported the case of the plaintiff.

On the pleading of the parties the following preliminary issue was framed:—

“Whether this Court has got jurisdiction to try this case.”

The learned Senior Subordinate Judge came to the conclusion that no valid assignment was made and the sale-deed, Exhibit P. 1, was written simply to give jurisdiction to the Courts at Jullundur to try this case, so that defendant No. 2 might not have to go to Kanpur for filing this suit. It was further held that since no part of the cause of action arose at Jullundur, the suit could not be tried at this place. He, consequently, directed that the plaint be returned to the plaintiff for presentation to the proper Court.

It is undisputed that in the present case even if a part of the cause of action arose in Jullundur, the Courts at Jullundur will have jurisdiction to try the suit. It follows, therefore, that if the alleged assignment had, in fact, taken place in Jullundur, a part of the cause of action would arise at this place. So the sole question for decision is whether the assignment had actually taken place or it was a bogus transaction effected merely to give jurisdiction to the Jullundur Courts. Learned counsel for the appellant, however, contended that the mere fact that the sale-deed, Exhibit P. 1, had been executed in favour of the plaintiff showed that an assignment had taken place and the question of its validity could not be gone into for the purposes of determining the point regarding jurisdiction. For this submission, reliance was placed on three authorities, i.e., *Dilbaah Rai v. Walu Ram and another* (1), *Muzaffar Ali Khan and another v. L. Jawanda Mal-Lala Ditmal and another* (2), and an unreported decision in *Firm Brij Lal-Hira Lal v. Kashmiri Lal and another*. Civil Revision No. 608 of 1957 (decided on 27th August,

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Mal-  
Om Parkash  
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M/s Durga  
Parshad-Gulzari  
Lal and  
another  
—  
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(1) A.J.R. 1933 Lah. 940.

(2) A.I.R. 1955 Punj. 93.

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Parshad-Gulzari,  
Lal and  
another  

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Pandit, J.

1958). But these rulings have no bearing on the facts of the present case, because in those cases the assignments had admittedly taken place. In the instance case, however, the finding of the Court below is that the alleged assignment was a bogus transaction and had been entered into simply to give jurisdiction to the Jullundur Courts to try this suit. As already mentioned above, Exhibit P. 1 was not a registered document. No convincing proof had been given that even the sale consideration of Rs. 2,000 mentioned therein passed between the parties. The plaintiff had not produced their account books to show that this amount was actually paid to defendant No. 2. It has not been shown as to why defendant No. 2 sold a debt of Rs. 11,545-6-3 for a paltry sum of Rs. 2,000. Nand Lal, Managing Partner of the plaintiff-firm, had never gone to Orria, where defendant No. 1 was carrying on business, to make enquiries regarding the paying capacity of this firm, in spite of the fact that he had admitted in cross-examination that he had no dealings with this firm. Both the plaintiff and defendant No. 2 were carrying on their business in Jullundur and it is ununderstandable as to why the alleged assignment should be made in favour of the plaintiff-firm. Since both of them had good relations with each other, the conclusion is irresistible that this alleged assignment had been effected merely to give jurisdiction to the Jullundur Courts, otherwise defendant No. 2 would have to go to Kanpur to file the present suit. Nand Lal, as P. W. 6, had admitted in cross-examination that the amount due to defendant No. 2 from defendant No. 1 was more than Rs. 10,000 but he did not know how much was the principal and what was the interest thereon. He did not even know if any interest was included in the amount of Rs. 10,000. He stated that he had instituted the present suit but he did not know how much amount he had spent towards the court-fee and other expenses. He could not even tell as to whether the court-fee paid by him was Rs. 100 or Rs. 200 or more. He also admitted that he had not given any notice regarding this suit to defendant No. 1. All this shows that the suit was in reality being filed by defendant No. 2 and the plaintiff was merely a

figurehead. Under all these circumstances, the learned Senior Subordinate Judge was right in holding that the alleged assignment had not taken place and was a bogus transaction effected only to give jurisdiction to the Jullundur Courts to try the present suit.

In the result, this appeal fails and is dismissed with costs. The original plaint filed along with the appeal may be returned to the appellant.

B.R.T.

APPELLATE CIVIL

Before Daya Krishan Mahajan and Prem Chand Pandit,  
JJ.

SHIV CHAND AGGARWAL,—Appellant

versus

THE UNION OF INDIA AND OTHERS,—Respondents.

Regular First Appeal No. 1050 of 1956

*Railways Act (IX of 1890)—Section 77—Notice under, served on one of the Railways—Whether sufficient to make other railways liable.*

*Held*, that service of notice, under section 77 of the Indian Railways Act, 1890 on one of the Railways is sufficient compliance with the provisions of that section and is sufficient to make other Railway Administrations liable where the goods have travelled on more than one Railway since all the Railways are now owned by the Government.

*First Appeal, from the decree of the Court of Shri Om Nath Vohra, Sub-Judge, Ist Class, Jullundur, dated the 21st May, 1956, dismissing the plaintiff's suit with costs.*

SHAMAIR CHAND AND P. C. JAIN, ADVOCATES, for the Appellant.

H. L. SIBAL AND K. L. KHANNA, ADVOCATES, for the Respondents.

JUDGMENT.

PANDIT, J.—Shiv Chand, proprietor of Shiv Chand Aggarwal Steel Re-rolling Mills, Tanda Road, Jullundur City, carried on the business of

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Mal-  
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Lal and  
another

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