

GIB/DL/KUSUM INGOTS/28-04-2004/SC-13**Supreme Court Category :** Others**State :** Delhi**Order No.:** GIB/DL/KUSUM INGOTS/28-04-2004/SC-13**Name of Entry :**

Kusum Ingots & Alloys Ltd vs Union Of India And Anr

Date : 28-04-2004**Breif Issue :****Facts & Issue Of The Case**

The appellant is a company registered under the Indian Companies Act. Its registered office is at Mumbai. It obtained a loan from the Bhopal Branch of State Bank of India. This appeal arises out of the judgment passed by the High Court of Delhi, dismissing the writ petition on the ground of lack of territorial jurisdiction. The appellant company, incorporated in Mumbai, was issued a notice by the respondent for repayment of the bank loan from Bhopal Branch in terms of the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. In pursuant to Article 226 of the Constitution, appellant filed a writ petition questioning the vires of the said act in High Court, Delhi. The petition was rejected on the ground that no cause of action arosed within territorial jurisdiction of the High Court, Delhi.

Issues Raised For Filing this Writ are-

1. Whether the seat of the Parliament or the Legislature of a State would be a relevant factor for determining the territorial jurisdiction of a High Court to entertain a writ petition under Article 226 of the Constitution of India.
2. Whether a writ petition to challenge of the seat of Parliament or Legislature can be entertained?
3. Whether a Writ Petition is maintainable without any Cause of Action?

It was submitted by the appellants that the writ filed before the High Court, Delhi is for questioning the constitutionality of a Parliamentary Act and had requisite jurisdiction to entertain the petition. But the respondent resisted the averment of appellant stating no cause of action arosed within the jurisdiction of High Court, Delhi.

Decision of Advance Ruling Authority :**Decision :**

The Supreme Court discussed the provisions of Article 226, S. 20 (c) of CPC. Although, cause of

action is not defined in any statute but for the purpose of Article 226, it has been assigned the same meaning as envisaged under Section 20(c) of the Code. It means facts pleaded should be material facts whereupon a writ petition can be allowed.

The Supreme Court also clearly held the view that to determine the jurisdiction of the court facts averred in the writ petition must have a nexus on the basis whereof a prayer can be granted. Thus it is clear that no writ is maintainable without factual cause of action. When a part of the cause of action arises within one or the other High Court jurisdiction, it will be for the petitioner to choose his forum. Hence held the jurisdiction of High Court to entertain any writ petition is grounded on the place of accrual of the cause of action. The place of the Parliament Legislature is irrelevant