

* **IN THE HIGH COURT OF DELHI**

Date of Reserve: January 30, 2009

Date of Order: February 09, 2009

+ CS(OS) No.103/2009

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09.02.2009

RENAISSANCE HOTEL HOLDINGS, INC. ...Plaintiff

Through: Mr. Pravin Anand, Adv.

Versus

B. VIHAYA SAI & ANR.

...Defendants

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporter or not? Yes.
3. Whether judgment should be reported in Digest? Yes.

JUDGMENT

1. The plaintiff, hospitality company incorporated and situated in USA has filed a suit against the two defendants namely defendant no.1 and defendant no.2. Defendant no. 2 is a hotel and defendant no.1 is stated to be Managing Director of the hotel and both of them are residents/situated at Bangalore. This suit has been filed by the plaintiff seeking permanent injunction against defendants and their Directors, Agents, etc. restraining them from using trade mark "SAI RENAISSANCE" or any other trade mark incorporating word "Renaissance" or deceptively

similar to the trade mark of the plaintiff either for their hotels or for the hotel related articles and restraining the defendants from using the trade mark on the Internet as a domain name www.sairenaissance.com. A prayer is also made for giving directions for destruction of printed materials or other materials containing trade mark similar to “RENAISSANCE” and for damages of Rs.25 lakh.

2. The plaintiff's Counsel was asked to argue on the issue of territorial jurisdiction of this Court in filing this suit at Delhi while the defendant's hotel is in Bangalore. The plaintiff has invoked jurisdiction of Delhi Court under provisions of Section 20(c) of CPC stating that a part of cause of action arose within the territorial limit of this Court since a travel agent in Delhi viz. Prakriti Inbound Pvt. Ltd., had done reservation of a room of defendant's hotel at Bangalore, and also on the ground that the defendants were targeting customers in Delhi, not only through travel agent but also on-line and off-line. It is further stated that this Court had territorial jurisdiction to entertain and try the present suit under provisions of Section 134(2) of Trade Mark Act as the plaintiff was carrying on business at Delhi through on-line operation by accepting bookings for its Renaissance chain of hotels for its Delhi based customers.

3. I consider that on the basis of on-line booking from Delhi of a hotel room situated in USA or situated in Bangalore, the jurisdiction of this Court cannot be invoked. With the vast spread of Internet and e-business, booking of a hotel room can be done from any corner of the world. Merely because a person can get hotel room booked from any corner of the world, would not mean that the hotel or the company running hotel was having place of business at the place of booking through Internet. Similarly, booking of hotel rooms by hospitality or Travel Agents spread over throughout the world would not give rise to the presumption that the Hotel's business was being done at the place of such agent. The place of business and place of work has to be understood not looking at the booking through e-mails but where the actual physical business of hospitality is being done. If the hotel rooms are available only in Bangalore and can be occupied and used in Bangalore the place of business of hotel has to be in Bangalore. The place of business cannot be in Delhi or at any other place.

4. A perusal of plaint filed by the plaintiff shows that the defendant no.2, hotel was situated near Shri Satya Sai Baba Shrine and was being used by the foreign and domestic visitors visiting the headquarters of Shri Satya Sai Baba.

5. It is plaintiff's own case that in a similar matter where another hotel in the name of THE RENAISSANCE COCHIN was situated in Kochi in the State of Kerala, plaintiff filed a similar suit against that hotel before the District Court at Ernakulam within whose jurisdiction the hotel was situated and obtained the relief. In the present case, the plaintiff instead of filing suit in the Court at Bangalore has preferred to file the suit in Delhi on the ground of availability of bookings of this hotel rooms in Delhi through an agent.

6. I consider that no part of cause of action has taken place in Delhi sufficient to invoke the jurisdiction of this Court. This Court has no territorial jurisdiction to entertain this suit. The plaint is directed to be returned to plaintiff to enable it to present before the Court of proper jurisdiction.

February 09, 2009
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SHIV NARAYAN DHINGRA J.