

## TERRITORIAL JURISDICTION TO A SUIT FOR INTELLECTUAL PROPERTY INFRINGEMENT

An analysis of Section 20 of the Civil Procedure Code, 1908 read with Section 62 of the Copyright Act, 1997, Section 134 of the Trade Marks Act, 1999 and the law laid down in IPRS vs Sanjay Dalia (CIVIL APPEAL NOS.10643-10644 OF 2010) and Piccadilly Agro Industries Ltd. Vs. Ashok Narwal and Anr.( CS(OS) 2550/2015 and I.A. No.17736/2015)

### IPRS v. Sanjay Dalia

The plaintiff put forth the argument that the laws on trademarks and copyrights confer a special right on rights owners by allowing them to file suits where they carry on business without any regard to where the cause of action might have arisen. The plaintiff sought to read this special right independently of a provision in C.P.C. under which a plaintiff is required to file a lawsuit where the defendant resides or does business or where the cause of action arises.

According to the plaintiff, the legislature introduced this right so as to make it convenient for a plaintiff to approach a court that has jurisdiction where he does business and without needing to travel far in order to safeguard his rights. In support, the plaintiff put forth numerous judgments that had allowed parties to file suits where they carried on business.

The court agreed with the plaintiff on providing parties an additional forum to bring suits so that they are 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”. However, the court observed that the intent of this provision was not to drag the defendant further away from such a place. The court stated that when a plaintiff carries on business at a place and the cause of action also arises at that place, the plaintiff must bring a suit at that place.

However, the court dealt with a specific set of facts. The court found that the branch office in Delhi did not confer jurisdiction on the Delhi High Court. So, in cases in which a plaintiff does business in a particular city, but the cause of action does not arise in that city, a plaintiff could sue in the city in which it does business.

The court observed that this is not the legislative intent behind the additional remedy of Section 62 of the Copyright Act, 1957 and Section 134 of the Trademarks Act, 1999 over Section 20 of the Code of Civil Procedure. The provisions are not to be construed as granting *cartes blanches* to the plaintiff since there are limitations/riders which apply to the plaintiff's ability to sue even under Sections 62/134. The underlying rationale is that a branch office has not been accorded the same status under law as a principal place of business for the purposes of jurisdiction.

- *Para 16 of the verdict*

EXAMPLE -:

1. X - Principal place of business
2. Y - Branch office
3. Z - Place there is no branch office
4.
  - In so far as Y is concerned, the plaintiff cannot sue at X or Z, going by the *ratio* of the IPRS.
  - W.r.t the cause of action at Z, the plaintiff may sue either at X based on Sections 62/134 or Z based on Section 20(c).
  - However, with respect to Y and Z, these cannot be combined in a composite suit since the *ratio* of the Supreme Court's decision in *Dhodha House* would come in the way.

### **Piccadilly Agro Industries Ltd. vs Ashok Narwal and Anr**

**Para 26** of the judgment read out as -:

*“ In the light of the aforesaid, it is clear that if on a reading of the plaint and the documents filed by the plaintiff, it appears that defendant no.2 has a subordinate office within the jurisdiction of the courts in the State of Haryana - where the cause of action has arisen, then the suit could be brought by the plaintiff against the defendants only in the State of Haryana where the cause of action arises, and not at Delhi where the registered office of defendant no.2 is situated, unless, of course, the plaintiff is able to establish that a part of cause of action has arisen within the jurisdiction of this Court .”*

The case draws our attention towards the interpretation of second part of explanation of sec. 20 of C.P.C. which be attracted only when there is a sufficient cause of action be shown. The court in the present case interprets stating the arguments of the defendants correct that merely a head office at Delhi does not makes them liable. Also while the registry, it has been shown that there is a subordinate office @Yamuna nagar, Haryana. Merely registering themselves at Delhi or keeping their books of account at Delhi would not hold the jurisdiction at Delhi high court (*the trademark registry, even for registering trademarks of applicants located in Haryana, is situated in Delhi*).

### **CONCLUSION -:**

Both the above cases do mention that as per section 20 of C.P.C. competency of jurisdiction do arises where -:

- Either the defendant resides, or
- Either the defendant carries on business, or personally works for gain, or
- The cause of action wholly or partly arises.

The above mentioned cases do emphasise upon the second part of explanation of section 20 of C.P.C.

However the question in the first case does arise, that although the Delhi high court had competent jurisdiction in the matter because of the subordinate office of the plaintiff at Delhi, could not the case be taken up by the head office which is located at Mumbai, and the case be settled between both the parties at Bombay high court. To this, as per our understanding it can well be construed that firstly the court has correctly taken the interpretation of the word "or" in section 20 of C.P.C as not "and" , and hence the difference.

Secondly at the explanation to section 20 mentions that in a cause of action at any place where there is a subordinate office may arise at such place, the appellant is competent to take the matter to the court within the local limits of its jurisdiction.

Hence whether the office is at Mumbai or Delhi, wherever the cause of action has arisen, a matter can be brought up before the competent authority within the limits of its jurisdiction, which means it is at the instance of the appellant that which court's jurisdiction is sought.

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