

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

FAO 29/2023

TRANS ASIAN INDUSTRIES EXPOSITION
PRIVATE LIMITED AND ORS. ...Appellant(s)/Petitioner(s)
Through: Mr. Shakir Haqani, Advocate

Vs.

M/S G. S. BERAR AND COMPANY
PRIVATE LIMITED AND ORS. ...Respondent(s)
Through: Mr. Ibrahim Mehraj, Advocate

CORAM:

HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL-JUDGE

ORDER
07.05.2025

1. This appeal is directed against the order dated 31.08.2023 passed by the Trial court, viz. 3rd Additional District Judge, Srinagar, in an application under Order VII Rule 11 CPC, filed by the defendants, respondents herein, seeking rejection of plaint of plaintiffs, petitioners herein, titled as *Trans Asian Industries Exposition Private Limited and others vs. M/s G. S. Berar and Company Private Limited and others* and for setting-aside the same.
2. The grounds on which the rejection of the plaint was sought for in the application before the Trial Court was that it had no jurisdiction because cause of action took place in Delhi and the respondents were also residing at Delhi, so the question that arose before the Trial Court was whether the suit was liable to be rejected on the ground of the court lacking the jurisdiction to entertain the suit.
3. The Trial court has passed the following order in the application:

1. Within the ambit of his order, an application moved by the defendant under O 7 rule 11 CPC for rejection of plaint mainly on ground that this court has no territorial jurisdiction, nor cause of action in Srinagar will stand disposed of.
2. Rejection of plaint under Order 7 Rule 11 CPC is sought on the ground that:-
 - i. The present suit for Damages, by way of recompense for tort of libel and slander is an abuse of the process of law and has been instituted in order to harass the Defendant No. 1 Company, Ms. Soni Dave (Defendant No. 2) and Mr. Aditya Dave (Defendant No. 3) who are both senior citizens and Directors of the Defendant No. 1 Company. Plaintiff No. 2 and 3 have since long been residents of Delhi and at the relevant time used to operate from their offices at M-1, Hauz Khas, New Delhi. Plaintiff No. 1 calls its Delhi office its “corporate office” (s stated at Pg. 294 in SLP (c) no. 16696-16697 of 2021, annexed hereto as Annexure-A1) and has been operating solely in Delhi since the year 2016. None of the Defendants has any place of residence or work in Srinagar, Jammu and Kashmir, and none of them has had any business dealings in Srinagar, Jammu and Kashmir. It is also noted that even in the plaint there is no allegation to this effect. The Plaintiffs have been engaged in Litigation with the Defendants since the year 2008. Defendants 1 and 2 had initially filed two Civil suits numbered CS (OS) 2330-2331 of 2008 before the Hon’ble High court of Delhi (now transferred and renumbered as CS DJ No. 9346/2016 and 9347/2016 before the District Court at Saket, New Delhi). In the year 2016, an interim decree was passed in favour of the Defendants vide RFA (OS) 105-106 of 2015 [arising out of CS (OS) 2330-2331 of 2008]. Despite the clear directions of the Division Bench of the Hon’ble Delhi High Court in RFA (OS) 105-106 of 2015 that “all outstanding amounts shall be cleared before 31 July, 2016”, the Plaintiff did not pay the amounts so ordered. Hence, the Defendants were compelled to file Execution Petition Nos. 3081 & 3082 of 2016 before the Court of the Ld. ADJ at Saket Courts, New Delhi. The said matters are still pending since the year 2016 due to the dilatory tactics employed by the Plaintiffs. CS DJ No. 9346-9347 of 2016 before the Saket court also remains pending. Furthermore, two more suits (CS DJ 113/2017 and CS DJ 538 of 2017) have also been instituted between the parties. Despite several orders of the Executing court at Saket, the Defendants have not paid the sums as ordered. Aggrieved thereby, the Defendants filed CM(M) No. 160/2022 before the Hon’ble Delhi High Court and prayed for compliance of the Orders of the Executing Court. Vide order dated 18.02.2022 in CM(M) No. 160/2022, the Hon’ble High Court of Delhi ordered the Plaintiffs inter alia to file their complete profit and loss accounts and balance sheets and asked Mr. Mohd Hanif Mir and Mr. Mohd Yaseen Mir (Plaintiffs No. 2 & 3) to be personally present in Court. However, Mr. Mohd Yaseen Mir did not comply with the Orders of the Court dated 18.02.2022 whereupon, vide Order dated 15.03.2022, he was again directed to appear before the Hon’ble Court in person on 20.04.2022. Hence, on 18.04.2022, the Defendants tendered some payment as ordered by the Executing Court but has post-dated some of the cheques to more than a month later. It is evident that it was because the Defendants were continuing to pursue their cases against the plaintiffs herein for the recovery of very substantial dues. To harass the Defendants, this suit has been filed. It is evident that the Plaintiffs hope to thereby pressurize the Defendants into giving up their Claims. Even the timing of filing of the present suit shows that the suit was filed on the very next date after Order dated 15-03-2022 was passed. In fact, the whole purpose is to drag the Defendants to a far-away place so that they cannot effectively defend themselves.
 - ii. It is further contended the Hon'ble High Court of Delhi at New Delhi [in para 18 of the reply dated 14.03.2022 in Civil Misc. (Main) No. 160 of

2022] the Plaintiffs have themselves averred that since the year 2016 they have not conducted any business in Kashmir and have been operating solely from Delhi. The said reply is supported by the Affidavit of Mr. Mohd. Hanif Mir (Plaintiff No. 3) who is also the Director of the Plaintiff No. 1 company. Thus, it is not comprehensible how, if they had no sales operation, the plaintiffs could have suffered any damage to their reputation in Kashmir, and for which they are claiming damages. Thus, as per the Plaintiffs own admissions in the Plaint (Para 9 and 16), all the events occurred in Delhi. Thus, the alleged cause of action arose entirely in Delhi. Territorial jurisdiction must be specifically pleaded, and it must be shown how the Hon'ble Court has jurisdiction to try the suit before summons can be issued to the party.

iii. Thus, a suit may be instituted at the option of the plaintiff at:-

- a. The Court where the wrong was done, or
- b. Where the Defendant resides, carries on business or personally works for gain.

Therefore, the Plaintiffs could sue at the place where the alleged wrong was done, i.e., Delhi, since the allegations were allegedly made in pleadings made before the Hon'ble Court of Ms. Pooja Talwar, ADJ-01, Saket Courts, New Delhi. The Plaintiffs have further alleged that the slanderous statements were made in their office at M-1, Hauz Khas, New Delhi. Hence, on this alleged cause of action also the Plaintiffs could sue only in Delhi. Finally, the Defendants reside and carry-on business, and personally work for gain only in Delhi. Therefore, as per Section 19 of the Code of Civil Procedure, 1908 the Plaintiff could only sue at Delhi and nowhere else.

iv. Insofar as the libelous statements in pleadings before courts are concerned, it is submitted that filing a suit for defamation in respect of the same is barred by law since the same is covered by absolute privilege. However, it is noted that the Plaint does not even mention the date when the alleged slanderous statement was made, the time, and does not even mention the name of any person in whose presence such statements were made. Obviously, the entire allegation is a concoction.

v. It is also noteworthy that the Plaintiffs do not even mention how any insult or damage was suffered by the Plaintiffs in Kashmir. Thus, no clear cause of action to sue has been disclosed. Hence, the present suit is barred since the cause of action has not been clearly disclosed and no right to sue can accrue from vague allegations as made by the Plaintiffs. It is lastly prayed that this Court may be pleased to Reject the present plaint for lack of territorial jurisdiction, being barred in law and impose heavy costs on the plaintiff in favour of the Defendants for filing the present suit and abusing the process of court.

3. The plaintiff/non-applicant has not submitted objections to the application, but has put forwarded his argument.
4. During course of arguments, Id. Counsel for defendant/applicant reiterated the ground taken in application and has mainly contended that the damages are sought for the to recompense for tort of libel and slander which is alleged to taken place in Delhi and defendants also admittedly resides in Delhi and also carries out the business in Delhi. So admittedly the cause of action has taken place in Delhi and defendant resides in Delhi. So the court in Delhi has territorial Jurisdiction to try the suit and this suit is not triable before this court. He has contended that section 19 CPC is to be adhered to and therefore, this court has no jurisdiction to try the suit Id. counsel has relied on **Escorts Limited Vs. Tejpal Singh Sisodia 2019 SCC online Del 7607 the Hon'ble Delhi High Court**.
5. Per contra Id. counsel for the plaintiff/non-applicant has contended that the head office of the plaintiff is situated at Nishat Srinagar Kashmir which is apparent from certification of incorporation issued by Registrar of Companies J&K dt. 29-08-1988. Even the resolution dt. 14-05-2019 relied

by the plaintiff himself wherein the manager Arjamand Andrabi has been authorized by the plaintiff to institute the suit, was also passed in meeting of board of directors of the plaintiff in Nishat Srinagar. It is further contended that in para 14 & 15 of plaint it is specifically mentioned that by way of averments in the pleadings before the court of Delhi, have very far reaching consequences and ramification with reference to the market, Goodwill and reputation, both locally i.e. the principle places of business J&K in India and outside India which has subjected the plaintiff for embarrassment, ridicule and serious prejudice causing loss and reputation and respect. So the wrong done to plaintiff in person has ramification in Srinagar also so this court has jurisdiction to try the suit.

6. Heard both the sides and perused the record of the file minutely.
7. To begin with it is beaten law, that the averments in the plaint alone are to be considered while considering an application under order 7 rule 11 CPC. No other extraneous factor can be taken into consideration. In Apex Court Judgment on the point Hon'ble Judge Dr. Justice Dhananjaya Y. Chandrachud in **Srihari Hanumandas Totala Vs. Hemant Vithal Kamat and Ors** in civil appeal No. 4665 2021. Arising out of SLP (C) No. 3899 of 2021 in Para 9 and 16 has held as under:-

"9. A perusal of Order 7 Rule 11 CPC makes it clear that the relevant facts which need to be looked into for deciding an application there under are the averments in the plaint. The trial court can exercise the power under Order 7 Rule 11 CPC at any stage of the suit-before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under clauses (a) and (d) of Rule 11 of Order 7 CPC, the averments in the plaint are germane; the pleas taken by the defendant in the written statement would be wholly Irrelevant at that stage, therefore, a direction to file the written statement without deciding the application under Order 7 Rule 11 CPC cannot but be procedural irregularity touching the exercise of jurisdiction by the arial court"

It is clear that in order to consider Order 7 Rule 11. the court has to look into the averments in the plaint and the same can be exercised by the trial court at any stage of the suit. It is also clear that the averments in the written statement are immaterial and it is the duty of the Courts to scrutinize the averments/pleas in the plaint. In other words, what needs to be looked into in deciding such an application are the averments in the plaint. At that stage, the pleas taken by the defendant in the written statement are wholly irrelevant and the matter is to be decided only on the plaint averments. These principles have been reiterated in Raptakos Brett & Co. Lal Ganesh Property [(1998) 7 SCC 184] and Mayar (HK) Ltd v. Vessel M.V. Fortune Express (2006) 3 SCC 100]."

"16. Order 7 Rule (d) of CPC provides that the plaint shall be rejected "where the suit appears from the statement in the plaint to be barred by any law. Hence, so onder to decide whether the suit is barred by any law, it is the statement in the plaint which will have to be comersed. The Court while deciding such an application must have due regard only to the statements in the plaint. Whether the suit is barred by any law must be determined from the statements in the plaint and it is not open to decide die issue on the basis of any other material including the written statement in the case".

8. Before proceeding further to lay down the matrix of the plaint. The brief averments of the plaint is that the plaintiff No. 1 is a private Ltd. Company, having been incorporated way in the year 1998 under and in terms of Indian Companies Act and has its registered office located at Nishat, Srinagar-Kashmir. The company has authorized its manager namely Arjamand Andrabi to institute this suit vide resolution dated 14-05-2019. The plaintiff No.1 private Limited Company has been promoted by the plaintiffs 2 and 3, who together being the Directors of the Company, together constitute the Board of Directors of plaintiff No.1, and are the permanent residents of Srinagar- J&K, have as well been residing at their different places of

business both throughout India as also outside. The principal place of business at Nishat Srinagar, the plaintiff No. 1 operating under the control of plaintiffs 2 and 3, has its branches, business stores/retail outlets at various internationally acclaimed tourist destinations both within and outside the country. The plaintiffs 2 and 3 being the descendants of a business family engaged in manufacturer and marketing of Kashmir Art and Craft products in the nature of culture goods, oriental carpets and ethnic handicrafts of exquisite quality for the last more than two hundred years, coupled with impeccable business credentials, they have acquired high degree of goodwill and business/trading reputation, both within the business community and public in general, throughout the country and outside. As a matter of fact, the reputation of the plaintiffs in the field has become synonymous with the manufacture, sale and quality of Kashmir Art and Craft products. Enabling the plaintiff company to main Ltd. very high financial echelons and a turn-over of around rupees two hundred crores for the last three years, with a employment strength of about two thousand employees, serving at different stations both in India and abroad. The plaintiffs 2 and 3 by virtue of their honest and truthful devotion and dedication towards the business have not only secured outstanding professional succession the business on their own merit but have as well attained and do enjoy excellent and immaculate reputation in the society, their business competitors business associates, friends relations and acquaintance. The plaintiff company had in past taken on lease certain properties of the defendant No.1 at M-1, Haus Khas, New Delhi which included a basement floor and a portion of the ground floor behind the front flat and front portion of the ground floor of the said properties. Unfortunately, certain disputes between the plaintiffs and the defendants herein, have culminated into a litigation by way of the legal actions instituted by both sides against each other before competent courts of law at New Delhi. Instead of contesting the litigations on their own merit before the respective courts at New Delhi, the defendants in connivance with each other have chosen to conduct and continue a campaign of vilification against the plaintiffs and thereby subject them to deliberate and willful defamatory attacks on false and unfounded imputations and premises, touching not only the persons of the plaintiffs 2 and 3 but also the trading activities and dealings of the plaintiffs. The plaintiffs submit that the aforesaid false and frivolous as also malicious and defamatory campaign charged by the defendants has been made by way of categorical statements made by them in terms of the pleadings before the concerned courts and on, public record. The same has been done by the defendants in the form of statements made in the inter-se pending litigations at Delhi, namely Suit titled "M/s G.S. Berar & Co Pvt Ltd and another Vs M/s Trans Asain Industries Exposition Pvt. Ltd (Suit No. 9347/16) ie. 2331/2008 (old)". Suit titled "Soni Dave Vs. M/s Trans Asain Industries Exposition Pvt. Ltd (Suit No. 9346/2016 i.e. 2330/2008 (old))" Civil suit titled "M/s Trans Asain Industries Exposition Pvt. Ltd vs Aditya Dave and others (CSDJ 113/2017) Aditya Dave & Others Vs. M/s Trans Asain Industries Exposition Pvt. Ltd (CS No. 538 of 2017)", filed before District Court in Delhi and Hon'ble High Court of Delhi. Such statements besides being false, unfounded and baseless were and are absolutely irrelevant and un-connected with the controversy touching the above litigation, thereby having very strong potential to injure the reputation and goodwill of the plaintiffs in the society. This is because the inter-se dispute between the plaintiffs and their rivals in the suit bearing CS(OS) No. 154/2009 had long time back been amicably settled, rendering all previous proceedings including ex-parte orders of the court as infructuous and without any effect. As a matter of fact, the statements made were and are tainted with an ulterior design on the part of the defendants to defame the plaintiffs in the estimation of their acquaintance in the business or otherwise, both within India and outside. Similar statements were repeated by the defendants in their pleadings in Civil Suit No. 538/2017

titled "Aditya Dave & Others Vs. M/s Trans Asian Industries Exposition (JANDK) Pvt. Ltd & Others". That, the plaintiffs submit that the above statements of fact made by the defendants qua their written pleadings, being false and unfounded and contrary to the records have been made with an intent and tendency to incite an adverse opinion and feeling in the entire business circle and amongst the business associates of the plaintiffs. The said statements obviously have very far-reaching consequences and ramifications with reference to the plaintiffs' market goodwill and reputation, both locally at their principal place of business as also outside the UT of J&K In India and outside India. It is pertinent to state that besides the false imputations and defamatory statements made by the defendants in writing, they have as well been spreading the alleged ill reputation of the plaintiffs publically and consequently the plaintiffs have been contacted and questioned by their associates in business and employees both at Delhi and Jammu & Kashmir, which has as well subjected the plaintiff to embarrassment, ridicule and serious prejudice, causing loss of reputation and respect. It is specifically stated that many business associates in the valley have stopped dealing with the plaintiffs because of defamatory acts and statements of the defendants. In the month of January, 2021, the Defendant No.2 and 3 (husband and wife) out of their own wish and will approached the plaintiff No.3 at his office at M-1,, Hauz Khas, New Delhi in order to discuss regarding the pending litigations and for reaching the amicable settlement since the terms were not reached between the plaintiffs and the Defendant No.2 and 3, the said defendants started shouting and abusing the plaintiff No.3 in his office in front of his staff and clients who were present during the Defendant No. 2 and 3 visit and made slanderous allegations against the plaintiffs. Such statements made are defamatory in nature and are not only untrue but the same have caused insult and damage to the reputation of the plaintiffs not only in Delhi but also in Kashmir. The plaintiffs are entitled in law to claim recompense both for the injury caused by the Defendant's Tortuous act of Libel to their reputation, pride and esteem and for the grief and distress felt and suffered by the Plaintiffs 2 and 3 on learning about the disparaging imputations made by the defendants exhibiting the Plaintiffs, their business, Business Affairs/activities and conduct thereof in a ridiculous light. The Defendant is liable in law to compensate the Plaintiffs for the harm injury caused by the tort of libel and slander committed by the Defendants quantified at Rs.50,00,00, 000/- (Rupees Fifty Crores only) being the fair estimate of compensation which the Defendants should be made liable to pay to the Plaintiffs. The Plaintiffs further submit that since the Defendants has failed to comply with the terms of the legal notice dated 20-02-2021, therefore, the present suit for damages by way of recompense for tort of libel and slander committed by the Defendants against the plaintiff. The cause of action accrued/arose to the plaintiffs on 16-1-2014, 17-10-2016, 28-4-2017, 13-5-2017, 11-9-2018 when the imputations in the pleadings were made and filed on public record in the pending litigations in competent court in New Delhi was made. The cause of action further arose as despite making the imputation of the plaintiffs publically for which plaintiffs has been contacted and questioned by several of its vendors, staff in Delhi and Jammu & Kashmir recently in the month of February, 2021 and the plaintiffs are subjected to contempt and ridicule and has suffered immense prejudice and loss of good will, reputation, standing and goodwill in the industry. Many vendors in Kashmir have stopped dealing with the plaintiffs because of the defamatory acts of the defendants. The cause of action further arose in the month of January, 2021 when, the Defendant No.2 and 3 (husband and wife) out of their own wish and will approached the Plaintiff No.3 at his office at M-1, Hauz Khas, New Delhi in order to discuss regarding the pending litigations and for reaching the amicable settlement since the terms were not reached between the plaintiffs and the defendant No.2 and 3, and made slanderous allegations against the plaintiffs. Such statements made by the Defendants 2 and 3 are

defamatory in nature and are not only untrue but the same has caused insult and damage to the reputation of the Plaintiffs not only in Delhi but also in Kashmir. The cause of action further arose when the plaintiffs sent a legal notice dated 20-2-2021, by way of speed post, courier and email to the defendants and the defendants failed to comply with the terms of legal notice dated 20-2-2021 and gave a false and frivolous reply dated 27-2-2021 and the cause of action is recurring. Hence the suit is within time. Lastly decree, for payment of Rs.50.00 crores (Rupees Fifty Crores only) as compensation for the publication of libel and slander be passed in favour of the plaintiffs and against the defendants.

The provisions of law which is attracted herein is enshrined under order 7 rule 11 CPC which reads as under:

11. Rejection of plaint-The plaint shall be rejected in the following cases:-

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;
- (c) where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;
- (d) where the suit appears from the statement in the plaint to be barred by any law;
- (e) where it is not filed in duplicate;
- (f) where the plaintiff fails to comply with the provisions of Rule 9];

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-papers shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-papers, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff".

As has been held in the judgments, including. Expfar SA and Ors. Vs Eupharma Laboratories Ltd. and Ors. (2004) 3 SCC 688. Saleem Bhai and Ors, Vs State of Maharashtra and Ors. (2003) 1 SCC 557. LT Foods Limited v. Heritage Foods (India) Limited. 2014 SCC OnLine Del 2918, Indovax Pvt. Ltd. v. Merck Animal Health, 2017 SCC OnLine Del 9393, G.D. Foods MFG (India) Pvt. Ltd. v. Zihawa Foods Pvt. Ltd., 2017 SCC On Line Del 8372 etc., averments made in the plaint are to be taken on demurrer and the merits of the case and the defence available to the defendant are irrelevant to decide the question, whether or not to reject the plaint.

While considering the plaint, it transpires that indulgence of this court is sought for filing this suit for damages by way of recompense for tort of libel and slander by way of a decree for payment of Rs. 50 Crore as compensation for the publication of libel and slander. The plaintiffs case is that the defamation by way of false and frivolous statement made by defendant in terms of pleading before the Courts and on public record in New Delhi in different litigation between the parties, has caused loss or goodwill, reputation of plaintiffs firm. So apparently the publication as per plaintiff is been done in the pleadings before the court in Delhi against the plaintiff which has potential to reach every nook and corner of the business world touching the plaintiffs reputation and also subjecting them to agonize the state of loss in reputation and prestige in the eyes of clients in the customs and thereby affecting their goodwill and reputation in the business society. It is therefore, an admitted case of plaintiff that the pleadings before the court in New Delhi has caused defamation to its name. So admittedly, (i) publication of the defamatory material has taken place in New Delhi as such the cause of action has taken place in New Delhi, (ii) it is also an

admitted case of plaintiff that the defendant no. 2 and 3 reside in New Delhi and the defendant No. 1 is a registered company, is having its registered office at 39 Subashmark New Delhi. Therefore, apparently the defendants reside and carries on the business in New Delhi.

In such a situation where wrong to a person is alleged for which compensation is sought for damages the place of suing is covered u/s 19 of CPC which lays down:

“ 19. **Suits for compensation for wrongs to person or movables:** Where a suit is for compensation for wrong done to the person or to movable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the suit may be instituted at the option of the plaintiff in either of the said Courts.”

Now the question of consideration is “whether this court has a territorial jurisdiction to try the suit on the ground of ramification is Srinagar of the defamatory statements alleged to have been done by the defendant, in the pleadings before the courts in Delhi, or whether it gives territorial jurisdiction to this court to try this suit?”

Defamation has two main ingredients: first, there should be a statement injurious to a person’s reputation; and second, that statement should be communicated to a person other than the plaintiff.² This second requirement is commonly referred to as “Publication” **and is a sine quo non of defamation.** The exercise of territorial jurisdiction in personal actions against the defendant is covered by Sections 195 and 206 of the Civil Procedure Code, 1908 (CPC). Section 19 has three ingredients: firstly, it applies where “wrong” was done to a person or movable property; secondly, it applies only when the place where “wrong” was done is different from the place where defendant is domiciled; and thirdly, where the second ingredient is satisfied, the plaintiff has the option to sue the defendant either at the place of the latter’s domicile or where the “wrong was done”. Since defamation is personal wrong, suit for defamation will be covered by Section 19. The “wrong” referred to in Section 19 is the “Publication” of the defamatory statement, because “Publication” gives rise to a cause of action. Therefore, plaintiff will have the option to institute a suit for defamation either where the defendant is domiciled (irrespective of the place of "publication") or at each such place where the "publication is made

It is apparent that the publication is only by way of pleadings filed before the concerned court in Saket, New Delhi and before Hon'ble High Court of Delhi. It is not the case of the plaintiff that it is been circulated or have been published in any manner within the jurisdiction of this court i.e. in Srinagar. Section 19 CPC as mentioned above enshrines only two places for filing the suits for wrong to a person (1) where the cause of action is accrued and (2) where defendants reside. Admittedly the cause of action and defendant's No. 2 and 3 residence and registered office of defendant No. 1 is situated in New Delhi.

The point raised by the ld. counsel for plaintiff that the plaintiff which is a registered company has its registered office in Srinagar, has an impact of loss of reputation in Srinagar also, if considered, also, is not tenable in the eyes of law.

- i. Firstly the residence of plaintiff which is the company in the instant case i.e. legal personality having its registered office at Srinagar, will not have any effect for determining the place of suing. As the place of residence or carrying of the business, of plaintiff is not, enshrined under section 19 of CPC as for the case of compensation for wrong done to a person or movable property.

- ii. Secondly the publication as such is not been done or circulated anywhere within the jurisdiction of this court in Srinagar. As far as the impact of the alleged defamatory statements in Srinagar is concerned, will not give it a territorial jurisdiction for filing the suit in Srinagar Reliance can be made in **Escorts Limited vs. Tejpal singh Sisodia 2019 SCC online Del 7607 the Hon'ble Delhi High Court** wherein it is held that if the wrong takes place in the jurisdiction where defendant resides, i.e. place of cause of action and place of residence of defendants is one place then the plaintiff has no option but to prefer suit where the defendant resides. The relevant paragraph of the judgment is being reproduced hereunder:-

46. There is another aspect. Section 19 vests a plaintiff in a suit for compensation for defamation within an option to sue in either of the Courts i.e. where the wrong is done or where the defendant resides/carries on business, only when the two are different. This is clear from use of the words "... if the wrong was done within the local limits of jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of jurisdiction of another Court....". However this option would not be available to a plaintiff, wrong to whom by defamation is done within the jurisdiction of same Court within whose jurisdiction the defendant resides. It will not be open to such a plaintiff to contend that wrong has been done to him/it, also within the jurisdiction of another Court. I repeat, Section 19 vested option only in plaintiff for a situation where no wrong is done where defendant resides. If wrong is done where defendant resides, there is no option but to sue where defendant resides.

22. Attention of the counsel for the plaintiff has also been drawn to Mahadev I Trade v. Frankinn Aviation Services Pvt. Ltd. (2017) 242 DLT 273 (SLP(C) No. 28925/2017 preferred where against was dismissed in limine on 10 November, 2017). Frankinn Aviation Service Pvt. Ltd., in that case had instituted the suit in the Courts at Delhi, for recovery of damages for defamation. One of the defendants impleaded was the Assistant Police Inspector in Maharashtra Police who was the investigating Officer of the FIR lodged in that case by the other defendants against Frankinn. The said police official applied for deletion of his name from the suit. It was observed that the act of plaintiff Frankinn Aviation Services Pvt. Ltd. Of dragging the defendants who were resident of Pune to Delhi for contesting the suit for damages for defamation was abuse of the process of the Court. More so, since the plaintiff also had an institute at Pune and was carrying on business at Pune and could very well have instituted the suit at Pune."

17. The plaintiff has paid the reliance of the Hon'ble Supreme Court of India in 2022 Live Law (SC) 280 Civil appeal No. 1848 of 2022 titled Sri Biswanath Banik & anr. Vs. Smt. Sulanga Bose & ors. Hon'ble High Court of Gauhati 1990 Legal Eagle (GAU) 61 titled as State of Meghalaya and others Vs. Jyotsna Das. Hon'ble Supreme Court of India in 2022 Live Law (SC) 703 titled H. S. Deekshit and anr. Vs. M/S Ropoli Overseas Limited and Ors., Hon'ble High Court of Bombay 1974 Legal Eagle (BOM) 269 title as State of Maharashtra Vs. Sarvodya Industries and Hon'ble High Court of Calcutta 1958 Legal Eagle (CAL) 119 titled as Jaharlal Pagalia Vs. Union of India.

In Civil Appeal No. /2022 @ Petition for Special Leave to appeal (C) No. 2177/2022) titled H. S. Deekshit and anr Vs. M/s Met Ropli overseas Limited and ors and also Civil Appeal No. 1848 of 2022 March 14th 2022

titled Sri Biswanath Banik and anr Vs. Smt. Sulanga Bose and Ors. Both the authorities laid down the basic principal governing the order 7 rule 11 CPC which are being adhered by this court also. As for as remaining authorities are concerned, they are regulate the section 19 and 20 of CPC where the compensation for wrong done to the movable property and it has been observed that if the suit is required this section 20 CPC does not come into the operation is also relied the relevant law which governs the order 7 rule 11 CPC cannot be disposed but it is not concerned with the facts of the present case.

18. In view of the above discussion and the authorities relied upon, this court has considered view that this court has not territorial jurisdiction to entertain the suit, once the court has decided that no territorial jurisdiction to entertain, try and decide the present suit then the court cannot examine as to whether the suit filed by the plaintiff is without any cause of action or not, as whether the plaint can be rejected under order 7 rule 11 CPC. The only option left with court to return the plaint as per order 7 rule 11 CPC to the plaintiffs to present it before the appropriate forum. File stands accordingly ordered. Office is directed to prepare an index which shall go to records after its due compilation.”

4. In the context of above, Section 19 CPC provides for instituting the suits for compensation for wrongs to a person or movables and also as regards the jurisdiction of the court with respect to such suits. Thus, it would be profitable to reproduce Section 19 as under:

“19. Suits for compensation for wrongs to person or movables: Where a suit is for compensation for wrong done to the person or to movable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the suit may be instituted at the option of the plaintiff in either of the said Courts.”

5. What is provided in Section 19 of CPC is that where a suit is for compensation for wrong done to a person or to movable property, if wrong was done within the local limits of jurisdiction of one court and defendants resides or carries on business or personally works for gain within local limits of jurisdiction of another court, the suit may be instituted at the option of the plaintiff in either of the said courts. Illustration (a) to Section 19 is worthwhile. It provides that if “A” residing in Delhi, beats “B” who is in Calcutta at the time of beating, “B” can sue “A” either in Calcutta or in Delhi. Illustration (b) is also valuable to be read. It provides that if “A” is residing in Delhi but he

publishes defamatory statements in Calcutta against “B”, in such situation “B” can sue “A” either in Calcutta or in Delhi. So, in such circumstances, plaintiff has to sue defendant either at a place where defendant resides or at a place where cause of action arises/where defamatory statement is made by defendant against plaintiff.

6. The appellants filed a suit seeking damages on account of a statement made by defendants/respondents during the course of proceedings in the court at Delhi which according to the plaintiffs/appellants had the effect of defaming them. So, the statement which is alleged to have been made by defendants/respondents and which has the effect of defaming the appellants, was done in a court during the proceedings at Delhi. Regarding such statement which is alleged to be a defamatory in nature and having defamed the appellants, was, however, filed in Srinagar. The appellants’ case is that the effect of such act of defaming them was not only in Delhi but at Srinagar where they have business office and it is because of appellants’ claim that they have an office in Srinagar, that Trial Court has jurisdiction to entertain such a suit regarding the act of defaming them which would extend to Srinagar courts also. To support his contention, he relies upon the Judgments *State of Meghalaya and others vs. Jyotsna Dar reported in AIR 1991 Gauhati 96*, *The State of Maharashtra vs. Sarvodaya Industries a registered partnership doing business of Poha at Akola Opponent, reported in AIR 1975 Bombay 197*, *Jaharlal Pagalia vs. Union of India reported in AIR 1959 Calcutta 273* and *Lalit Kumar Arya and another vs. Prabhat Zarda Factory International reported in 2019 SCC Online Del 7606, (2019) 258 DLT 638: (2019 78 PTC 145*. While relying upon those

judgements, he submits that Trial court was wrong in holding that the court was lacking jurisdiction.

7. Facts of the case are clear. The act, which is alleged, has taken place during the course of proceedings at Delhi and defendants are also residing at Delhi against whom it is alleged that their statement had affected the reputation of the plaintiffs and they have been defamed because of statement during the proceedings not only in Delhi but in Srinagar also, because they have an office in Srinagar and that dealers who were dealing in Srinagar have stopped dealing with them. However, Section 19 CPC is clear and provisions thereof are unambiguous. It clearly provides where the suit for compensation/damages could be filed.
8. The defendants have taken objection about entertaining of the suit at the very first instance by filing an application under Order VII Rule 11 CPC. While going through the provisions contained in Section 19 CPC, it is clear that a suit of such nature would either be filed in a court where act complained of has been done or where the defendants reside. It is specific regarding the same. It is not the case of plaintiffs, appellants herein, that defamatory statement has been made by defendants in Srinagar within the jurisdiction of the court before whom the suit was instituted or the defendants reside within the jurisdiction that court.
9. The provisions of Section 19 C.P.C cannot be extended beyond what is provided in the said section. It clearly defines the courts where a suit could be filed. Since the suit has been filed in Srinagar, where neither defendants reside nor act/complaint in respect of which damages are sought was committed. Judgments referred to by learned counsel for

the appellants, in the circumstances of the case, are not be applicable. Thus, arguments of the appellants are accordingly rejected. No ground is made out to interfere. As a consequence of which, the appeal is **dismissed** along with connected CM(s). Interim direction, if any, shall stand vacated. The net result is that order passed by the Trial court is upheld.

(VINOD CHATTERJI KOUL)
JUDGE

SRINAGAR
07.05.2025
“*Imtiyaz*”