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Writ Appeal No.3076 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2024

CORAM :

**THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

Writ Appeal No.3076 of 2023

University Health Network
Suite 150, 101, College Street,
Toronto, Ontario, M5G 1L7,
Canada.

Rep. by its constituted Attorney
Nripendra Kashyap

... Appellant/4th respondent

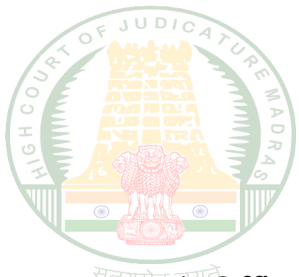
Versus

1. Adiuvo Diagnostics Private Limited,
Represented by its authorized signatory
Ms.Geethanjali Radhakrishnan.

... 1st respondent / Writ Petitioner

2. Union of India
Representation by its Secretary,
Ministry of Finance, Department of Revenue,
New Delhi & Others.

3. Office of Controller General of
Patents, Designs & Trade Marks,
Boudhik Sampada Bhawan, S.M.Road,
Antop Hill, Mumbai - 400 037.



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4. Office of the Deputy Controller of Patents
& Designs, Patent Office,
Intellectual Property Office Building,
Guindy, Chennai - 600 032. ... Respondents 2 to 4 / Respondents 1 to
3

Prayer : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order of the learned Single Judge, dated 27.09.2023 passed in W.M.P.(IPD).No.7 of 2023 in W.P.(IPD).No.23 of 2023.

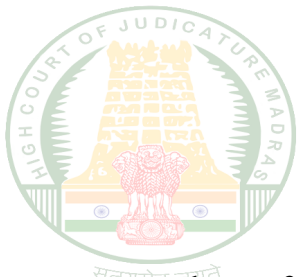
For Appellant : Mr.Satish Parasaran, Senior Counsel
for Mr.K.Premchandrar

For Respondents : Mrs.Vindhya S.Mani
Ms.Krithika Jaganathan for R1

JUDGMENT

(Judgment made by the Hon'ble Mr.Justice D.Bharatha Chakravarthy)

This Writ Appeal is directed against an interim order of the learned Single Judge in W.M.P.(IPD).No.7 of 2023 in W.P.(IPD).No.23 of 2023, dated 27.09.2023. By the said order, while extending the interim order and posting the miscellaneous applications for stay and vacating the stay for further hearing on 17.10.2023, the learned Single Judge rejected the preliminary objection as to



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place of suing. In this judgment, the parties are described as per their array in the Writ Petition.

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2. The writ petitioner is a company based in Chennai and claims to be into creating platform technologies in the field of Opto-Electronics, with an objective of providing efficient assistance in early disease detection that is customised for low resource settings. It has Patent in respect of its technology in Patent IN323440.

3. The fourth respondent filed an application in Indian Patent Application No.9067/DELNP/2010 claiming patent in respect of a device and method for fluorescence based imaging and monitoring at the Patent Office at Delhi. Stating that the grant of patent in the subject application prejudices the rights of the petitioner and also many other small and medium enterprises and start ups working in the field of fluorescence based bio-imaging to provide handy and cost-effective imaging solutions to monitor wounds and injuries for better diagnostics, the writ petitioner filed a pre-grant opposition on 03.01.2021, pleading lack of novelty, lack of inventive step, non-patentable



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subject matter and insufficient disclosure. The application is also filed at the office of the Controller of Patents, New Dehli.

4. Prior to the same, the application filed by the fourth respondent was allotted to one *Ms.Mahalakshmi Balasubramaniam*, Controller of Patents, for examination and she made an examination report and forwarded to the fourth respondent by communication dated 29.05.2018. It seems that thereafter, when the opposition as aforesaid was filed, the matter was again assigned to her. The said Controller is based at the Office of the Patent Controller, Chennai. She therefore conducted the enquiry from Chennai, including physical hearings in Chennai on various dates.

5. Finally, by an order dated 19.07.2023, the pre-grant opposition was dismissed and consequentially, the patent was also granted in favour of the fourth respondent vide Patent No.439474.

6. Aggrieved thereby, the present Writ Petition is filed for a Certiorarified Mandamus, challenging the orders dismissing the opposition as



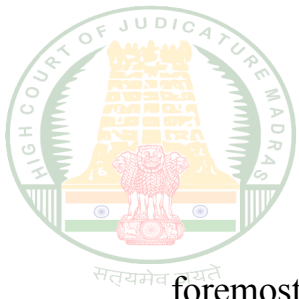
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well as grant of Patent and with a consequential prayer to remand the matter for hearing the pre-grant opposition application afresh. The challenge *inter-alia* is on the ground that the expert evidence in the form of affidavits and the written submissions made in detail are totally not considered and the impugned order is silent about the same and therefore, it is in violation of principles of natural justice and there is non-application of mind.

7. On 30.08.2023, the learned Single Judge considered the case of the writ petitioner and *prima facie* found non-consideration of materials placed and that since the petitioner and the fourth respondent were competitors in the market, granted an ad-interim order restraining the fourth respondent from prosecuting the petitioner on the basis of Patent No.439474, provided that the petitioner uses devices and methods for fluorescence based imaging and monitoring, based on its patent.

8. On 05.09.2023, the fourth respondent filed W.M.P.(IPD).No. 7 of 2023 for vacating the interim order. While contesting the matter on merits, certain preliminary objections were raised by the fourth respondent. Of which,

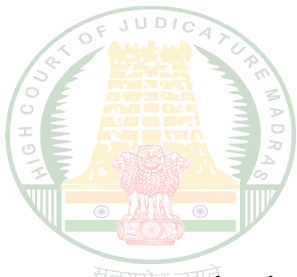


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foremost, an objection is raised on the place of suing. It is the case of the fourth respondent that the present patent application is of Delhi jurisdiction and the opposition was filed only at Delhi and even the grant of patent is by Delhi Office and the certified copy was also applied therefrom. Even if the hearings take place in different offices, by virtue of Rule 4(2) of the *Patent Rules*, the hearing is deemed to have taken place at Delhi as it is the 'appropriate patent office'. Rule 28, is location neutral and administrative exigencies would not change the appropriate office of the patent application and thus, the entire cause of action is deemed to have arisen only in Delhi, the Writ Petition before this Court is without territorial jurisdiction. Secondly, the Delhi High Court would only be the convenient forum and the action of the writ petitioner amounts to forum shopping.

9. By the order dated 27.09.2023, the learned Single Judge held that the jurisdiction of this Court under Article 226 of the Constitution of India is not dependent upon where the 'appropriate patent office' is situated and therefore, Rule 4 of the *Patent Rules* is not dispositive of the jurisdiction. The learned Judge found that upon allotment, the Officer undertook all the material



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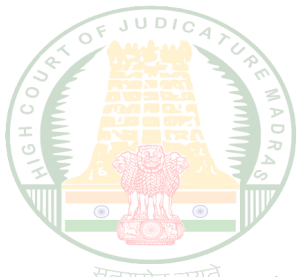
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tasks in respect of the patent such as Patent Examination Report, issue of hearing notices, physical hearing and the issue of impugned order rejecting the opposition only in Chennai and therefore, it cannot be said that no part of cause of action arose in Chennai. The learned Single Judge found that as per the principles enunciated in the judgment of the Hon'ble Supreme Court of India in ***Kusum Ingots and Alloys Ltd. Vs. Union of India and Anr.***¹ and the judgment of this Court in ***Sanjos Jewellers and Others Vs. Syndicate Bank and Ors.***², this Court has territorial jurisdiction. The learned Single Judge further found that since the office of the writ petitioner and offices of both sides patent counsel / agents are also in Chennai and since the critical events relating to the prosecution and adjudication of the grant of patent took place at Chennai, held that this court is a convenient forum for the parties and rejected the contentions of the fourth respondent and posted the matter for further arguments on the other issues raised by the fourth respondent. Aggrieved thereby, the present Writ Appeal is filed by the fourth respondent.

10. We have heard *Mr.Satish Parasaran*, the learned Senior Counsel

1 (2004) 6 SCC 254

2 (2007) 4 LW 473 (FB)



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appearing on behalf of the appellant / fourth respondent and *Mrs.Vindhya S.Mani*, learned Counsel appearing on behalf of the first respondent / writ petitioner.

11. *Mr.Satish Parasaran*, the learned Senior Counsel appearing on behalf of the fourth respondent would submit that the impugned order of grant of patent as well as rejection of pre-grant opposition is made only by the Delhi Patent Office. The third respondent in the Writ Petition, namely, the Controller in Chennai, cannot be called upon to produce the records. If the prayer in the Writ Petition is allowed, even then the patent application and opposition application will be pending only in Delhi. He would point out to the Serial Number of the Application, First Examination Report, Reply to First Examination Report and all the communications and submit that all emanated from and addressed to the Patent Office at Delhi. The Pre-Grant Opposition is filed by the writ petitioner only in Delhi. Reply Statement is filed only in Delhi. The multiple requests and forms were filed only in Delhi and the power agents of both sides were also only in Delhi.



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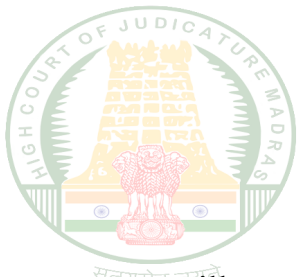
12. The learned Senior Counsel would submit that Post-grant publication is made in Delhi and all the records in respect of the application are maintained only in Delhi. Under the Scheme of the *Patent Act and Rules*, 'appropriate patent office' assumes significance. The appropriate office as per Rule 4 of the *Patent Rules* is only Delhi office. The allotment is made by an automated system and as per Rule 28(6) of the *Patent Rules*, the hearing is deemed to have taken place only in Delhi.

13. *Mr.Satish Parasaran*, learned Senior Counsel relied upon the judgment of the Delhi High Court in *Dr.Reddy's Laboratories Vs. The Controller of Patents*³, more specifically, referring to paragraph Nos.71, 72, 89 to 93 to contend that no part of cause of action arose at Chennai. For the proposition that mere shifting of hearing to the Patent Office, Chennai, will not give a cause of action, he relied upon the judgment of this Court in *Bharat Bhogilal Patel Vs. Union of India and Ors.*⁴. He would place further reliance on *Filo Edtech Inc Vs. Union of India and Anr.*⁵, more specifically to paragraph Nos.30 and 51 to 53 to contend that mere hearing at Chennai alone

³ 2022/DHC/004746

⁴ (2014) 5 LW 289 (DB)

⁵ 2023 : DHC : 8424



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will not confer jurisdiction.

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14. The learned Senior Counsel would place reliance on paragraph No.17 of the judgment of the Hon'ble Supreme Court of India in ***Union of India Vs. Adani Exports***⁶ to contend that if only the relevant facts pleaded constitute the cause of action, the same can be considered. He would further place reliance on the judgment of the Bombay High Court in ***Asianet Star Communications Pvt. Ltd. Vs. Competition Commission of India and Ors.*** (W.P.No.3755 of 2022) to which one of us (The Hon'ble The Chief Justice) is a party, to contend that the writ petitioner cannot plead that cause of action for infringement of rights is everywhere and maintain a Writ Petition.

15. He would further submit that the learned Single Judge erred in finding that Rule 4 of *Patent Rules* is not dispositive of the jurisdictional question. When the action is based on the hearing which took place, then the term 'appropriate office' is very relevant. He would further submit that the finding of the learned Single Judge that the matter has been assigned at the

⁶ (2003) 1 SCC 576



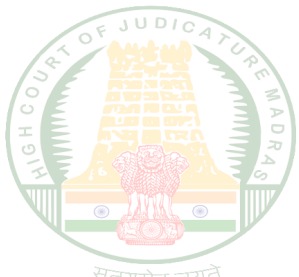
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Controller at Chennai is factually incorrect and that it is by automation, the matters are allotted. By further relying upon the judgment of the Hon'ble Supreme Court of India in *State of Goa Vs. Summit Online Trade Solutions Pvt. Ltd.*,⁷ he would submit that the place of business of the writ petitioner alone cannot be the basis for filing of the Writ Petition in Chennai. He would rely upon the judgment of the Hon'ble Supreme Court of India in *Kiran Singh and Ors. Vs. Chaman Paswan and Ors.*⁸ to contend that the defect of jurisdiction strikes at the very authority of the Court to pass any order. The learned Senior Counsel also touched upon the other preliminary objections namely, non-joinder of Delhi Patent Office as a party and availability of alternative remedy. However, considering the fact that the learned Single Judge had ruled only on the place of suing and posted the matter for further arguments in respect of the other issues, he would submit that decision on those contentions does not arise at the present stage. He would finally submit that in order to decide upon the question of *forum conveniens*, the facts of the present case would ally with that of *Bharat Bhogilal Patel's* case (cited *supra*) rather than the judgment of the Hon'ble Supreme Court of India in *Kusum*

7 (2023) 7 SCC 791

8 AIR 1954 SC 340



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Ingots and Alloys Ltd.'s case (cited *supra*). Similarly, he would point out the difference between the facts in *Sanjose Jewellers'* case (cited *supra*) and the present case. In the same vein, he would submit that the case in *M/s. Sterling Agro Industries Ltd. Vs. Union of India and Ors.*⁹ would also not be applicable to the facts of the case. Therefore, he would submit that this Court should interfere and hold that this Court does not have territorial jurisdiction to entertain the Writ Petition and that the Delhi High Court is the convenient forum for the parties.

16. Opposing the above submissions, *Ms.Vindhya S.Mani*, learned counsel appearing on behalf of the writ petitioner would assert this Court has territorial jurisdiction as part cause of action arose in Chennai. This Court cannot be termed as an inconvenient forum. She would rely upon the flow chart filed by her as to the various steps in grant of patent and submit that the most critical parts happened only in Chennai. On 29.05.2018, the first subjective stage in the examination of patent application was undertaken only at the Chennai Patent Office. Reply of the fourth respondent dated 28.02.2019 to the

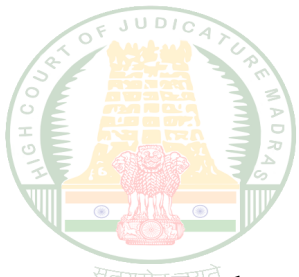
9 ILD (2011) VI Delhi 729



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First Examination Report was addressed to the Controller, who was stationed in Chennai. On 13.07.2020, the hearing notice was issued by the Controller and it was on the Chennai Patent Office letter head. The fourth respondent made an adjournment request on 10.08.2020, which is addressed to the Controller who stationed in Chennai. Again on 13.08.2020, the Controller sent the hearing notice, which is issued from the Chennai Patent Office. The fourth respondent again made an adjournment request dated 11.09.2020 addressing the Controller, who is stationed at Chennai. Once again on the letter head of the Chennai Patent Office, hearing notice was issued on 30.09.2020. On 04.11.2020, written submissions was also filed, addressed to the Controller, who was stationed in Chennai. Thereafter, the pre-grant hearing notice was issued by the Controller from Chennai Patent Office. Similarly further hearing notices on 14.09.2022, 03.02.2023 were all issued by the Controller from the Chennai Office. All these communications were clearly on the Chennai Office Letter Head, depicting the Chennai Office address. As a matter of fact, on 04.04.2023 hearing was conducted physically at the Chennai Patent Office. She would further submit that the geographical area in which the rights of the parties play out would be more in Chennai, when compared to other places.



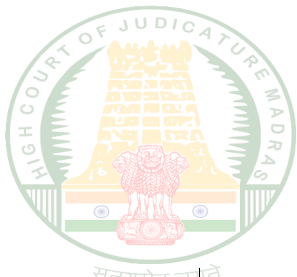
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Further, when both the writ petitioner and the fourth respondent and their attorneys and agents have office in Chennai and the matter having been filed and entertained in Chennai, it cannot be said that the Madras High Court is an inconvenient forum.

17. *Ms.Vindhya S.Mani*, learned counsel would rely upon the following judgments. The propositions for which it is relied upon and the paragraph Nos., are tabulated as hereunder:-

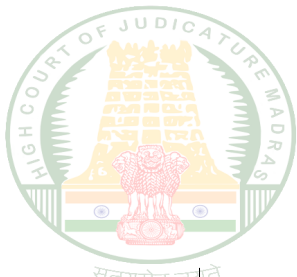
S.No.	Cause Title and Citation	Proposition
1.	<i>Sanjos Jewellers and 2 Others Vs. Syndicate Bank and Anr. (2007 SCC OnLine Mad 751)</i>	The High Court within whose jurisdiction, only a small part of the cause of action arises, can be said to have jurisdiction to entertain the matter. However, if the forum chosen is not a convenient one, then the High Court may refuse to exercise its jurisdiction not because it does not have jurisdiction but because it chooses not to exercise its discretion.
2.	<i>Sterling Agro Industries Ltd. Vs. Union of India & Ors. (2011 SCC OnLine Del 3162)</i>	Even if a miniscule part of cause of action arises within the jurisdiction of a Court, a Writ petition would be maintainable before the said Court, however this is not the singular factor and doctrine of <i>fourm conveniens</i> will have to be considered. The concept of <i>fourm conveniens</i> means that it is obligatory on the part of Court to see the convenience of all the parties before it.
3.	<i>Riddhima Singh Through Her</i>	The Court within whose jurisdiction material



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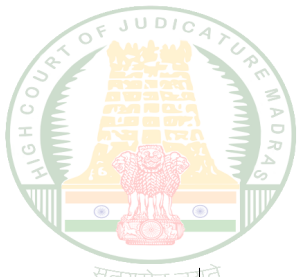
	<i>Father Shailendra Kumar Singh Vs. Central Board of Secondary Education Through its Chairman and Ors. (2023 SCC OnLine Del 7168)</i>	decisions pertaining to the <i>lis</i> or the vital parts of the cause of action have taken place, will be conclusive in determining the territorial jurisdiction of a Court.
4.	<i>M/s. Shristi Udaipur Hotels and Resorts (P) Ltd. Vs. Housing and Urban Development Corporation Limited (2014 SCC OnLine Del 2892)</i>	Most vital parts of the cause of action must have arisen in a territory and having a mere registered office in another territory does not confer territory jurisdiction.
5.	<i>Vishnu Security Services Vs. Regional Provident Fund Commissioner (2012 SCC OnLine Del 1024)</i>	<p>With reference to a situation where the original authority is in one State and seat of the appellate authority is in another, writ will be maintainable in both Courts and primacy is to be given to the Petitioner's right to choose. The writ would be maintainable at both places, and only in extreme cases where the Court finds that it is totally inconvenient for a Court to entertain the writ petition and the other High Court is better equipped to deal with such a case, then the doctrine of <i>forum conveniens</i> has to be applied.</p> <p>While exercising discretion regarding <i>forum conveniens</i>, the Court has to satisfy not only with the fact that it is a forum non convenience but the other forum is more convenient and in the comparative conveniens (or the non-conveniens) the yardstick is to see as to which Court, out of the two, is more suitable for the interest of the parties as well as for the ends of justice.</p>
6.	<i>Aasma Mohammed Farooq and Anr. Vs. Union of India and Ors. (2018 SCC OnLine Del 12800)</i>	The position in <i>Vishnu Security Services Vs. Regional Provident Fund Commissioner (2012 SCC OnLine Del 1024)</i> was approvingly relied upon.
7.	<i>Mohammed Farooq Mohd.</i>	The Hon'ble Supreme Court had upheld the



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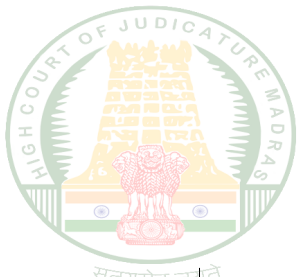
	<i>Hanif Shaikh & Anr. Vs. UOI & Ors. (SLP No. 32941/2018 dated 14.12.2018)</i>	Delhi High Court Judgment <i>Aasma Mohammed Farooq and Anr Vs. Union of India and Ors. (2018 SCC OnLine Del 12800)</i> .
8.	<i>Sachin Chhotu Pawar Vs. Collector, Raigad and Ors. (2020(6)Mh.L.J.)</i>	Cause of action means the circumstances forming the infraction of right or the immediate occasion for the action; necessary conditions for the maintenance of the action including not only the infraction of the right but also the infraction coupled with the right itself.
9.	<i>Y.Abraham Ajith and others v. Inspector of Police, Chennai and another (2004) 8 SCC 100</i>	<p>Cause of action consists of bundle of facts, which give cause to enforce the legal inquiry for redress in a court of law. In other words, it is a bundle of fact, which taken with the law applicable to them, gives the allegedly affected party a right to claim relief against the opponent. It must include some act done by the latter since in the absence of such an act no cause of action would possibly accrue or would arise.</p> <p>The expression "cause of action" has sometimes been employed to convey the restricted idea of facts or circumstances which constitute either the infringement or the basis of a right and no more. In a wider and more comprehensive sense, it has been used to denote the whole bundle of material facts.</p> <p>The expression "cause of action" is generally understood to mean a situation or state of facts that entitles a party to maintain an action in a court or a tribunal; a group of operative facts giving rise to one or more bases for sitting a factual situation that entitles one person to obtain a remedy in court from another person.</p>
10.	<i>Nawal Kishore Sharma v.</i>	In order to maintain a writ petition, the



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	<i>Union of India & Ors., (2014) 9 SCC 329</i>	Petitioner has to establish that a legal right claimed by him has been infringed by the respondents within the territorial limit of the Court's jurisdiction.
11.	<i>Sardar Balbir Singh Vs. Atma Ram Srivastava (1976 SCC OnLine All 374)</i>	A right of action is a right to presently enforce a cause of action a remedial right affording redress for the infringement of a legal right belonging to some definite person; a cause of action is the operative facts which give rise to such right of action. the right of action does not arise until the performance of all conditions precedent to the action, and may be taken away by the running of the statute of limitations through an estoppel, or by other circumstances which do not affect the cause of action. There may be several right of action and one cause of action and rights may accrue at different times from the same cause.
12.	<i>Daya Shanker Bhardwaj Chief of the Air Staff, New Delhi, and others (1987 SCC OnLine All 627)</i>	A right of action arises as soon as there is an invasion of right. But 'cause of action' and 'right of action' are not synonymous or interchangeable. A right of action is the right to enforce a cause of action.
13.	<i>Nakul Deo Singh Vs. Deputy Commadant (1999 SCC OnLine Ker 366)</i>	Receipt of the order or communication only gives the party a right of action based on the cause of action arising out of the action complained of. When that action complained of takes place outside the territorial jurisdiction of the High Court and an appeal therefore is dismissed by an authority located outside the jurisdiction of the High Court cause of action wholly arises outside the jurisdiction of the High Court.
14.	<i>Aparna Balan & Anr. Vs. UOI & 7 Ors. (2018 SCC OnLine Ker 3019)</i>	A right of action arises upon infraction of right but cause of action arises can be enforced only when the invasion of right occurs within the territorial jurisdiction of a High Court.



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Asianet Star Communications Pvt Ltd. Vs. Competition Commission of India & 3 Ors. (WP. No.3755 of 2022 dated 16.09.2022 Bombay High Court)

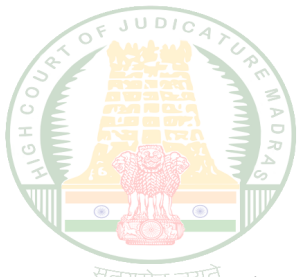
Only because the Petitioners carry on business in a State would not give rise to the cause of action for the court to exercise its jurisdiction unless the part of cause of action has arisen within that territory. The mere fact that the business is carried on in a particular place, will not confer jurisdiction unless it is shown that the place of business is the integral part of the business.

18. We have considered the rival submissions made on either side and perused the material records of the case.

19. The instant matter is a Writ Petition filed under Article 226 of the Constitution of India and therefore, jurisdiction has to be decided as per Article 226 (2), which is extracted hereunder:-

“(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.”

20. Thus it can be seen that irrespective of location of the ‘appropriate patent office’, this Court would have territorial jurisdiction to entertain the matter if part cause of action arose within its jurisdiction. As

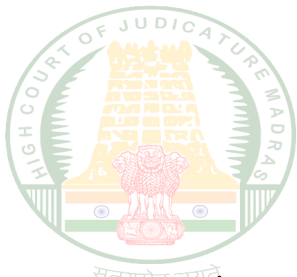


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stated *supra*, in this case, the cause of action is that the petitioner is carrying on its business pursuant to the patent granted to it in No. IN323440 and if the fourth respondent is granted patent on its claim, the same will affect its business. The writ petitioner has got a patent and conducting its business in Chennai and the same is an integral part of the reason for the writ petitioner to oppose the grant of patent. On the contrary, the fourth respondent is based in Canada and through its attorney is filing the application in India. Therefore, it cannot be said that the primary geographical area where the rights of parties play out in Delhi and that jurisdiction is artificially vested in Chennai. If the geographical area in which the rights of parties play out is to be considered, then Chennai stands in a better footing than Delhi.

21. Though the filing of opposition, refusal of the same and the consequential grant of patent can normally be considered as right of action, in this case, the Writ Petition is filed pithily contending that the the principles of natural justice is violated when the hearing took place at Chennai, where the expert evidence affidavits which were furnished and written submissions made is alleged to be not considered and thus, the divisional line between cause of



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action and right of action in this case blurs out. Therefore, it cannot be contended that no part of cause of action arose within the Jurisdiction of this Court.

22. The contention on behalf of the fourth respondent that even if the hearings happened in Chennai as the application and opposition is filed in Delhi Office, the entire hearing is deemed to have happened only in Delhi as Rule 28 (6) and Rule 4 (2) of the *Patent Rules* makes the Delhi Office as the ‘appropriate patent office’, cannot be countenanced as that would be for the specific purposes mentioned in the rules, including filing of an appeal if any. The same does not undo the part of action which happened in Chennai, which forms part of the cause of action, for the purpose of filing of the Writ Petition. In this regard, it is essential to reproduce the relevant passages from ***Kusum Ingots*** (cited supra):

“25.The said decision is an authority for the proposition that the place from where an appellate order or a revisional order is passed may give rise to a part of cause of action although the original order was at a place outside the said area. When a part of the cause of action arises within one or the other High Court, it will be for the petitioner to choose his forum.”



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26. *The view taken by this Court in U.P. Rashtriya Chini Mill Adhikari Parishad[(1995) 4 SCC 738] that the situs of issue of an order or notification by the Government would come within the meaning of the expression “cases arising” in clause 14 of the (Amalgamation) Order is not a correct view of law for the reason hereafter stated and to that extent the said decision is overruled. In fact, a legislation, it is trite, is not confined to a statute enacted by Parliament or the legislature of a State, which would include delegated legislation and subordinate legislation or an executive order made by the Union of India, State or any other statutory authority. In a case where the field is not covered by any statutory rule, executive instructions issued in this behalf shall also come within the purview thereof. Situs of office of Parliament, legislature of a State or authorities empowered to make subordinate legislation would not by itself constitute any cause of action or cases arising. In other words, framing of a statute, statutory rule or issue of an executive order or instruction would not confer jurisdiction upon a court only because of the situs of the office of the maker thereof.*

.....

29. *In view of clause (2) of Article 226 of the Constitution of India, now if a part of cause of action arises outside the jurisdiction of the High Court, it would have jurisdiction to issue a writ. The decision in Khajoor Singh[AIR 1961 SC 532 : (1961) 2 SCR 828] has, thus, no application.*

(emphasis supplied)

23. That takes us to the second question as to whether on the principles of forum conveniens this Court should exercise restraint and relegate the parties to Delhi High Court? Firstly, we are of the view that the Madras High Court, cannot be termed to be an inconvenient Court. If *forum conveniens* is to be considered, (i) the fourth respondent is located in Canada



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and has filed the Patent Application through its attorneys; (ii) the writ petitioner is located in Chennai; (iii) both side learned counsel and patent agents are having their offices also at Chennai. Therefore, we do not see any ground to exercise restraint on the ground of *forum conveniens*. In our view, the learned Single Judge has rightly relied upon the *Sanjos Jewellers'* case cited supra to repel the objection as to the place of suing. When part of the cause of action arose in Chennai and when certain critical events leading to the examination of the patent, hearing of the opposition of the patent, pronouncement of orders, rejecting the opposition all happened in Chennai, the discretion exercised by the learned Single Judge in rejecting the objection as to the place of suing cannot be termed as illegal or perverse.

24. Moreover, with the advent of technology, in the times of quick and instant communication and virtual hearings, the very ethos relating to *forum conveniens* and prejudice to the parties have all to be recalibrated. Already counter affidavit had been filed by the fourth respondent, which includes their contentions on merits and the application for vacating the stay has to be heard by the learned Single Judge in the Intellectual Property



25. In that view of the matter, we see no grounds to interfere and accordingly, this Writ Appeal No.3076 of 2023 shall stand dismissed. No order as to costs. Consequently, C.M.P.Nos.25442 and 25443 of 2023 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

03.01.2024

Index : yes
Speaking order
Neutral Citation : yes
Jer/grs

To

1. The Secretary
Union of India
Ministry of Finance,
Department of Revenue,
New Delhi & Others.
2. Office of Controller General of
Patents, Designs & Trade Marks,
Boudhik Sampada Bhawan, S.M.Road,
Antop Hill, Mumbai - 400 037.
3. Office of the Deputy Controller of Patents
& Designs, Patent Office,
Intellectual Property Office Building,



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Guindy, Chennai - 600 032.

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**THE HON'BLE CHIEF JUSTICE
and
D.BHARATHA CHAKRAVARTHY, J.,**

Jer/grs

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