



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Judgment delivered on: 24.12.2025*

+ **CS(COMM) 540/2024**

ASTRAL LTDPlaintiff

versus

M/S. AJAY ENTERPRISESDefendant

Advocates who appeared in this case

For the Plaintiff : Mr. Sachin Gupta, Ms. Prashansa Singh, Mr. Rohit Pradhan, Mr. Adarsh Agarwal and Ms. Mahima Chanchalani, Advocates.

For the Defendant : Mr. Arnav Goya, Mr. Nihal Singh Shekhawat and Ms. Kanak Kaushal, Advocates.

CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

I.A. 27025/2025

1. This is an Application filed on behalf of the Applicant / Defendant under Order VII Rules 10 and 11 read with Section 151 of the Code of Civil Procedure, 1908, seeking rejection of the Plaint on the ground of lack of



territorial jurisdiction of this Court to try the present Suit and that there is no cause of action to file the present Suit.

SUBMISSIONS ON BEHALF OF THE APPLICANT / DEFENDANT:

2. The learned Counsel for the Applicant / Defendant submitted that the Plaintiff's principal place of business is at its registered office at Astral House, 207/1, B/H Rajpath Club, Off S.G. Highway, Ahmedabad, Gujarat - 380059, whereas the Defendant's office is situated at M/s Ajay Enterprises 211, 2nd Floor, Bapu Bazaar, Udaipur, Rajasthan. Therefore, the Defendant's business is situated at Udaipur, Rajasthan and the Plaintiff's principal place of business is situated at Ahmedabad, Gujarat.

3. The learned Counsel for the Applicant / Defendant submitted that the Plaintiff claims territorial jurisdiction of this Court on the basis of its sales and marketing office situated at Delhi, whereas the principal place of business of the Plaintiff lies in Ahmedabad, Gujarat. It is further submitted that the Plaintiff cannot file the Suit in Delhi where its subordinate office is located and shall file the same at the place of its principal office.

4. The learned Counsel for the Applicant / Defendant submitted that the Plaintiff has not produced any documentary evidence to substantiate use of the Mark 'ASTRAL' ("**Defendant's Mark**") by the Defendant in Delhi. It is further submitted that mere Affidavit filed by the Defendant under Rule 45 of the Trade Mark Rules, 2017 ("**Rules**") cannot be used to invoke the territorial jurisdiction of this Court, especially because there are no actual goods found to be sold in Delhi under the Defendant's Mark.

5. The learned Counsel for the Defendant drew this Court's attention to Document No. 17 of the Plaintiff's Documents and submitted that the documentary evidence placed on record with respect to goods sold by the



Defendant on IndiaMart, does not in any manner show that the Defendant is selling the said goods under the Defendant's Mark. Accordingly, it is submitted that there is no cause of action to file the present Suit.

6. In view of the foregoing submissions, the learned Counsel for the Applicant / Defendant prayed that the present Application be allowed and the Plaint be rejected.

SUBMISSIONS ON BEHALF OF THE PLAINTIFF:

7. The learned Counsel for the Plaintiff submitted that the Defendant in its evidence in support of the Opposition under Rule 45 of the Rules against the Plaintiff's Trade Mark Application No. 5256692 dated 22.12.2021, has admitted that the goods of the Defendant under the Defendant's Mark are advertised and promoted across the entire country, including in Delhi.

8. The learned Counsel for the Plaintiff submitted that the Defendant in its evidence under Rule 45 of the Rules stated that the Defendant's products enjoy a widespread and extensive presence across the country. It is also submitted that the Defendant further stated therein that the Defendant's products are readily available to consumers nationwide, contributing to the popularity of these products in the market.

9. The learned Counsel for the Plaintiff submitted that the filing of the Application bearing No. 2437289 dated 04.12.2012 for the registration of the Defendant's Mark, in addition to the evidence in support of the Opposition under Rule 45 of the Rules adduced by the Defendant admitting that the Defendant's goods under the Defendant's Mark are promoted and readily available throughout the country, which includes Delhi, gives rise to the cause of action to file the present Suit.



10. In view of the foregoing submissions, the learned Counsel for the Plaintiff prayed that the present Application be dismissed.

ANALYSIS AND FINDINGS:

11. Heard the learned Counsel for the Parties and perused the material placed on record.

12. In view of the submission made by the learned counsel for the Applicant / Defendant that the listing of the Defendant's products on IndiaMart does not show that the said products bear the Defendant's Mark, upon a query to learned Counsel for the Plaintiff regarding reliance on the availability of the Defendant's products on IndiaMart to establish that this Court has the jurisdiction to try the present Suit, it was submitted that the Cause of Action for the institution of the present Suit is restricted to the Defendant's Trade Mark Application bearing No. 2437289 dated 04.12.2012 for the registration of the Defendant's Mark, in conjunction with the evidence adduced by the Defendant in Opposition against the Plaintiff's Trade Mark Application No. 5256692 dated 22.12.2021, under Rule 45 of the Rules.

13. The learned Counsel for the Applicant / Defendant placed reliance on the decision of the Supreme Court in *K. Narayanan v. S. Murali*, (2008) 10 SCC 479, wherein it was held that mere filing of an application for the registration of a Trade Mark cannot be regarded as a cause of action for filing a suit for passing off as it does not injure the goodwill or business of the plaintiff. The learned Counsel for the Plaintiff submitted that the said decision is not applicable in the present Suit as the same constitutes an action for both passing off and the infringement of the Plaintiff's Trade Mark 'ASTRAL'.



14. The Defendant's admission in its evidence adduced under Rule 45 of the Rules in the opposition proceedings against the Plaintiff's Trade Mark Application No. 5256692 dated 22.12.2021, that the Defendant's products under the Defendant's Mark are readily available and are advertised and promoted all over the Country, is binding on the Defendant. Additionally, as the Suit concerns infringement of the Plaintiff's Mark 'ASTRAL' in addition to passing off, filing of the Trade Mark Application bearing No. 2437289 dated 04.12.2012 for the registration of the Defendant's Mark with a representation that the products of the Applicant / Defendant using Defendant's Mark are available on pan India basis, constitutes valid cause of action for filing the present Suit before this Court.

15. The learned Counsel for the Applicant / Defendant placed reliance on the decision the Supreme Court in ***Indian Performing Rights Society Ltd. v. Sanjay Dalia***, (2015) 10 SCC 161, which holds that:

“14. Considering the very language of Section 62 of the Copyright Act and Section 134 of the Trade Marks Act, an additional forum has been provided by including a District Court within whose limits the plaintiff actually and voluntarily resides or carries on business or personally works for gain. The object of the provisions was to enable the plaintiff to institute a suit at a place where he or they resided or carried on business, not to enable them to drag the defendant further away from such a place also as is being done in the instant cases. In our opinion, the expression “notwithstanding anything contained in the Code of Civil Procedure” does not oust the applicability of the provisions of Section 20 of the Code of Civil Procedure and it is clear that additional remedy has been provided to the plaintiff so as to file a suit where he is residing or carrying on business, etc. as the case may be. Section 20 of the Code of Civil Procedure enables a plaintiff to file a suit where the defendant resides or where cause of action arose. Section 20(a) and Section



20(b) usually provides the venue where the defendant or any of them resides, carries on business or personally works for gain. Section 20(c) of the Code of Civil Procedure enables a plaintiff to institute a suit where the cause of action wholly or in part, arises. The Explanation to Section 20 CPC has been added to the effect that corporation shall be deemed to carry on business at its sole or principal office in India or in respect of any cause of action arising at any place where it has subordinate office at such place. Thus, “corporation” can be sued at a place having its sole or principal office and where cause of action wholly or in part, arises at a place where it has also a subordinate office at such place.

15. The learned author Mulla in Code of Civil Procedure, 18th Edn., has observed that under clauses (a) to (c) of Section 20, the plaintiff has a choice of forum to institute a suit. The intendment of the Explanation to Section 20 of the Code of Civil Procedure is that once the corporation has a subordinate office in the place where the cause of action arises wholly or in part, it cannot be heard to say that it cannot be sued there because it did not carry on business at that place. The linking of the place with the cause of action in the Explanation where subordinate office of the corporation is situated is reflective of the intention of the legislature and such a place has to be the place of the filing of the suit and not the principal place of business. Ordinarily the suit has to be filed at the place where there is principal place of business of the corporation.

18. On a due and anxious consideration of the provisions contained in Section 20 CPC, Section 62 of the Copyright Act and Section 134 of the Trade Marks Act, and the object with which the latter provisions have been enacted, it is clear that if a cause of action has arisen wholly or in part, where the plaintiff is residing or having its principal office/carries on business or personally works for gain, the suit can be filed at such place(s). The plaintiff(s) can also institute a suit at a place where he is residing, carrying on business or personally works for gain de hors the fact that the cause of action has not arisen at a place where he/they are residing or any one of them is residing, carries on business or personally works for gain.



However, this right to institute suit at such a place has to be read subject to certain restrictions, such as in case the plaintiff is residing or carrying on business at a particular place/having its head office and at such place cause of action has also arisen wholly or in part, the plaintiff cannot ignore such a place under the guise that he is carrying on business at other far-flung places also. The very intendment of the insertion of provision in the Copyright Act and the Trade Marks Act is the convenience of the plaintiff. The rule of convenience of the parties has been given a statutory expression in Section 20 CPC as well. The interpretation of provisions has to be such which prevents the mischief of causing inconvenience to the parties.

19. The intendment of the aforesaid provisions inserted in the Copyright Act and the Trade Marks Act is to provide a forum to the plaintiff where he is residing, carrying on business or personally works for gain. The object is to ensure that the plaintiff is not deterred from instituting infringement proceedings “because the court in which proceedings are to be instituted is at a considerable distance from the place of their ordinary residence”. The impediment created to the plaintiff by Section 20 CPC of going to a place where it was not having ordinary residence or principal place of business was sought to be removed by virtue of the aforesaid provisions of the Copyright Act and the Trade Marks Act. Where the corporation is having ordinary residence/principal place of business and cause of action has also arisen at that place, it has to institute a suit at the said place and not at other places. The provisions of Section 62 of the Copyright Act and Section 134 of the Trade Marks Act never intended to operate in the field where the plaintiff is having its principal place of business at a particular place and the cause of action has also arisen at that place so as to enable it to file a suit at a distant place where its subordinate office is situated though at such place no cause of action has arisen. Such interpretation would cause great harm and would be juxtaposed to the very legislative intendment of the provisions so enacted.

20. In our opinion, in a case where the cause of action has arisen at a place where the plaintiff is residing or where there are more than



one such persons, any of them actually or voluntarily resides or carries on business or personally works for gain would oust the jurisdiction of other place where the cause of action has not arisen though at such a place, by virtue of having subordinate office, the plaintiff instituting a suit or other proceedings might be carrying on business or personally works for gain.

21. At the same time, the provisions of Section 62 of the Copyright Act and Section 134 of the Trade Marks Act have removed the embargo of suing at place of accrual of cause of action wholly or in part, with regard to a place where the plaintiff or any of them ordinarily resides, carries on business or personally works for gain. We agree to the aforesaid extent that the impediment imposed under Section 20 CPC to a plaintiff to institute a suit in a court where the defendant resides or carries on business or where the cause of action wholly or in part arises, has been removed. But the right is subject to the rider in case the plaintiff resides or has its principal place of business/carries on business or personally works for gain at a place where cause of action has also arisen, suit should be filed at that place not at other places where the plaintiff is having branch offices, etc.

22. There is no doubt about it that the words used in Section 62 of the Copyright Act and Section 134 of the Trade Marks Act, “notwithstanding anything contained in CPC or any other law for the time being in force”, emphasise that the requirement of Section 20 CPC would not have to be complied with by the plaintiff if he resides or carries on business in the local limits of the court where he has filed the suit but, in our view, at the same time, as the provision providing for an additional forum, cannot be interpreted in the manner that it has authorised the plaintiff to institute a suit at a different place other than the place where he is ordinarily residing or having principal office and incidentally where the cause of action wholly or in part has also arisen. The impugned judgments, in our considered view, do not take away the additional forum and fundamental basis of conferring the right and advantage to the authors of the Copyright Act and the Trade Marks Act provided under the aforesaid provisions.



25. *Considering the first aspect of the aforesaid principle, the common law which was existing before the provisions of law were passed was Section 20 CPC. It did not provide for the plaintiff to institute a suit except in accordance with the provisions contained in Section 20. The defect in existing law was inconvenience/deterrence caused to the authors suffering from financial constraints on account of having to vindicate their intellectual property rights at a place far away from their residence or the place of their business. The said mischief or defect in the existing law which did not provide for the plaintiff to sue at a place where he ordinarily resides or carries on business or personally works for gain, was sought to be removed. Hence, the remedy was provided by incorporating the provisions of Section 62 of the Copyright Act. The provisions enabled the plaintiff or any of them to file a suit at the aforesaid places. But if they were residing or carrying on business or personally worked for gain already at such place, where cause of action has arisen, wholly or in part, the said provisions have not provided additional remedy to them to file a suit at a different place. The said provisions never intended to operate in that field. The operation of the provisions was limited and their objective was clearly to enable the plaintiff to file a suit at the place where he is ordinarily residing or carrying on business, etc. as enumerated above, not to go away from such places. The legislature has never intended that the plaintiff should not institute the suit where he ordinarily resides or at its head office or registered office or where he otherwise carries on business or personally works for gain where the cause of action too has arisen and should drag the defendant to a subordinate office or other place of business which is at a far distant place under the guise of the fact that the plaintiff corporation is carrying on business through branch or otherwise at such other place also. If such an interpretation is permitted, as rightly submitted on behalf of the respondents, the abuse of the provision will take place. Corporations and big conglomerates, etc. might be having several subordinate offices throughout the country. Interpretation otherwise would permit them to institute infringement*



proceedings at a far-flung place and at an unconnected place as compared to a place where the plaintiff is carrying on their business, and at such place, cause of action too has arisen. In the instant cases, the principal place of business is, admittedly, in Mumbai and the cause of action has also arisen in Mumbai. Thus, the provisions of Section 62 of the Copyright Act and Section 134 of the Trade Marks Act cannot be interpreted in a manner so as to confer jurisdiction on the Delhi Court in the aforesaid circumstances to entertain such suits. The Delhi Court would have no territorial jurisdiction to entertain it.”

16. The learned Counsel for the Applicant / Defendant also placed reliance on the Supreme Court’s decision in ***Ultra Home Construction Pvt. Ltd. v. Purushottam Kumar Chaubey*** 2016 SCC OnLine Del 376, the relevant extract of which is reproduced as under:

“14. It is evident from the above observations that the interpretation given to the expression “carries on business” in the context of a defendant under section 20 of the Code has also been employed in the context of a plaintiff under the said sections 134(2) and 62(2). Thus, in addition to the places where suits could be filed under section 20 of the Code, the plaintiff can also institute a suit under the Trade Marks Act, 1999 and the Copyright Act, 1957, as the case may be, by taking advantage of the provisions of section 134(2) or section 62(2), respectively. Both the latter provisions are in pari materia. Under these provisions four situations can be contemplated in the context of the plaintiff being a corporation (which includes a company). First of all, is the case where the plaintiff has a sole office. In such a case, even if the cause of action has arisen at a different place, the plaintiff can institute a suit at the place of the sole office. Next is the case where the plaintiff has a principal office at one place and a subordinate or branch office at another place and the cause of action has arisen at the place of the principal office. In such a case, the plaintiff may sue at the place of the principal office but cannot sue at the place of the subordinate office.



The third case is where the plaintiff has a principal office at one place and the cause of action has arisen at the place where its subordinate office is located. In this eventuality, the plaintiff would be deemed to carry on business at the place of his subordinate office and not at the place of the principal office. Thus, the plaintiff could sue at the place of the subordinate office and cannot sue (under the scheme of the provisions of section 134(2) and 62(2)) at the place of the principal office. The fourth case is where the cause of action neither arises at the place of the principal office nor at the place of the subordinate office but at some other place. In this case, the plaintiff would be deemed to carry on business at the place of its principal office and not at the place of the subordinate office. And, consequently, it could institute a suit at the place of its principal office but not at the place of its subordinate office.”

17. Relying on ***Sanjay Dalia*** (supra) and ***Ultra Home*** (supra), the learned Counsel for the Applicant / Defendant submitted that the Plaintiff’s principal office is in Ahmedabad and as per the evidence in support of the Opposition under Rule 45 of the Rules against the Plaintiff’s Trade Mark Application No. 5256692 dated 22.12.2021, the Applicant / Defendant is promoting its products all throughout the country, including Ahmedabad. Therefore, it is submitted by the learned Counsel for the Applicant / Defendant that this Court does not have jurisdiction to try the present Suit.

18. The provisions of Section 20 of the CPC and Section 134 of the Act are required to be considered for determining whether this Court has territorial jurisdiction to try the present Suit, which are reproduced hereunder:

Section 20 of the CPC:

“20. Other suits to be instituted where defendants reside or cause of action arises.—Subject to the limitations aforesaid, every suit



shall be instituted in a Court within the local limits of whose jurisdiction—

(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.

Explanation.—A corporation shall be deemed to carry on business at its sole or principal office in India or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.”

Section 134 of the Act:

“134. Suit for infringement, etc. to be instituted before District Court.—(1) No suit—

(a) for the infringement of a registered trade mark; or

(b) relating to any right in a registered trade mark; or

(c) for passing off arising out of the use by the defendant of any trade mark which is identical with or deceptively similar to the plaintiff's trade mark, whether registered or unregistered, shall be instituted in any court inferior to a District Court having jurisdiction to try the suit.

(2) For the purpose of clauses (a) and (b) of subsection (1), a “District Court having jurisdiction” shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) or any



other law for the time being in force, include a District Court within the local limits of whose jurisdiction, at the time of the institution of the suit or other proceeding, the person instituting the suit or proceeding, or, where there are more than one such persons any of them, actually and voluntarily resides or carries on business or personally works for gain.

Explanation.—For the purposes of sub-section (2), “person” includes the registered proprietor and the registered user.”

19. It is well-settled that Section 134 of the Act does not oust the applicability of Section 20 of the CPC and provides an additional remedy to the Plaintiff to file a Suit where the Plaintiff resides or carries on his business or personally works for gain.

20. Section 20(c) of the CPC enables a Plaintiff to institute a Suit where the cause of action arises, whether wholly or in part. The Explanation to Section 20 of the CPC provides that a corporation shall be deemed to carry on business at its sole or principal office in India, or at such place in respect of any cause of action that arises where its subordinate office is located.

21. This Court in *Ultra Home* (supra) clarified that by virtue of the Supreme Court’s judgment in *Sanjay Dalia* (supra), the deeming provision contained in the Explanation to Section 20 of the CPC, has been read into Section 134(2) of the Act in order to determine where the plaintiff can be said to be carrying on its business for the purposes of the said provision.

22. The issue for determination before this Court is whether this Court lacks jurisdiction to try the present Suit when a part cause of action has arisen within the jurisdiction of the Court because of the evidence adduced by the Applicant / Defendant in Opposition against the Plaintiff’s Trade Mark Application No. 5256692 dated 22.12.2021 under Rule 45 of the Rules



that the Defendant's goods bearing the Defendant's Mark are readily available and are promoted and advertised all throughout the country including in Delhi, however the Defendant's or Plaintiff's principal office is not located in Delhi and only the subordinate office of the Plaintiff is in Delhi.

23. It is well-established that in cases where the cause of action arises where the plaintiff's principal office is located, the plaintiff is entitled to institute a suit at the said place. Similarly, in cases where the cause of action arises where the plaintiff's subordinate office is located, the plaintiff is entitled to institute a suit where its subordinate office is located. However, in the present case, the cause of action arises partly both at the place where the Plaintiff's principal and the subordinate offices are located, i.e., Ahmedabad and Delhi, respectively.

24. Explanation to Section 20 of the CPC provides that generally a corporation shall be deemed to be carrying its business at its sole or principal office. However, an exception is provided therein that if the cause of action arises at the place where the plaintiff also has a subordinate office, such place shall also be considered as a place where the Plaintiff is deemed to carry on business.

25. In other words, where the plaintiff is carrying out business from multiple locations, Section 20 of the CPC provides that the cause of action coupled with the subordinate place of business, would result in plaintiff carrying on business at that place in addition to the place at which the principal office is located.



26. In the facts of the present case, the part cause of action and the subordinate office of the Plaintiff are both in Delhi, which would be deemed as the place where the Plaintiff carries on its business.

27. Where the cause of action arises in part at both the places where the principal and subordinate offices are located, Section 20 provides that the Court at both places would have jurisdiction as even the place where subordinate office is located shall be treated as place where the plaintiff carries on business to confer the jurisdiction to the Court at that place. Accordingly, the plaintiff will have two places of carrying on business; (i) where the principal office is located; and (ii) where the cause of action and subordinate office both are at the same place.

28. Both these places are not mutually exclusive for the purpose of the institution of a Suit and the Courts at both places shall have jurisdiction. The Court at the place where the principal office is located would not exclude the jurisdiction of the place where the subordinate office is located, if the cause of action has arisen at both the places. On the contrary, the Explanation to Section 20 is an enabling provision specifically with respect to when cause of action arises at a place where a corporation's subordinate office is located. In that case, the plaintiff is entitled to institute a suit at the said place as well.

29. As highlighted in *Sanjay Dalia* (supra), Section 134 of the Act provides an additional forum to the Plaintiff and the objective of the same to enable the plaintiff to institute a suit at the place where they reside or carry on their business to minimize inconvenience caused to them. Accordingly, when the place of subordinate office is deemed to be the place where the plaintiff is carrying on business by virtue of cause of action having arisen at that place, the Court at such place will also have jurisdiction.



30. In the present case, as the Plaintiff has a subordinate office in Delhi, and the cause of action has partly arisen in Delhi, the Plaintiff is entitled to institute a Suit before this Court in accordance with Section 134 of the Act read with Section 20 of the CPC. Therefore, this Court has the requisite territorial jurisdiction to try the present Suit.

31. In view thereof, the present Application filed by the Applicant / Defendant for the rejection of the Plaint is dismissed.

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32. List on 19.02.2026, the date already fixed.

TEJAS KARIA, J

DECEMBER 24, 2025

St/ap