



2026:DHC:7198



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

CNR No. DLHC010384562026

Date of pronouncement: 25th August 2026

+ CS(COMM) 904/2026 & I.A.22515/2026

HINDUSTAN UNILEVER LIMITED

.....Plaintiff

Through: Mr. Amit Sibal, Sr. Advocate with Mr. Swathi Sukumar, Sr. Advocate with Mr. Saikrishna Rajagopal, Mr. Sidharth Chopra, Mr. Nitin Sharma, Ms. Sneha Jain, Mr. Vivek Ayyagari, Mr. Abhinav Bhalla, Mr. Saksham Dhingra and Ms. Smriti Nair, Advocates.

versus

KWICK LIVING (I) PRIVATE LIMITED

.....Defendant

Through: Mr. Chander M. Lall, Sr. Advocate with Ms. Shwetasree Majumder, Mr. Prithvi Singh, Ms. Jahnavi Chadha, Mr. Rohan Krishna Seth, Ms. Devyani Nath, Mr. Krtin Bhasin, Mr. Ritwik Marwaha, Ms. Vanshika Singh and Ms. Annanya Mehan, Advocates.

HON'BLE MR. JUSTICE A. J. BHAMBHANI**J U D G M E N T****A. J. BHAMBHANI, J**

By way of the present suit the plaintiff *inter-alia* seeks a decree of permanent injunction restraining the defendant from broadcasting, publishing, hosting or communicating to the public the impugned



advertisement campaign, styled as a public awareness initiative under the banner “War on What’s Hidden”, which the plaintiff claims targets and disparages the plaintiff’s products ‘Vim’ and ‘Surf Excel’ on the basis of unsubstantiated and misleading claims. It is the plaintiff’s claim that the impugned advertisement campaign is being run on billboards, various social media platforms, and the defendant’s web-site.

2. Summons in the suit were issued *vidé* order dated 19.08.2026.
3. At the very outset, at the stage of issuance of summons, Mr. Chander Lall, learned senior counsel appearing for the defendant, had raised a preliminary objection, submitting that this court has no territorial jurisdiction to entertain the present suit. However, summons were issued in the matter and considering the objection so raised, this court granted to the defendant a day’s time to file their reply to the interim injunction application bearing I.A. No. 22515/2026. Reply dated 20.08.2026 and rejoinder dated 24.08.2026 have been filed by the respective parties.
4. This court has heard Mr. Lall, learned senior counsel appearing on behalf of the defendant and Mr. Amit Sibal, learned senior counsel appearing on behalf of the plaintiff on the preliminary objection, at length. Though learned senior counsel have also canvassed the merits of their respective contentions relating to the interim order sought, *this court would first deal only with the aspect of its territorial jurisdiction over the matter. Vidé* order dated 24.08.2026 judgment was reserved on the aforesaid limited aspect.



5. Since the preliminary objection was raised by the defendant, the court has set out the submissions made by learned senior counsel appearing for the defendant first.
6. Before setting-out the submissions made on behalf of the parties, it may be observed that considering the challenge canvassed by the plaintiff to the impugned advertisement campaign, the issue of territorial jurisdiction of this court over the present suit would turn upon three principal provisions: *one*, section 134 of the Trade Marks Act, 1999; *two*, section 62 of the Copyright Act, 1957; and *three*, section 20 of the Code of Civil Procedure, 1908 ('CPC'), in particular section 20(c) thereof.
7. The three provisions are extracted below for ease of reference:

Section 20 of the CPC	Section 134 of Trade Mark Act	Section 62 of Copyright Act
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	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,	62. Jurisdiction of court over matters arising under this Chapter.— (1) Every suit or other civil proceeding arising under this Chapter in respect of the infringement of copyright in any work or the infringement of any other right conferred by this Act shall be instituted in the district court having jurisdiction.



<u>carries on business</u>, or personally works for gain; or (b) <u>any of the defendants</u>, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or <u>carries on business</u>, 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) <u>the cause of action, wholly or in part, arises.</u> Explanation —<u>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</u>	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 sub-section (1), a “District Court having jurisdiction” shall, <u>notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908)</u> or any other law for the time being in force, include a District <u>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.</u> Explanation.—For the purposes of sub-section (2), “person” includes the registered proprietor and the registered user.	(2) For the purpose of sub-section (1), a “district court having jurisdiction” shall, <u>notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908)</u>, or any other law for the time being in force, include a <u>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 other 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.</u>
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<u>also a subordinate office,</u> <u>at such place.</u>		
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(emphasis supplied)

8. Furthermore, it is also relevant to extract the ‘cause of action’ and the ‘territorial jurisdiction’ paras of the plaint, which read as follows:

“XIV. CAUSE OF ACTION

152. The cause of action for instituting the present suit first arose on 14th August 2026, when the Defendant commenced telecasting and disseminating the impugned comparative advertisements, which denigrate and disparage the Plaintiff’s products sold under the well-known marks VIM and SURF EXCEL, across various social media platforms such as YouTube and Instagram and their webpage. The cause of action further arose when the Defendant caused the impugned comparative advertisements to be displayed on hoardings and banners installed at strategic locations and crowded public places, thereby further denigrating and disparaging the Plaintiff’s goods. The cause of action also arose when the Defendant uploaded and published the impugned comparative advertisements on its website, together with four test reports purportedly relied upon by it, thereby continuing to denigrate and disparage the Plaintiff’s goods. The cause of action is continuous and recurring and continues to subsist for so long as the Defendant continues to publish, telecast, disseminate or display the impugned comparative advertisements and related materials.

153. The cause of action also arose on 15 August 2026, when the Plaintiff caused a letter to be issued, through its media agency, to media platforms and other parties associated with the dissemination of the Impugned Campaign, placing them on notice of the Plaintiff’s objections to the Impugned Campaign on grounds of trademark infringement and disparagement, and requesting that they review the Impugned Campaign and voluntarily suspend its further telecast, streaming, hosting, or promotion pending such review.”



154. The cause of action is continuing and recurring in nature, arising afresh with each dissemination of the Impugned Advertisements and the Impugned Webpage across YouTube, Instagram, hoardings, and the Defendant's own commercial platform.

“XV. JURISDICTION

“155. The Plaintiff submits that this Hon'ble Court has the necessary territorial jurisdiction to entertain and try the present suit by virtue of Section 20(c) of the Code of Civil Procedure, 1908, inasmuch as part of the cause of action has arisen within the territorial jurisdiction of this Hon'ble Court, as set out hereinbelow.

“156. The Impugned Campaign is being systematically disseminated and are accessible within the territorial jurisdiction of this Hon'ble Court through digital platforms, including YouTube and Instagram, which are freely accessible to consumers and members of the public within Delhi and the Defendant's own commercial webpage, which is accessible within Delhi and offers the Defendant's competing products for sale within Delhi. The Defendant's campaign is, accordingly purposefully directed at, and has had real commercial effect within, the jurisdiction of this Hon'ble Court.

“157. This Hon'ble Court further possesses jurisdiction to adjudicate the present dispute by virtue of Section 134(2) of the Trade Marks Act, 1999, and Section 62(2) of the Copyright Act, 1957. The Plaintiff carries on business within Delhi, and this Hon'ble Court accordingly has jurisdiction to entertain the present suit on this independent ground as well.”

PRELIMINARY SUBMISSIONS ON BEHALF OF THE DEFENDANT
ON TERRITORIAL JURISDICTION

9. Mr. Lall, learned senior counsel appearing on behalf of the defendant has strenuously argued that this court has no territorial jurisdiction to entertain,



try, or decide the present suit. In support of this submission, learned senior counsel has raised the following contentions:

- 9.1. That not only has the plaintiff not made any specific averment in the plaint showing the accrual of any cause of action in Delhi; but the plaintiff has in fact pleaded in para 75 of the plaint that they have been able to confirm an instance of the impugned hoarding *in Mumbai*. It has been submitted that no averment of any impugned hoarding being found in Delhi has been made in the plaint. The relevant para of the plaint reads as follows:

“ 75. The Plaintiff has, to date, been able to confirm the instance of the Impugned Hoardings in Mumbai photographed on or around 16.08.2026, and reserves the right to plead further particulars of additional hoardings upon disclosure.”

Mr. Lall has therefore submitted that at the time of drawing-up of the plaint the plaintiff has only specifically referenced the impugned hoarding in Mumbai;

- 9.2. That as per the Memorandum of Parties, as well as the averments contained in the plaint, it is the undisputed position that the plaintiff's registered office is situated in Mumbai. It is further submitted that the defendant also has its registered office in Mumbai.
- 9.3. That a perusal of paras 155 and 156 of the plaint would show that plaintiff has attempted to concoct jurisdiction before this court based on the assertion that the defendant's impugned advertisement is also *accessible on digital platforms* and that the defendant's



products are *also available* for sale in Delhi. It has been submitted that the plaintiff has not placed on record any bill or invoice to show that any of the products of the defendant have actually been sold in Delhi. Besides, Mr. Lall has further argued that in the absence of any averment which shows that the defendant has *purposefully availed* the digital platforms referred-to in the plaint for purposes of running the impugned advertisement within the territorial jurisdiction of this court, the plaintiff cannot succeed in asserting that this court has territorial jurisdiction over the matter.

10. In support of his submissions, Mr. Lall has further placed reliance on the ruling of the Supreme Court in ***Indian Performing Rights Society Ltd. vs. Sanjay Dalia***¹ to argue that it is settled law that in a case where the cause of action *also* arises at a place where the principal office of the plaintiff is situate, the plaintiff is bound to file its suit *only* at such place and nowhere else. Attention of the court has been drawn to the following paragraphs of the aforesaid judgment:

“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

¹ (2015) 10 SCC 161



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.



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“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.

* * * * *

*“52. In our opinion, the provisions of Section 62 of the Copyright Act and Section 134 of the Trade Marks Act have to be interpreted in the purposive manner. No doubt about it that a suit can be filed by the plaintiff at a place where he is residing or carrying on business or personally works for gain. He need not travel to file a suit to a place where the defendant is residing or cause of action wholly or in part arises. **However, if the plaintiff is residing or carrying on business, etc. at a place where the cause of action, wholly or in part, has also arisen, he has to file a suit at that place, as discussed above.***

(emphasis supplied)

11. Mr. Lall has submitted that the position of law as laid down by the Supreme Court in *Indian Performing Rights Society Ltd.* has been further enunciated and applied by a Division Bench of this court in ***Ultra Home Construction Pvt. Ltd. vs. Purushottam Kumar Chaubey***² in the following manner:

“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

² 2016 SCC OnLine Del 376



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. All these four cases are set out in the table below for greater clarity:

S.No.	Place of Plaintiff's Principal Office (Sole office in s.no.1)	Place of Plaintiff's Subordinate/Branch Office	Place where cause of action arose	Place where Plaintiff can additionally sue under section 134(2) and
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				section 62(2)
1	A	--	C	A
2	A	B	A	A
3	A	B	B	B
4	A	B	C	A

*“15. The present case falls under S. No. 3 in the above table. **The appellant/plaintiff has its principal office in Delhi (place A). Its subordinate office is at Deogarh, Jharkhand (place B) where it runs one of its hotels (Amrapali Clarks Inn), albeit in collaboration with Clarks Inn hotels. The alleged cause of action has accrued at Deogarh, Jharkhand (place B). Therefore, the appellant/plaintiff could, in respect of the alleged cause of action in this suit, institute a suit against the defendants at Deogarh, Jharkhand (place B) but not in Delhi.** Thus, the conclusion arrived at by the learned single judge that this court did not have the territorial jurisdiction to entertain the suit cannot be faulted.”*

(emphasis supplied)

12. Insofar as the accessibility of the impugned advertisement on digital platforms in Delhi is concerned, Mr. Lall has cited the following paragraphs of the decision of the Division Bench of this court in ***Banyan Tree Holding (P) Ltd. vs. A. Murali Krishna Reddy***³:

“7. Having considered the submissions of Mr Praveen Anand, learned counsel for the Plaintiff, we consider it appropriate to reframe the questions referred to us for our opinion as under:

*(i) **For the purposes of a passing off action, or an infringement action where the Plaintiff is not carrying on business within the jurisdiction of a court, in what circumstances can it be said that the hosting of a universally accessible website by the defendants lends jurisdiction to such Court where such suit is filed (“the forum court”)?***

³ 2009 SCC OnLine Del 3780



(ii) In a passing off or infringement action, where the defendant is sought to be sued on the basis that its website is accessible in the forum state, what is the extent of the burden on the Plaintiff to prima facie establish that the forum court has jurisdiction to entertain the suit?

(iii) Is it permissible for the Plaintiff to establish such prima facie case through “trap orders” or “trap transactions”

“8. At the outset it needs to be noted that the present suit is not one for infringement by the defendants of the Plaintiff's trademark and the Plaintiff carries on business within the jurisdiction of the court. If it were, then in terms of Section 134(2) of the Trademarks Act 1999 (TM Act) this court would have jurisdiction to entertain the suit although the defendants do not reside or carry on business within its jurisdiction. Section 134(2) of the TM Act (like and Section 62 (2) of the Copyright Act 1957) is therefore a “long arm” provision in a limited sense, confined to infringement actions by Plaintiffs carrying on business within the jurisdiction of the forum court. The present suit is an action for passing off in which neither the Plaintiff nor any of the defendants voluntarily resides or carries on business within the local limits of Delhi. Consequently, neither Section 20 (a) nor Section 20(b) CPC applies. **The Plaintiff seeks to find the territorial jurisdiction of this Court in terms of Section 20(c) CPC. In other words, according to the Plaintiff the cause of action, wholly or in part, arises within the jurisdiction of this Court. This, according to the Plaintiff is on account of two factors. One, that the website of the defendants is accessible in Delhi; it is not a passive website but used for soliciting business in Delhi. Second, that there was at least one instance of the defendant's brochure being sent to a Delhi resident for the purposes of sale of property.**

* * * * *

“28. To summarise the position in the US, in order to establish the jurisdiction of the forum court, even when a long arm statute exists, the Plaintiff would have to show that the defendant “purposefully availed” of jurisdiction of the forum state by “specifically targeting” customers within the forum state. **A mere hosting of an interactive web-**



page without any commercial activity being shown as having been conducted within the forum state, would not enable the forum court to assume jurisdiction. Even if one were to apply the “effects” test, it would have to be shown that the defendant specifically directed its activities towards the forum state and intended to produce the injurious effects on the Plaintiff within the forum state. We now take a brief look at the decisions in other common law jurisdictions.

* * * * *

“38. Having surveyed the law as it has developed in different jurisdictions, this Court is of the view that the essential principles developed as part of the common law can be adopted without difficulty by our courts in determining whether the forum court has jurisdiction where the alleged breach is related to an activity on the internet. At the outset, this court does not subscribe to the view that the mere accessibility of the defendant’s website in Delhi would enable this Court to exercise jurisdiction. A passive website, with no intention to specifically target audiences outside the State where the host of the website is located, cannot vest the forum court with jurisdiction. This court is therefore unable to agree with the proposition laid down in *Casio*. The said decision cannot be held to be good law and to that extent is overruled.

* * * * *

“41. This court is not able to accept the submission of the learned counsel for the Plaintiff that the test of “purposeful availment” must be replaced by the test of “purposeful avoidance” While the defendant may in his defence show how he avoided the forum state, the initial burden is on the Plaintiff to show that the defendant “purposefully availed” itself of the jurisdiction of the forum court. The issue of incorporating filters to block access to the website by viewers located outside the forum state will have to be considered while deciding if the defendant had “purposefully avoided” the forum state. However, that question will arise only if the Plaintiff has been able to show that the website of the defendant is interactive and permits commercial transactions to be concluded by the defendant with a user of the website.



“42. This Court holds that jurisdiction of the forum court does not get attracted merely on the basis of interactivity of the website which is accessible in the forum state. The degree of the interactivity apart, the nature of the activity permissible and whether it results in a commercial transaction has to be examined. For the “effects” test to apply, the Plaintiff must necessarily plead and show prima facie that the specific targeting of the forum state by the defendant resulted in an injury or harm to the Plaintiff within the forum state. For the purposes of a passing off or an infringement action (where the plaintiff is not located within the jurisdiction of the court), the injurious effect on the Plaintiff’s business, goodwill or reputation within the forum state as a result of the defendant’s website being accessed in the forum state would have to be shown. Naturally therefore, this would require the presence of the Plaintiff in the forum state and not merely the possibility of such presence in the future. Secondly, to show that an injurious effect has been felt by the Plaintiff it would have to be shown that viewers in the forum state were specifically targeted. Therefore the “effects” test would have to be applied in conjunction with the “sliding scale” test to determine if the forum court has jurisdiction to try a suit concerning internet based disputes.”

(emphasis supplied)

13. Deriving support from the above decision of the Division Bench of this court, learned senior counsel has submitted that the plaintiff has made no specific averment in the plaint to show that the defendant *purposefully availed* the jurisdiction of this court; and accordingly, the present plaint ought to be returned for lack of territorial jurisdiction of this court.
14. In addition to the above, learned senior counsel appearing for the defendant has also placed reliance on the decision of a Division Bench of



this court in *Federal Express Corporation vs. FedEx Securities Limited & Ors.*⁴ which has followed the principle laid down in *Banyan Tree*.

15. Furthermore, the defendant has also referred to a subsequent judgment of a learned Single Judge of this court in *Escorts Limited vs. Tejpal Singh Sisodia*,⁵ which was a case of alleged defamation of a corporation, in which, while commenting on the position of law under section 19 of the CPC (that is, suits for compensation for wrongs to person or moveables), the Single Judge held as follows:

“31. The plaintiff herein, being a corporation, its person is deemed to be resident of and/or carrying on business within the jurisdiction of the Court within whose territorial jurisdiction the registered office of the plaintiff is and which is at Faridabad and not within the jurisdiction of this Court. Ordinarily a wrong to the reputation of a company would be done at its registered office. However, in todays day and age, with businesses of a company spreading across countries and at least within the country, the company may have a reputation not only at the place of its residence i.e. its registered office but at each of such places where the company carries on business and/or where the goods and services are sold/provided by the plaintiff and wrong may be done to the reputation of the plaintiff at such places also.

“32. The plaintiff herein also claims that wrong to the plaintiff has been done by the defamatory tweets of defendant, wherever the said tweets can be accessed across the globe.

“33. I have wondered, that if such is the plea, whether a plaintiff in a suit for compensation for defamation by publication on internet, has

⁴ 2018 SCC OnLine Del 7824

⁵ 2019 SCC OnLine Del 7607



an option under Section 19 of the CPC to sue the defendant anywhere in India.

*“34. In my opinion, no. Section 19, while vesting an option in plaintiff, only envisages, wrong done in jurisdiction of one Court and defendant residing in jurisdiction of another Court. **Merely because, with the advent of trade and commerce, wrong done to the plaintiff can be across the country, cannot expand/widen the option vested under Section 19 in the plaintiff. Reading Section 19 so, would render it arbitrary, vesting an unguided option, capable of misuse in one of the parties to the lis i.e. the plaintiff and lead to “court shopping” and “libel tourism”.** There is thus a need to construe/apply Section 19, in such situations, reasonably, so as not to put a plaintiff in such a suit, in a position disadvantageous to the defendant.”*

(emphasis supplied)

16. While citing the aforesaid decision, learned senior counsel appearing for the defendant has drawn a parallel between a suit for defamation of a corporation *and* a suit for disparagement of a trade mark, submitting that in essence and substance, these two causes of action are akin to each other.
17. In light of the above decisions, it has been submitted by learned senior counsel appearing for the defendant that the plaintiff was bound to institute the present suit only in Mumbai and the present suit cannot be entertained by this court in Delhi.

PRELIMINARY SUBMISSIONS ON BEHALF OF THE PLAINTIFF

ON TERRITORIAL JURISDICTION

18. Responding to the preliminary objection raised on behalf of the defendant, Mr. Sibal, learned senior counsel appearing for the plaintiff has submitted that although the registered office of the plaintiff is situate in Mumbai, it is important to note that the plaintiff *also has a corporate office* in Delhi.



Learned senior counsel submits that on a proper reading of section 20(c) of the CPC and section 134 of the Trade Marks Act, and considering that Delhi is one of the places where the cause of action has *also* arisen, it is certainly available to the plaintiff to sue the defendant in Delhi.

19. To substantiate his submission, learned senior counsel has submitted that the defendant's campaign has been launched across 02 leading social media platforms, YouTube and Instagram, as well as on the defendant's web-page, apart from also being displayed on hoardings and banners at strategic public locations. Furthermore, it has been pointed-out that the defendant's web-page, which hosts the impugned advertisements and a falsely disparaging account of the plaintiff's products, ultimately leads consumers who access the web-page to an option of purchasing the defendant's products.
20. In the above factual background, Mr. Sibal has submitted that since the impugned campaign is being systematically disseminated through social media platforms and is accessible within the territorial jurisdiction of this court, and especially considering that the defendant's web-page featuring the campaign *allows for sale* of the defendant's products in Delhi, the plaintiff is entitled to invoke the territorial jurisdiction of this court under section 20(c) of the CPC, section 134(2) of the Trade Marks Act, and section 62(2) of the Copyright Act.
21. To substantiate his argument, learned senior counsel has placed emphatic reliance on the decision of a Co-ordinate Bench of this court in ***Burger***



*King Corpn. vs. Techchand Shewakramani*⁶, to submit that the threshold for a plaintiff to claim territorial jurisdiction is to show that that infringement of the trade mark has occurred by the mark being *used in the course of trade* within the territorial jurisdiction of a certain court, including for advertising purposes.

22. The relevant paras of *Burger King* cited on behalf of the plaintiff are extracted below:

“18. Thus, the provisions of Section 134 of the TM Act and Section 62 of the Copyright Act are in addition to and not in exclusion of Section 20 CPC. If the plaintiff can make out a cause of action within the territorial jurisdiction of this court under Section 20, no reference needs to be made to Section 134.

“19. What constitutes cause of action in the context of a suit alleging violation of rights in a trade mark, would therefore be the question. In a case involving trade mark infringement, infringement happens when a person “uses in the course of trade” any mark without the owner’s consent. Thus, use of a mark is the cause of action in an infringement as also in a passing off action. If use takes place in a territory where the suit is filed, that court has the jurisdiction to entertain the suit. When there is use of a mark, there is a cause of action to sue, where the use takes place. it is relevant to point out that “use” of a trade mark as per Section 2(2)(c) of the TM Act is as under

* * * * *

“21. Thus, jurisdiction of a court in a trade mark action, could be invoked where there is use upon or in relation to goods. The phrase “in relation to” has been interpreted to include advertising, promotion, publicity, etc.

* * * * *

⁶ (2018) 1 HCC (Del) 64



“23. Thus, when Section 20 CPC provides that a suit could be filed in any place where the cause of action arises, in a suit involving rights in a trade mark, cause of action arises in each and every place where there is any form of use of the said mark. Principles which apply to infringement, actions to determine “use” would equally apply to passing off actions.”

(emphasis supplied)

23. Learned senior counsel for the plaintiff has also pointed-out that the aforementioned position has been recently upheld by the decision of another Division Bench of this court in ***Kohinoor Seed Fields India (P) Ltd. vs. Veda Seed Sciences (P) Ltd.***,⁷ in the following terms:

“19.4.6 The learned Single Judge is, therefore, correct in his view that, as per the law declared in *Banyan Tree Holding*, the mere existence of an interactive website of the defendant, accessible within the territorial jurisdiction of this Court, would not be sufficient for the suit to be maintainable here. It would additionally have to be shown that some commercial transaction was concluded within the jurisdiction of this Court.

* * * * *

“19.5.1 *Banyan Tree Holding* was, however, subsequently diluted to an extent by the judgment of the Division Bench of this Court in *World Wrestling Entertainment*.

* * * * *

“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*.

⁷ 2025 SCC OnLine Del 8727



“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.**

“19.6 Section 20(a) of the CPC permit a plaintiff to sue a defendant wherever the defendant carries on business. The law declared by this Court in World Wrestling Entertainment with respect to the carrying on business by the plaintiff, in an e-commerce regime, for the purpose of Section 134(2) of the Trade Marks Act, would equally apply to carrying on a business by the defendant for the purpose of Section 20(a) of the CPC. **Wherever, therefore, the defendant would have an interactive website, over which a commercial transaction could be concluded, any Court having jurisdiction over every place where this could be done would have jurisdiction to entertain the suit.”**

(emphasis supplied)

24. The plaintiff has further referred to the decision of a learned Single Judge of this court in ***Travellers Exchange Corporation Limited & Others vs.***



Celebrities Management Private Limited,⁸ in which the learned Single Judge has drawn the following conclusions:

“15. I have re-read *Sanjay Dalia supra* including with reference to the paragraphs aforesaid which were highlighted by senior counsel for applicant/defendant and am unable to agree with the contention of the senior counsel for the applicant/defendant. A reading of the judgment does not indicate that the territorial jurisdiction of the Courts under Section 20 of the CPC in respect to suits under the Copyright Act and Trademarks Act was for consideration. What was for consideration was only the conferment of territorial jurisdiction in addition to Section 20 of the CPC, by Sections 62 and 134 supra. It is for this reason only that repeatedly the expression “additional remedy”, “additional jurisdiction” and “additional forum” find mention in the judgment including in the paragraphs which are highlighted.

“16. Thus, in my view, what has been held in *Sanjay Dalia supra* is applicable only if territorial jurisdiction is invoked by invoking Sections 62 or 134 supra and not if the territorial jurisdiction of the Court is invoked under Section 20 of the CPC, as the plaintiffs are doing in the present case and territorial jurisdiction of this Court whereunder is not in dispute.”

(emphasis supplied)

25. Citing another decision of a Division Bench of this court in ***Nilesh Girkar vs. Zee Entertainment Enterprises Limited & Ors.***,⁹ the plaintiff points-out that in the said case the court has held that where the film, that was subject to the proceedings, was being communicated to the public on the defendants’ OTT platform throughout the territories of India and was also

⁸ 2019 SCC OnLine Del 6943

⁹ 2025 SCC OnLine Del 6040



available within the territorial limits of the jurisdiction of this court, in view of section 20(c) of the CPC, since at least a part of the cause of action had arisen within the jurisdiction of this court, the suit could be entertained before this court.

26. To the same effect, the plaintiff has also relied upon the view taken by a learned Single Judge in *Astral Ltd. vs. Ajay Enterprises*,¹⁰ which essentially says that where a cause of action arises in part, both at the place where the principal office and a subordinate office of a company are located, section 20 of the CPC provides that the courts at both places would have jurisdiction. The reasoning given is that the place where the subordinate office is located must also be treated as a place where the plaintiff carries on business to confer jurisdiction on the court at that place. It is pointed-out that the court has further held that if the cause of action has arisen at both places, then the jurisdiction of the place where the subordinate office is located would not be excluded.
27. Lastly, the plaintiff has cited two contemporaneous decisions of the same Division Bench of this court in *Rukhmani Keshwani vs. Raju Agarbatti Works & Anr.*¹¹ and *ITC Ltd. & Anr. vs. Adyar Gate Hotels Ltd.*,¹² where pertinently, the Division Bench has made the following material observations:

¹⁰ 2025 SCC OnLine Del 10065

¹¹ 2026 SCC OnLine Del 4904

¹² 2026 SCC OnLine Del 4852



Rukhmani Keshwani :

“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.**

* * * * *

“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.**”

(emphasis supplied)

ITC Ltd. :

“116. Clearly, the afore-extracted passages from *IPRS* forbid the filing of a suit where the cause of action has arisen at the place where the plaintiff has its principal place of business, but may also have arisen at some distant place where the plaintiff has a subordinate office. In such a case, the Supreme Court holds that the plaintiff cannot elect to file the suit at the distant place where it has its subordinate office, even though a part of the cause of action has arisen at the principal place of business of the plaintiff.

* * * * *

“118. We cannot, therefore, agree with Mr Ramanujan in his submission that, as *ITC* has a subordinate office at Chennai, or as *ITC* has its head office at Kolkata, it would have to institute the suit either at



Chennai or at Kolkata. Inasmuch as part - in fact the determinative part - of the cause of action has arisen at Delhi, where ITC's Dakshin restaurant is situated and where, therefore, the injury resulting from the use, by AGH, of the "Dakshin" Mark would be felt by ITC, we are of the opinion that ITC cannot be foreclosed from filing the present suit at Delhi."

28. Furthermore, Mr. Sibal has also argued that the explanation to section 20 of the CPC says that a corporation must be *deemed* to carry on business at its principal office, but it also says that if any cause of action arises at a place where the corporation's subordinate office is situate, then the corporation is also deemed to carry on business at such place. It has been submitted that the explanation to section 20 applies only to sections 20(a) and 20(b) and has no application to section 20(c) of the CPC.
29. Furthermore, it is also the plaintiff's argument that in *Sanjay Dalia* the Supreme Court was only interpreting section 134 of the Trade Marks Act and section 62 of the Copyright Act, and that judgment does not deal with section 20 of the CPC.
30. Based on the above submissions, Mr. Sibal argues that since the *effect* of the impugned advertisement can be felt within Delhi, and the plaintiff's products are also available for sale within the territory of Delhi, the plaintiff is well-within its rights to invoke the territorial jurisdiction of this court.

DEFENDANT'S SUBMISSIONS IN REJOINDER

31. Rejoining to the arguments made on behalf of the plaintiff, Mr. Lall has submitted that insofar as the plaintiff's reliance on the decision in *Burger King* is concerned, that the decision is wholly inapplicable to the present



case since para 24 of that judgment shows that the defendants in that case had *purposefully been availing* the jurisdiction of this court, which is not the case here.

32. Upon being queried as to the observation of the Division Bench in *Kohinoor Seed Fields* expressing its reservation about the law laid down in *Ultra Home Construction*, Mr. Lall has submitted that the said observation is an *obiter dictum* and of no consequence, since a perusal of para 20.3 of the judgment would show that in *Kohinoor Seed Fields* there was no occasion to invoke *Ultra Home Construction*.

DISCUSSION & CONCLUSION

33. The principal judicial precedents cited reveal two broad conflicts: *firstly*, whether section 134(2) of the Trade Marks Act merely adds a plaintiff-friendly forum or is that provision curtailed by the rule derived from section 20 CPC; *secondly*, what extent of digital activity is sufficient to constitute a cause of action under section 20(c).

Supreme Court Decision

34. In *Sanjay Dalia* the Supreme Court has set-out a restrictive, purposive reading of section 134(2) of the Trade Marks Act. The Supreme Court holds that where a corporation has its principal office at a place *and* a part of the cause of action *also* arises there, the corporation *must* sue there and *cannot invoke* a distant place merely because it also has a subordinate office or carries on business in such other place. The judgment interprets section 134(2) as only removing the impediment that ordinarily exists for a plaintiff under section 20 of the CPC, who would otherwise have to



pursue the defendant at a distant location; however, it does not interpret section 134 as authorising a plaintiff to abandon the place of its principal office where the cause of action has itself arisen, even if only in part. The words used by the Supreme Court in *Sanjay Dalia* are the following:

*“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.

* * * * *

“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.”

(emphasis supplied)

Delhi High Court Decisions

35. Thus, there is apparent conflict between the literal breadth of “notwithstanding anything contained in the Code of Civil Procedure” appearing in section 134(2) and the purposive restriction imposed in *Sanjay Dalia* to prevent forum-shopping by corporations with multiple offices at multiple locations.
36. *Banyan Tree* adopts a stringent test for internet-based jurisdiction under section 20(c). It holds that *mere accessibility* of a web-site in Delhi, even if interactive, does not suffice; and the plaintiff must *prima-facié* show *purposeful availment* and *specific targeting* of the forum by the defendant; and, where the ‘effects test’ is invoked, the plaintiff must also show injury within the forum.¹³ This is materially different from a simple “accessibility equals use” approach. Under *Banyan Tree*, the internet does not automatically create a cause of action in every location from which a web-site can be accessed.
37. *World Wrestling Entertainment*, on the other hand, was concerned with the expression “carries on business” appearing in section 20(a) and (b) CPC and section 134 of the Trade Mark Act and section 62 of the Copyright Act. It held that where a plaintiff operates an *interactive web-site* through which commercial transactions may be concluded, the

¹³ Delhi High Court, Division Bench, paras 41 and 42



plaintiff may be regarded as carrying on business *at the places* where the web-site is capable of being used for such transactions.¹⁴ The decision, therefore, concerns the situs at which a plaintiff may be said to “carry on business”; it does not purport to determine the circumstances in which a ‘cause of action’ arises for the purposes of section 20(c) of the CPC.

38. It is pertinent to note here that the above decisions of this court in *Banyan Tree* and *World Wrestling Entertainment* pre-date the decision of the Supreme Court in *Sanjay Dalia*.
39. A subsequent Division Bench of this court in *Ultra Home Construction* applies *Sanjay Dalia* and systematises the approach, by setting-out four distinct corporate-office scenarios.¹⁵
40. *Burger King* proceeds from the proposition that sections 134 and 62 are “in addition to and not in exclusion of” section 20 CPC. It states that if a plaintiff establishes a cause of action within the forum under section 20, there is no need to invoke section 134.¹⁶ This judgment treats “use” in the course of trade as the cause of action in trademark infringement and passing off; and says that “use in relation to goods” includes advertising, promotion and publicity. On that footing, *each place* where there is such use gives rise to a cause of action under section 20(c).
41. *Burger King* emphasises the plurality of places where “use” occurs, whereas *Sanjay Dalia* and *Ultra Home Construction* lay down that once

¹⁴ Delhi High Court, Division Bench, paras 20 and 21

¹⁵ Delhi High Court, Division Bench, paras 14 and 15

¹⁶ Delhi High Court, Division Bench, paras 16 to 21



a part of the cause of action arises at its principal office, a corporation must only sue there. Put differently, *Burger King* supports multiple section 20(c) fora based on territorial instances of use of a trade mark; whereas *Sanjay Dalia* limits the choice of forum in a case where the plaintiff's principal-office forum is also the cause-of-action forum.

42. There is a practical conflict between *Banyan Tree* and the broad statement in *Burger King* that cause of action arises in “each and every place” where there is a form of trade mark use, including advertising and publicity. In *Banyan Tree* the court has taken the view that unless “use” is qualified by purposeful targeting, that formulation may allow jurisdiction wherever online promotional material is accessible.
43. *Kohinoor Seed Fields* distinguishes “cause of action” under section 20(c) from “carrying on business” under section 134(2), but applies an expansive e-commerce understanding to the latter. The judgment has held that a web-site enabling commercial transactions can mean that an entity *carries on business* wherever users could conclude those transactions; and actual completion of a transaction was “*no longer indispensable, after World Wrestling Entertainment*”. It further states that this reasoning may apply symmetrically to a defendant as it applies to a plaintiff under section 20(a). An interactive web-site through which a transaction *can be* concluded would permit the filing of a suit in whichever place that can occur.¹⁷

¹⁷ Delhi High Court, Division Bench, para 19



44. The conflict between *Banyan Tree* and *Kohinoor Seed Fields* lies in the threshold: while *Banyan Tree* requires *purposeful availment* and *specific targeting* before an internet-based activity can establish jurisdiction under section 20(c), *Kohinoor Seed Fields* treats the capability to conclude a transaction as sufficient to establish “carrying on business” in every accessible marketplace.
45. *Kohinoor Seed Fields* draws upon *World Wrestling Entertainment*, although *Kohinoor Seed Fields* expressly says that *World Wrestling Entertainment* is not an authority on “cause of action” in section 20(c) but only on “carrying on business” in relation to a plaintiff. *World Wrestling Entertainment* treats an interactive e-commerce web-site through which transactions can be concluded as equivalent to a plaintiff having a brick-and-mortar marketplace at the place of access. If online transactional capability means that a plaintiff carries on *business in every accessible territory*, then section 134(2) could potentially make numerous courts available to a plaintiff with nationwide e-commerce presence.
46. In this context, it is pertinent to note that, on the question of a plaintiff’s right to institute a suit at the place of its subordinate office, this court in *Kohinoor Seed Fields*, while observing that it was not necessary to delve into *Ultra Home Construction* for the purposes of the case before it, expressed reservations regarding the correctness of the proposition laid-down in that judgment. The Division Bench observed that, where the plaintiff has its principal office at one place and a subordinate office at



another, requiring the plaintiff to sue at the latter because the cause of action has arisen there would, in its view, amount to “*re-writing Section 134 of the Trade Marks Act*”.

47. Whether the restrictive position laid down in *Sanjay Dalia* would still confine the plaintiff to the principal-office location *when* a part of the cause of action arises there; or whether the broader interpretation would open-up the statutory options under section 134(2) across multiple online marketplaces, appears to be an unresolved issue.
48. *Nilesh Girkar* has held that communication of a film to the public on an OTT platform throughout India, including Delhi, means that part of the cause of action has also arisen in Delhi under section 20(c). This approach appears to treat nation-wide digital availability of content as sufficient to generate a part cause of action *within every territory* where the content is available.¹⁸
49. The conflict between *Nilesh Girkar* and *Banyan Tree* is direct: whereas *Banyan Tree* rejects jurisdiction based merely on online accessibility and requires *targeted activity* plus a *forum-specific injurious effect*, the proposition attributed to *Nilesh Girkar* treats nation-wide communication and local availability as sufficient under section 20(c).
50. *Astral Limited* has held that where part of the cause of action arises at *both* the principal-office location and the subordinate-office location, courts at both places would have jurisdiction.¹⁹ This approach appears to

¹⁸ Delhi High Court, Division Bench, paras 33 to 35

¹⁹ Delhi High Court, Single Bench, paras 21, 27 to 30



preserve concurrent jurisdiction where the cause of action arises in part at both locations, treating the subordinate office also as a place where the plaintiff carries on business for purposes of territorial jurisdiction. This conflicts with the reading of *Sanjay Dalia* since *Sanjay Dalia* holds that once part cause of action arises where the principal office is situate, the corporation must sue there “and nowhere else.” But *Astral Limited* appears to allow a corporation to sue in the subordinate-office forum in the same factual setting.

51. Other judgments which also deal with the conflicting issues as cited before this court are *Rukhmani Keshwani*,²⁰ *Adyar Gate Hotels*,²¹ and *Travellers Exchange Corporation*.²²
52. It is extremely important to point-out that, by reason of the advent of the internet and the accessibility of goods at any remote location *via* the world-wide-web, the principles of law in relation to territorial jurisdiction of courts cannot be so diluted or be made so vague that a corporation could sue in just about any location within the country (without any reference to where the cause of action may have arisen, whether in whole or in part). *That would throw the very concept of territorial jurisdiction of courts to the winds.*
53. In view of the various decisions bearing on the question of territorial jurisdiction in suits of this nature, and in particular, having regard to the

²⁰ Delhi High Court, Division Bench, paras 48, 54 to 58

²¹ Delhi High Court, Division Bench, paras 115 to 118

²² Delhi High Court, Division Bench, paras 13 to 16



position enunciated by the Supreme Court in *Sanjay Dalia*, and the approaches subsequently adopted by the Division Benches of this court *inter-alia* in *Ultra Home Construction* and *Kohinoor Seed Fields*, this court is of the view that the question would appropriately merit consideration by a Larger Bench. This court has, in the preceding paragraphs, endeavoured to examine the principal lines of authority and the points at which they appear to diverge. In the interests of certainty and consistency in the law, this court considers it appropriate to refer the following questions for the consideration and determination by a Larger Bench:

- 53.1. Whether IP suits are governed solely by section 20 CPC; by section 134 of the Trade Marks Act; or section 62 of the Copyright Act, or by an interplay of all those provisions and if so, how.
- 53.2. Whether a corporate plaintiff must sue *only* where its principal or registered office is situate when *a part of* the cause of action has arisen there.
- 53.3. What jurisdictional rule should govern online transactions in IP disputes in light of the conflicting approaches taken in *Banyan Tree*, *World Wrestling Entertainment* and *Kohinoor Seed Fields*.
54. Considering the fact that the issue of territorial jurisdiction as articulated above arises on a *day-to-day basis* before this court, the issue may be addressed at the earliest convenience.



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55. In view of the above, the Registry is directed to place this judgment before Hon'ble the Chief Justice for his consideration, for placing the matter before a bench of appropriate strength.
56. Let the needful be done within 01 week.

A. J. BHAMBHANI, J

AUGUST 25, 2026
HMJ