Procedural Laws
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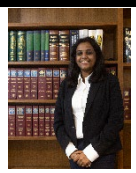

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HC OF KERALA ON JURISDICTION OF COURTS DURING WFH

A. Introduction:

The Kerala High Court ("**HC**") in the *Mangala A.G. v. Union of Indian & Ors*[1] case, held on 26th November, 2021 that mere permission to work from home ("**WFH**") is not sufficient to confer jurisdiction on the court within whose jurisdiction the employee is remotely working.

B. Brief Facts:

1. The petitioner, Mangala was employed as a deputy general manager (finance) with the respondent company ("**Company**") in Maharashtra.
2. During the pandemic, the petitioner returned to her native place in Kerala and was working from there.
3. She resigned from her job on 31st October 2020 and approached the HC alleging that the Company did not pay her one month salary and terminal benefits.
4. Before deciding the merits of the case, the HC had to determine if it had the jurisdiction to hear the present case.

C. Petitioner's Contention:

She claimed that the HC had territorial jurisdiction since she was working from home in Ernakulum, Kerala.

D. Employer's Contentions:

1. HC lacked territorial jurisdiction as the petitioner was not transferred out of Maharashtra. She continued to be on the payroll of the Company in Maharashtra.
2. She was only allowed to work from Kerala, given the pandemic and her work from Kerala is a notional extension of her workplace.

E. HC Order and Reasoning:

It held that it had lacked territorial jurisdiction to hear the matter for the following reasons:

1. It reiterated the well-recognized principle that in the absence of any clause to the contrary in the employment agreement, a company can be sued at its seat of headquarters by any employee.

[1] W.P. 23423 of 2021.

2. It recognised that during WFH, if employees were allowed to approach courts from the state they were working from, multinational companies would face "*jurisdictions trans-nations*" given the nature of operations, creating a complex situation.
3. It relied on a plethora of foreign judgements[2] and held as follows (emphasis added):

   "*A perusal of the above decisions show that a clear distinction has been drawn between instances wherein the employee was permitted to work from a different jurisdiction and the employer knowingly facilitated it, promoted the business at that place or conferred benefits for such business. The latter was held to be a instances of positive act, thereby the forum state acquired jurisdiction. On the other hand, if an employee is merely permitted to work from his or her own, without anything more provided by the employer by itself, will not confer jurisdiction to the forum state to adjudicate in case of a dispute between the employer and the employee. This principle can properly to be adopted in Indian context based on the principles of cause of action*."[3]
4. Accordingly, it applied the same principle to the instant case and dismissed the petition on the ground that, "…*when a person is permitted to work from home merely as a concession or a convenience,* (the) *place from where the person so work*(s) *is not sufficient to confer any jurisdiction*."[4]

F. Conclusion:

The HC laid down jurisprudence to answer the question of jurisdiction of courts in a dispute between an employer and employee who is on WFH.

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[2] *Melissa Perry v. National Association of Home Builders* [2020 WL 5759766]; *World-Wide Volkswagen Corporation v. Charles S Woodson*, [444 US 286 (1980)], *International Shoe Company v. Washington* [326 US 310]; *Burger King Corporation v. John Rudzewicz*, [471 US 462 (1985)]; *Listug v. Molina Information System LLC* [2014 WL 3887939], *MacDermid v. Jackie Deiter* [702F.3d 725 (2012)]; *Andrew Stuart v. Churn LLC and Van Leeuwen* [2019 WL 2342354] and *Kevin M Callahan v. Jeffry Wisdom* [2020 WL 2061882].

[3] Paragraph 13 of the judgement.

[4] Paragraph 15 of the judgement.