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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment reserved on: 19.03.2026

Judgment pronounced on: 01.07.2026

\+ FAO (COMM) 99/2024, CM APPL. 30880/2024

RUKHMANI KESHWANI .....Appellant

Through: Mr. Satish Kumar, Mr. Anil Kumar Sahu, Mr. Roshan Kumar and Mr. Suva Batabyal, Advs.

versus

RAJU AGARBATTI WORKS & ANR. .....Respondents

Through: Mr. Yunus Saifi, Adv.

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT

% 01.07.2026

OM PRAKASH SHUKLA J.

FACTUAL MATRIX

1. The present appeal assails the impugned judgment dated 19.03.2024 passed by the District Judge (Commercial Court-03) 03), Shahdara, Karkardooma Court, Delhi[1]in CS (Comm.) No. 59/2022, whereby the plaint filed by the plaintiff was returned under Order VII Rule 10 of the Code of Civil Procedure, 1908[2], on the ground of lack of territorial jurisdiction. Consequently, the interim orders granted in favour of the plaintiff were vacated.

[1] "Trial Court/ District Judge" hereinafter
[2] "CPC" hereinafter

2. For the purpose of the present appeal, the parties shall continue to be referred to in accordance with their array before the learned Trial Court, i.e., the appellant shall be referred to as the 'Plaintiff' and the respondents as the 'Defendants

BRIEF FACTS

3. The plaintiff instituted the suit under Sections 134 and 135 of the Trade Marks Act, 1999[3] read with Sections 51 and 55 of the Copyright Act, 1957[4], seeking permanent injunction, passing off, infringement of trademark and copyright, and other consequential reliefs in respect of the trademark and trade dress "RADHEY KRISHNA", which was alleged to be the registered trademark and artistic work of the plaintiff.

4. It was the case of the plaintiff before the Trial Court that she was carrying on business under the name and style of "Vishwas Agarbatti Store", engaged in the manufacture and trade of agarbattis and allied goods.

5. The plaintiff claimed prior adoption of the mark and trade dress "RADHEY KRISHNA" since 1995 and continuous use thereof, and alleged that the defendants had adopted deceptively similar marks and packaging under the names "Lucky Radha Krishna" and "Harsh Radha Krishna" in relation to identical goods.

[3] "Trade Marks Act" hereinafter
[4] "Copyright Act" hereinafter

6. Upon institution of the suit, the plaintiff filed an application under Order XXXIX Rules 1 and 2 CPC, seeking interim protection against the defendants. *Vide* order dated 29.01.2022, the Trial Court granted an ex parte ad interim injunction in favour of the plaintiff, restrained the defendants from using the impugned marks and trade dress during the pendency of the proceedings.

7. Upon appearing in the proceedings, the defendants challenged the maintainability of the suit on the ground of lack of territorial jurisdiction of the Shahdara Court and filed an application under Order VII Rule 11 CPC.

8. The defendants *inter alia* contended before the Trial Court that both parties were carrying on business from Ajmer, Rajasthan, and that no part of the cause of action had arisen within the territorial jurisdiction of the Delhi Court. They further disputed the allegations pertaining to sale and solicitation of goods within Delhi.

9. The plaintiff, however, maintained that the defendants were selling, soliciting, and supplying the impugned goods within Delhi, including Shahdara and adjoining markets, and conducting online commercial activities through interactive websites and e-commerce platforms accessible within the jurisdiction of the Trial Court.

10. *Vide* order dated 28.10.2022, the Trial Court allowed the application filed by the defendants under Order VII Rule 11 CPC and rejected the plaint on the ground of want of territorial jurisdiction.

11. Aggrieved by the said order, the plaintiff filed FAO(COMM) 188/2022 before this Court. This Court *vide* order dated 24.05.2023, set aside the order of the Trial Court and restored the suit, observing that the issue of territorial jurisdiction required adjudication upon consideration of pleadings and evidence.

12. Pursuant to restoration of the suit, after hearing the parties and considering the material placed on record, the Trial Court, *vide* judgment dated 19.03.2024, held that the Court lacked territorial jurisdiction to entertain the suit and accordingly directed return of the plaint under Order VII Rule 10 CPC for presentation before the competent court. The Trial Court further vacated the interim orders in favour of the plaintiff and imposed costs upon them.

13. Being aggrieved by the aforesaid judgment dated 19.03.2024, the plaintiff has preferred the present appeal before this Court.

IMPUGNED JUDGMENT

14. The Trial Court, after framing issues, while deciding Issue No.1 pertaining to territorial jurisdiction, analysed the scope and applicability of Section 20 CPC, Section 62 of the Copyright Act and Section 134 of the Trade Marks Act and held that these provisions are to be construed harmoniously and are complementary, rather than mutually exclusive.

15. The Trial Court observed that although the aforesaid statutory provisions confer an additional forum for instituting the suit, they must be interpreted harmoniously with Section 20 of the CPC, which governs

territorial jurisdiction generally.

16. In particular, the Trial Court examined Section 20(c) CPC, which enables a plaintiff to institute a suit where the cause of action wholly or in part arises, and considered its applicability to the facts of the present case.

17. The Trial Court held that at the stage of final adjudication, the principle under Order VII Rule 11 CPC or the 'Doctrine of *Demurrer*' ceases to apply, and the issue of territorial jurisdiction must thereafter be examined ,based on the pleadings, evidence led by the parties, and the existence of infringement of trademark or copyright or violation of rights within the jurisdiction.

18. The Trial Court placed extensive reliance on the judgment of the Supreme Court in ***Indian Performing Rights Society Ltd. v. Sanjay Dalia & Ors***[5]('IPRS' hereinafter), which addressed issues of territorial jurisdiction in intellectual property disputes.

19. The Trial Court further interpreted the ***IPRS(supra)*** judgment to mean that where the plaintiff carries on business at the place where the substantial cause of action has arisen, the plaintiff cannot invoke jurisdiction of another forum merely on the basis of ancillary, incidental, or limited business activity in such forum.

20. According to the Trial Court, the Supreme Court in ***IPRS (supra)***

[5] **(2015) 10 Supreme Court Cases 161**

had specifically cautioned against "forum shopping", whereby a plaintiff attempts to drag defendants to distant jurisdictions despite both parties conducting business at the place where the dispute substantially arose.

21. Applying these principles to the facts of the present case, the Trial Court observed that both the plaintiff and the defendants admittedly carried on business from Ajmer, Rajasthan, and the search and seizure proceedings pursuant to the appointment of a Local Commissioner were conducted entirely in Ajmer. On that basis, the Trial Court concluded that Ajmer constituted the real and substantial situs of the dispute, and therefore, the Shahdara Court in Delhi lacked territorial jurisdiction to entertain the suit.

22. The Trial Court, applying the principles laid down in ***IPRS*(supra),** held that the plaintiff could not invoke the jurisdiction of the Delhi Court merely on the ground that the defendants' alleged India Mart listings or online activities were accessible in Delhi. The Court observed that mere accessibility of an interactive website, in the absence of cogent evidence demonstrating purposeful commercial activity or actual infringing sales within Delhi, would not confer territorial jurisdiction.

23. The Trial Court specifically referred to paragraph 24 of the ***IPRS*(supra)** judgment, interpreting it as discouraging the institution of proceedings in distant jurisdictions based on a "part cause of action", such as online accessibility, when the parties admittedly reside and conduct business at another common place where the dispute

substantially arose. On this reasoning, the Trial Court concluded that continuation of the suit before the Delhi Court would be contrary to the principles laid down in ***IPRS(supra).***

24. The Trial Court also relied upon the judgments in ***Ultra Home Construction Pvt. Ltd. v. Purushottam Kumar Chaubey & Ors***.[6] and ***Dodha House v. S K Maingi[7],*** observing that the mere availability or sale of goods in a particular area would not, by itself, constitute carrying on business within that jurisdiction.

25. The Trial Court found that the plaintiff had failed to place sufficient and cogent material on record to establish that the defendants were carrying out actual infringing commercial activities within the territorial jurisdiction of Shahdara District Courts, Delhi.

26. It was further observed that the plaintiff had not produced any material demonstrating that the defendants had an online presence or were selling or displaying goods within Delhi.

27. The Court additionally observed that the plaintiff's own online sales through "Instamojo" could not, by themselves, confer territorial jurisdiction upon the Delhi Court for adjudication of the present dispute. The Trial Court concluded that the documents relied upon by the plaintiff did not sufficiently establish that any substantial or integral part of the cause of action had arisen within Shahdara District, Delhi.

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[6] 227 (2016) DLT 320 (DB)
[7] (2006) 9 SCC 41; 2005 SCC OnLine SC 1763

28. Accordingly, the Trial Court held that no substantial or integral part of the cause of action had arisen within the territorial jurisdiction of the Shahdara District Courts, Delhi, and that the plaintiff had failed to establish territorial jurisdiction before the said Court.

29. Consequently, the Trial Court directed return of the plaint under Order VII Rule 10 CPC, vacated the interim orders earlier operating in favour of the plaintiff, and imposed costs of Rs 75,000/- upon the plaintiff, apportioned equally (50% each) between the defendants, while disposing of the suit proceedings.

PROCEEDINDS BEFORE THIS COURT

SUBMISSION OF THE APPELLANT/ PLAINTIFF

30. Mr. Satish Kumar learned Counsel appearing on behalf of the plaintiff, submitted that the Trial Court has territorial jurisdiction to entertain the suit, as the defendants are carrying on the impugned business and infringing the plaintiff's statutory rights through e-commerce platforms, including www.indiamart.com , which is easily accessible within the territorial jurisdiction of this Court.

31. It was further submitted that the plaintiff's goods bearing the trademark/label "RADHEY KRISHNA" are also sold through the interactive website www.instamojo.com, which is likewise accessible within the jurisdiction of this Court.

32. The plaintiff contended that the Trial Court erred in interpreting the ***IPRS(supra)*** judgment, as Sections 134 of the Trade Marks Act and

Section 62 of the Copyright Act, can be invoked independently of Section 20 of CPC, and such statutory provisions do not dilute or negate the principles of Section 20 (c) of CPC.

33. It was further submitted that Section 134(2) of the Trade Marks Act and Section 62(2) of the Copyright Act operate in addition to, and not in exclusion of, Section 20 of CPC. In the present case, the plaintiff has made out a case that a part cause of action has arisen within the territorial jurisdiction of this Court.

34. The learned Counsel drew attention to the cross-examination of DW-1 dated 27.10.2023, wherein the witness admitted that he became aware of the display of goods on the India Mart website only after institution of the plaint, that no complaint had been lodged with India Mart regarding such display, and further affirmed the address and GST number reflected therein.

35. It was further submitted that Trial Court misinterpreted Section 20(c) of CPC, which operates independently of clauses (a) and (b). It was contended that the defendants are individuals and not corporations, and therefore the defence available to a corporation under the Explanation to Section 20 of CPC is not applicable. Consequently, the plaintiff's right to institute a suit at a place where the cause of action has arisen is not extinguished, even if neither party resides within such jurisdiction.

36. Reliance was placed upon the judgments in ***Kohinoor Seed***

Fields India Pvt. Ltd. v. Veda Seed Sciences Pvt. Ltd*[8]*., Raju Kumar V. Vinod Shah*[9]**, and ***World Wrestling Entertainment, Inc. V. M/s Reshma Collection & Ors[10] *(*WWE hereinafter).

37. The learned Counsel ultimately submitted that the plaintiff and the defendants advertise, sell, and promote their respective goods through online e-commerce platforms that are accessible within the jurisdiction of this Court, and therefore this Court possesses territorial jurisdiction to entertain the suit under Section 134 of the Trade Marks Act, Section 62 of the Copyright Act, and Section 20(c) of CPC.

SUBMISSIONS OF THE RESPONDENTS/ DEFENDANTS

38. Mr. Yunus Saifi, learned Counsel appearing on behalf of the defendants, submitted that the present appeal is liable to be dismissed, as no cause of action has arisen within the territorial jurisdiction of this Court.

39. It was further submitted that the trademark registration held by the plaintiff was granted subject to restrictions confined to the State of Rajasthan alone.

40. The learned Counsel further submitted that the plaintiff was carrying on business in Rajasthan, including maintaining its registered office within the State of Rajasthan, and that no act of infringement or

[8] **2025:DHC:10789-DB**
[9] **2026:DHC:351-DB**
[10] **2014 (60) PTC 452 (DB)**

passing off had occurred within the territorial jurisdiction of the Trial Court in Delhi.

41. It was submitted that the plaintiff had failed to establish territorial jurisdiction before the Trial Court, and that "carrying on business" is a *sine qua non* for attracting territorial jurisdiction under Section 62(2) of the Copyright Act and Section 124(2) of the Trade Marks Act, .

42. The learned Counsel further contended that the Trial Court had rightly followed the principles law laid down in ***IPRS(supra), Dodha House(Supra) and Dabur India Ltd. v K R Industries***[11]**,** which according to the defendants' restrict the exercise of territorial jurisdiction to the place where the substantial cause of action has arisen**.**

43. In conclusion, it was submitted that the mere existence of an interactive website accessible from any location cannot, by itself, confer territorial jurisdiction. The present appeal, according to the defendants, is an attempt at forum shopping and is therefore liable to be dismissed.

FINDINGS AND ANALYSIS

44. Having considered the rival submissions advanced by the parties and examined the pleadings and documentary material on record, we are of the considered view that the learned District Judge committed a manifest error in declining the territorial jurisdiction of the Courts at Delhi.

[11] **2008 (10) SCC 595**

45. The principal premise relied upon by the learned District Judge was that both the parties carried on business from the State of Rajasthan, and therefore, Rajasthan constituted the "natural forum" for institution of the proceedings. The Court further held that mere accessibility of an online platform or internet listing would not, by itself, confer territorial jurisdiction upon the Courts at Delhi. While the said proposition is, in abstract, a correct statement of law, its application to the peculiar facts of the present case reflects an unduly narrow and restrictive appreciation of the evolving principles governing territorial jurisdiction in the context of contemporary digital commerce and online commercial solicitation.

46. At the outset, it is necessary to notice Section 134 of the Trade Marks Act and Section 62 of the Copyright Act, which are special jurisdiction conferring provisions enacted to afford an additional forum to the proprietor of intellectual property rights. The non-obstante clause contained therein unmistakably reflects the legislative intent to relax the rigors of Section 20 of CPC.

47. In ***IPRS (supra)***, the Supreme Court, while interpreting the scope of Section 134 of the Trade Marks Act and Section 62 of the Copyright Act, did not nullify or dilute the additional forum created by the legislature. The Court merely cautioned against an interpretation that would encourage abuse of process, or permit a plaintiff to invoke a wholly unconnected and artificial forum solely on the basis of the existence of a subordinate office. The ratio of the judgment cannot be expanded beyond the specific mischief it sought to be remedy.

48. The doctrine enunciated in ***IPRS (supra)*** is principally attracted where the chosen forum bears no real nexus to the underlying cause of action, and where the plaintiff seeks to abandon the place where both the principal office is situated and where the substantive cause of action arose. The decision was never intended to foreclose jurisdiction in every forum other than the place of principal business, particularly where the independent and substantive elements of the cause of action arise within such forum, or where the special provisions under Sections 134 and 62 override Section 20 of CPC.

49. The Court in ***IPRS (supra)*** observed:

> ***"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 dehors 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."*

50. The Court further clarified that:

> *"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."*

51. The limitation on invocation such jurisdiction operates only where the plaintiff seeks to institute proceedings in a wholly disconnected forum solely by reference to a branch office, despite the substantial cause of action arising elsewhere. At the same time, the judgment does not exclude jurisdiction in any other forum where a part of the cause of action independently arises under Section 20(c) CPC.

52. In the present case, the material placed on record unmistakably demonstrates that the dispute is not confined to Rajasthan. The plaintiff has produced documentary evidence of commercial transactions and deliveries effected within Delhi through its official and interactive online platform. Such transactions constitute substantive commercial activity extending into the territorial limits of Delhi.

53. Equally significant is the evidence concerning the defendants' India Mart listings. During cross-examination, the defendants admitted awareness of the impugned online listings and confirmed that the GST particulars and business address reflected therein corresponded to their commercial establishment. They further took no steps to dispute or remove such listings. The inevitable conclusion is that the defendants knowingly projected and offered their goods on an interactive commercial platform accessible to consumers beyond Rajasthan, thereby bringing a part of the cause of action within the territorial jurisdiction of this Court.

54. The jurisprudence governing internet-based territorial jurisdiction has evolved progressively, beginning with the principles enunciated in ***Banyan Tree Holding (P) Ltd. v. A. Murali Krishna Reddy***[12], where the Court differentiated between a passive website and an interactive commercial platform designed to target consumers within a particular jurisdiction.

55. This principle, however, did not remain confined to the narrow passive versus interactive website dichotomy. The doctrine was subsequently expanded and contextualized in ***WWE(supra)***, wherein the Court recognized that the true test is whether the defendant has purposefully availed itself of the forum by commercially targeting customers therein through electronic means.

[12] **2009 SCC OnLine Del 3780**

56. The aforesaid principles were further elaborated by one of us (C. Hari Shankar J.) in ***Kohinoor Seed Fields India Pvt. Ltd. v. Veda Seed Sciences Pvt. Ltd.***[13]**,** where this Court, while noting the transformation of commercial activity in the digital era, observed that modern e-commerce platforms are designed to transcend territorial barriers and facilitate commercial engagement across jurisdictions. This Court emphasized that once a defendant consciously projects its goods or services through interactive online interfaces enabling commercial solicitation, inquiry, negotiation, or purchase by consumers situated within a forum State, such activity constitutes a material part of the cause of action.

57. The judgment further clarified that insistence upon proof of an actual concluded sale within the jurisdiction would amount to an unduly restrictive application of traditional jurisdictional principles to contemporary digital commerce.

58. The ratio emerging from ***Kohinoor Seed Fields India Pvt. Ltd* (supra)** is that the Court must examine the substance of the commercial targeting and the purposeful availment of the forum, rather than mechanically confining itself to the existence or absence of completed transactions. Thus, where online listings are intended to solicit business, display commercial contact details, facilitate customer interaction, and expand market reach into multiple jurisdictions, the territorial nexus is sufficiently established.

59. This Bench in ***Raju Kumar v. Vinod Sah***[14] (authored by C. Hari

[13] **2025:DHC:10789-DB**
[14] **2026:DHC:351-DB**

Shankar J.) relied upon and applied the principles enunciated in ***Kohinoor Seed Fields India Pvt. Ltd.*** *(supra)* while determining territorial jurisdiction in online trademark disputes. The judgment in ***Raju Kumar****(supra)* has since been affirmed by the Supreme Court in ***Vinod Sah v. Raju Kumar***[15].

60. The learned District judge correctly observed that the doctrine of *demurrer* applies at the preliminary stage, where pleadings alone are assumed to be true, a proposition which we fully endorse. It was also correctly noted that the present matter stands on a materially different footing, since the trial had concluded, witnesses had been examined, and the Court was required to adjudicate territorial jurisdiction on the basis of proven facts rather than presumptive pleadings.

61. While the learned District Judge was fully justified in subjecting the jurisdictional facts to evidentiary scrutiny after the conclusion of trial, the error lies in the restrictive standard applied in appreciating such evidence. Once the plaintiff led documentary and oral evidence substantiating the pleaded jurisdictional facts, including commercial activity and online solicitation extending into Delhi, the inquiry ceased to be founded merely upon pleadings and became one supported by a proved jurisdictional nexus.

62. In the present case, the plaintiff did not rest its claim upon mere assertions of online accessibility. The plaintiff led affirmative documentary evidence demonstrating commercial deliveries within

[15] **SLP(C) No.12585/2026**

Delhi through its interactive online platform. The evidence further established that the defendants maintained IndiaMart listings bearing GST particulars and business addresses admittedly traceable to themselves. These facts were not confined to the pleadings but stood corroborated by documentary material and cross-examination.

63. In this context, reliance may be placed upon the decisions of the Supreme Court ***in Muddasani Venkata Narasaiah (Dead) through LRs v. Muddasani Sarojana***[16] and ***State of U.P. v. Nahar Singh (Dead) & Ors***[17]**.**, wherein it was authoritatively held that where material evidence adduced by a party remains unchallenged in cross-examination, it is liable to be accepted and treated as admitted. In the present case, the documentary evidence of commercial deliveries within Delhi, coupled with the defendants' admitted IndiaMart listings bearing GST particulars corresponding to their business establishment, was never effectively discredited during cross-examination. The evidentiary value of such material could not have been ignored while adjudicating the issue of territorial jurisdiction.

64. We deem it appropriate to reproduce para 12 of ***ABC Laminart (P) Ltd. v. A.P. Agencies***[18]**,** where the Court defined 'cause of action' as follows:

> *"12. A cause of action means every fact, which if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the court. In other words, it is a bundle of facts which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the*

[16] **(2016) 12 SCC 288**
[17] **(1998) 3 SCC 561**
[18] **(1989) 2 SCC 163**

defendant since in the absence of such an act no cause of action can possibly accrue. It is not limited to the actual infringement of the right sued on but includes all the material facts on which it is founded. It does not comprise evidence necessary to prove such facts, but every fact necessary for the plaintiff to prove to enable him to obtain a decree. Everything which if not proved would give the defendant a right to immediate judgment must be part of the cause of action. But it has no relation whatever to the defence which may be set up by the defendant nor does it depend upon the character of the relief prayed for by the plaintiff.

65. Similarly, in ***Om Prakash Srivastava v. Union of India***[19]**,** the Supreme Court held that:

"*9. By "cause of action" it is meant every fact, which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the Court. In other words, a bundle of facts, which it is necessary for the plaintiff to prove in order to succeed in the suit. (See Bloom Dekor Ltd. v. Subhash Himatlal Desai [(1994) 6 SCC 322].) 10. In a generic and wide sense (as in Section 20 of the Civil Procedure Code, 1908) "cause of action" means every fact, which it is necessary to establish to support a right to obtain a judgment. (See Sadanandan Bhadran v. Madhavan Sunil Kumar [(1998) 6 SCC 514 : 1998 SCC (Cri) 1471].) 11. It is settled law that "cause of action" consists of a 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 facts, which taken with the law applicable to them, gives the plaintiff a right to claim relief against the defendant. It must include some act done by the defendant since in the absence of such an act no cause of action would possibly accrue or would arise. [See South East Asia Shipping Co. Ltd. v. Nav Bharat Enterprises (P) Ltd. [(1996) 3 SCC 443]] 12. The expression "cause of action" has acquired a judicially.*
settled meaning. In the restricted sense "cause of action" means the circumstances forming the infraction of the right or the immediate occasion for the reaction. In the wider sense, it means the necessary conditions for the maintenance of the suit, including not only the infraction of the right, but also the infraction coupled with the right itself. Compendiously, as noted above, the expression means every fact, which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court. Every fact, which is necessary to be proved, as distinguished from every piece of evidence, which is necessary to prove each fact,

[19] **(2006) 6 SCC 207 : (2006) 3 SCC (Cri) 24 : 2006 SCC OnLine SC 758**

comprises in "cause of action". (See Rajasthan High Court Advocates' Assn. v. Union of India [(2001) 2 SCC 294].)

13. 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, which a plaintiff must prove in order to succeed. These are all those essential facts without the proof of which the plaintiff must fail in his suit. (See Gurdit Singh v. Munsha Singh [(1977) 1 SCC 791] .)

14. 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 of suing; a factual situation that entitles one person to obtain a remedy in court from another person (see Black's Law Dictionary). In Stroud's Judicial Dictionary a "cause of action" is stated to be the entire set of facts that gives rise to an enforceable claim; the phrase comprises every fact, which if traversed, the plaintiff must prove in order to obtain judgment. In Words and Phrases (4th Edn.) the meaning attributed to the phrase "cause of action" in common legal parlance is existence of those facts, which give a party a right to judicial interference on his behalf. (See Navinchandra N. Majithia v. State of Maharashtra [(2000) 7 SCC 640 : 2001 SCC (Cri) 215] .) 15. In Halsbury's Laws of England (4th Edn.) it has been stated as follows: " 'Cause of action' has been defined as meaning simply a factual situation, the existence of which entitles one person to obtain from the court a remedy against another person. The phrase has been held from earliest time to include every fact which is material to be proved to entitle the plaintiff to succeed, and every fact which a defendant would have a right to traverse. 'Cause of action' has also been taken to mean that a particular act on the part of the defendant which gives the plaintiff his cause of complaint, or the subject matter of grievance founding the action, not merely the technical cause of action."

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17. It would be appropriate to quote para 61 of the said judgment, which reads as follows : (Mohd. Khalil Khan case [(1947-48) 75 IA 121 : AIR 1949 PC 78] , AIR p. 86) "61. ...(2) The cause of action means every fact which will be necessary for the plaintiff to prove if traversed in order to support his right to the judgment. (Read v. Brown [(1888) 22 QBD 128 : 58 LJQB 120 : 60 LT 250 (CA)]) (3) If the evidence to support the two claims is different, then the causes of action are also different. (Brunsden v. Humphrey [(1884) 14 QBD 141 : (1881-85) All ER Rep 357 : 53 LJQB 476 : 51 LT 529 (CA)]) (4) The causes of action in the two suits may be considered to be the same if in substance they are identical. (Brunsden v. Humphrey

[(1884) 14 QBD 141 : (1881-85) All ER Rep 357 : 53 LJQB 476 : 51 LT 529 (CA)]) (5) The cause of action has no relation whatever to the defence that may be set up by the defendant nor does it depend upon the character of the relief prayed for by the plaintiff. It refers … to the media upon which the plaintiff asks the court to arrive at a conclusion in his favour. (Chand Kour v. Partab Singh [(1887-88) 15 IA 156 : ILR 16 Cal 98 (PC)]) This observation was made by Lord Watson in a case under Section 43 of the Act of 1882 (corresponding to Order 2 Rule 2) where plaintiff made various claims in the same suit." (IA pp. 139-40)"

The Court further clarified that the cause of action is independent of the defence available to the defendant, and that it comprises all material facts necessary to establish the plaintiff's right to relief, not merely the technical basis of the claim.

66. Applying the aforesaid principles to the present case, it is clear that the defendants' interactive India Mart listings, linked to their GST-verified business identity, coupled with the plaintiff's commercial deliveries and online sales activity within Delhi, constitute material and integral facts forming part of the bundle of cause of action under Section 20(c) of CPC. These facts, if traversed, would be necessary for the plaintiff to establish to support its claim, and therefore, they satisfy the test for territorial jurisdiction in the present proceedings.

67. The learned District Judge, while fully entitled to scrutinize the sufficiency of evidence post-trial, could not disregarded the settled legal position that commercial solicitation, online projection, offer for sale, and interactive targeting constitute integral components of the cause of action in intellectual property disputes.

68. The decision in ***IPRS(supra)***does not mandate a contrary

conclusion. The judgment was directed against abuse of jurisdiction, where a plaintiff sought to invoke a wholly disconnected forums solely on account of the existence of a subordinate office. The present case is fundamentally distinguishable, as the plaintiff did not rely upon Delhi merely as a situs of convenience.

69. In the present case, the jurisdiction of the Delhi Courts was invoked on the basis of independent jurisdictional facts established during trial, namely: (i) actual commercial deliveries within Delhi, (ii) interactive web-based commercial activity accessible and operational within Delhi, and (iii) defendants' admitted online commercial listings linked to their GST-verified business identity.

70. The defendants, by consciously projecting their commercial activities through interactive electronic platforms, intended to solicit business beyond Rajasthan, thereby purposefully availed themselves of markets extending into Delhi. In contemporary e-commerce jurisprudence, such purposeful commercial availment constitutes a substantive territorial nexus, sufficient to attract jurisdiction under Section 20(c) of CPC read with Section 134 of the Trade Marks Act..

71. The post-trial nature of the adjudication does not weaken the plaintiff's case; rather, it fortifies it. The jurisdictional nexus pleaded by the plaintiff was not left resting on mere assertions but was corroborated through documentary evidence and admissions elicited during cross-examination. Consequently, while the learned District Judge was correct in undertaking evidentiary scrutiny, the error lies in applying an unduly restrictive conception of "cause of action" in the

context of modern online commercial infringement.

72. The reasoning adopted in ***Kohinoor Seed Fields India Pvt. Ltd (supra)*** assumes particular significance in the present context. The Court recognized that modern online marketplaces are inherently designed to facilitate commercial interaction beyond territorial boundaries, and that jurisdictional analysis must account for the commercial reality of digital trade, rather than remain confined to traditional notions of physical territoriality. The emphasis was placed upon purposeful commercial targeting and availability for commercial engagement within the forum.

73. Relevant paragraphs from ***Kohinoor Seeds Fields India Pvt. Ltd (supra)*** provide guidance and merits reproduction:

> ***"19.5.4*** *The* ***existence*** *of a website of the plaintiff, over which a commercial transaction could be concluded was, therefore, regarded by the Division Bench in* ***World Wrestling Entertainment*** *as sufficient to amount to "carrying on a business" by WWE within the jurisdiction of this Court. The actual conclusion of a transaction was, therefore, no longer indispensable, after* ***World Wrestling Entertainment****.*
>
> ***19.5.5 World Wrestling Entertainment*** *undoubtedly is not an authority for understanding the expression "cause of action" as contained in Section 20(c) of the CPC. However, it is an authority for the understanding of the expression "carries on business" in an era in which business is considerably carried on over e-commerce websites. The Division Bench has held, in* ***World Wrestling Entertainment****, that, even if the website of the plaintiff was interactive and one over which a commercial transaction could be concluded, that would suffice to constitute "carrying on of business by the plaintiff", as, in the e-commerce universe, every place where the website of an entity would be accessible for the purpose of concluding a commercial transaction would amount to a place where the entity has a market place. If, therefore, WWE had a website over which commercial transactions could be concluded at Delhi, it was equivalent to WWE having a brick and mortar store in*

Delhi, resulting in this Court having territorial jurisdiction in the matter. Thus, the requirement of actual concluding of a commercial transaction over the website stands diluted in ***World Wrestling Entertainment****.*

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19.8 *The submission is unquestionably weighty. After all, the tort of infringement is not infringer innocent. Section 29 of the Trade Marks Act envisages infringement only vis-à-vis an infringer, who must be using the infringing marks without proprietorial or permissive right to do so. The finding of the learned Single Judge that, if the respondent has nothing to do with the listing of the allegedly infringing products on the IndiaMart and Kalgudi websites, the respondent cannot be held to account therefor is, therefore, prima facie correct.*

19.9 *Where, however, the learned Single Judge, in our considered opinion, has erred on this issue is in the observation, in para 42 of the impugned judgment, that the listing of the products on the IndiaMart and Kalgudi websites was not at the instance of the respondent. In so observing, the learned Single Judge, in our considered opinion, failed to realize the fact that the issue before him was the right of the appellant to sue. Insofar as the appellant was concerned, the allegedly infringing goods were available, for sale and purchase, across e-commerce websites, over which a transaction could be concluded within the territorial limits of the jurisdiction of this Court. There is no admission, in the plaint, that the listing of the products on the IndianMart or Kalgudi websites was not at the instance of the respondent. It would be for the respondent to so aver, and that averment, which could emerge at the earliest in the respondent's written statement, could not be considered while examining the aspect of territorial jurisdiction under Order VII Rule 10, which has to be limited to the assertions in the plaint. At the highest, therefore, the issue of whether the respondent had anything to do with the listing of the allegedly infringing goods over the IndiaMart or Kalgudi websites would be a matter of trial. Arguendo, if the appellant were able to establish, in trial, that the entities who placed the respondent's goods for sale and purchase on the IndiaMart and Kalgudi websites did so at the instance of the respondent, or with its knowledge, the respondent might still be answerable therefor.*

19.10 *That the goods were, in fact, available for purchase across the IndiaMart and Kalgudi websites, is not disputed. That the goods could be purchased across the said websites within the jurisdiction of this Court, is equally not disputed. Whether the respondent, directly or indirectly, was involved in the said listings, is, at best, a*

matter of trial. The learned Single Judge could not, therefore, have held that the appellant could not sue the respondent in this Court, even when the allegedly infringing goods could be purchased, across the IndiaMart and Kalgudi websites, within its jurisdiction, on the premise that the respondent was innocent of the listings.

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19.13 *We are in agreement with Mr. Agarwal that the issue of whether the listings on the IndiaMart and Kalgudi e-commerce platforms, of the allegedly infringing goods of the respondent, for sale, were at the instance of the respondent or of some other party, is extraneous to the aspect of territorial jurisdiction. Once the infringing goods were available for sale, the tort of infringement, which predicates use of the infringed mark, or a mark which is deceptively similar thereto, for trade, stood committed. The suit, seeking relief thereagainst, could be filed before every Court having territorial jurisdiction over the situs of sale of such goods.* ***World Wrestling Entertainment*** *extends, in a case of e-commerce, the situs to include every place where a commercial transaction could be concluded and the goods bought or sold. Every Court having jurisdiction over such place can, therefore, adjudicate on the aspect of infringement, or passing off. The decision of the learned Single Judge is clearly contrary to this principle.*

74. Applying these principles to the present case, the defendants consciously projected their commercial activities through interactive online listings accessible within Delhi, disclosing GST-verified business particulars, while the plaintiff demonstrated actual commercial transactions and deliveries within Delhi through its electronic platform. These circumstances cumulatively establish a real, substantial, and proximate nexus with the territorial jurisdiction of the Delhi Courts.

75. We are therefore of the considered opinion that the learned District Judge erred in treating the post-trial status as weakening the plaintiff's jurisdictional case. On the contrary, the evidence adduced during trial substantively corroborates the pleaded jurisdictional facts, demonstrating that a material part of the cause of action arose within

Delhi.

76. Consequently, the finding that the Courts at Delhi lacked territorial jurisdiction is unsustainable both on facts and in law, and is accordingly set aside.

77. In light of the above, the appeal is accordingly allowed.

78. The suit filed by the plaintiff is restored to its original number and shall proceed in accordance with law. The learned Single Judge shall now adjudicate the suit uninfluenced by any observations made in this judgment.

79. The parties are directed to appear before the learned District Judge on 10 July 2026 for further proceedings.

80. Pending applications, if any, are disposed of. No order as to costs.

OM PRAKASH SHUKLA, J.

C.HARI SHANKAR, J.

JULY 01, 2026/*AT/ss*