

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

**Reserved on : 23.11.2016
Pronounced on:20.12.2016**

+ **CS (OS) 3694/2014 and IA No. 6876/2015**

MR. PIRUZ KHAMBATTA & ANR PLAINTIFFS

Through: Mr. Saif Khan and Mr. Shobhit
Agrawal, Advocates

Versus

RAJMOHAN RUPAJI MODI AND ORS. DEFENDANTS

Through: Ms. Anushree Kapadia, Advocate

**CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA**

ORDER

1. This civil suit was instituted in November 2014 invoking the original civil jurisdiction of this court seeking reliefs in the nature of permanent injunction, rendition of accounts, damages etc. it primarily being an action arising out of infringement and passing off.
2. The second plaintiff is a company incorporated under the Indian Companies Act with its registered office at 905, Atlanta Tower, Near Knowledge Academy, Gulbai Tekra, Ahmedabad-380015 and a registered branch office at 1203, 12th Floor, Vikrant Tower, Rajendra Place, New Delhi-110 008, plaintiff no.1 being its Chairman.

3. The second plaintiff (the company) claims to have pioneered the concept of soft drink concentrates in India having spearheaded this industry since 1972 introducing flavoured soft drinks which have been hugely popular amongst consumers on account of affordability. It statedly ventured into the business of restaurants under the brand name Rasna 'Devil's workshop', its products having been sold under the trademark "RASNA". It is stated that "RASNA" is a rare word having all the trappings of an invented / coined word in relation to edible products for human beings. It is the case of the plaintiffs that the said mark "RASNA" was adopted in 1972 when no similar mark was in existence in relation to such goods and services.

4. The plaintiffs got the trademark "RASNA" registered for the first time on 07.10.1985 vide registration numbers 443979 (in class 30) and 443978 (in class 32). Similar registrations of the said very trademark under other classes (1, 3, 4, 5, 6, 8, 9, 10, 11, 13, 14, 15, 16, 19, 20, 22, 23, 24, 26, 27, 28, 31, 33, 34, 35, 36, 37, 38, 39, 40, 41 and 42) were obtained in July 2001 followed by similar registrations under other classes, the word "RASNA" also having been joined by other descriptions for various other products of the plaintiffs, they also having been got registered under the Trademarks Act over the years. It is the case of the plaintiffs that all the said registrations of the trademark are valid and have been subsisting and continue to be in full legal force, having been renewed from time to time.

5. The plaintiffs also claims to have made forays into foreign markets and being the registered proprietor of the trade name / trademark "RASNA" in various countries including Vietnam, U.K.,

Indonesia, China, Saudi Arabia, Thailand, South Africa, Bangladesh, Nigeria, Russia, Singapore, Qatar, Tanzania, Oman, Bahrain, Kenya, Jordan, Lebanon, Malaysia, Philippines and Myanmar, etc.

6. It is further the case of the plaintiffs that it is the proprietor of work bearing unique and fanciful style amounting to original artistic work within the meaning of Section 2(c) of the Copyrights Act, 1957 in respect of RASNA marks / labels.

7. The suit was presented alleging cause of action to have arisen in October 2014 when the plaintiffs came to know that the defendant no.3, having been incorporated in May 2012 under the name and style of “M/s. Rasna Hotels Pvt. Ltd.” with Mr. Rajmohan Rupaji Modi, (defendant no.1) and Ms. Lalita Rajmohan Modi (defendant no.2), both with common address - Rasna Restaurant, Maninagar Char Rasta, Maninagar, Ahmadabad-380008, Gujarat as its directors, were operating a restaurant in the name and style of RASNA TWO restaurant, so described in the array of parties with address at Shivalik-7, Rambaug, Maninagar, Ahmedabad-380008 (Defendant no.1).

8. It is stated that the registered office of the company M/s. Rasna Hotels Pvt. Ltd. is same as that of Rasna Restaurant, Mani Nagar, Char Rasta, Maninagar, Ahmedabad-380008, Gujarat in which respect the plaintiffs had earlier filed a civil suit, it being *CS (OS) 1144/2010*, titled *Rasna Pvt. Ltd. and Anr. Vs. Dipak Modi and Ors.* seeking similar reliefs of permanent injunction against infringement of trademark and passing off.

9. It is alleged that the prominent use of the mark “RASNA” in the name of the restaurant RASNA TWO, with insignificant suffix “Two”

added to it, amounts to illegal and malafide infringement of the registered trademark of the plaintiffs, it being in the nature of clear trespass of its proprietary rights so as to gain unfair advantage of, and be detrimental to, the description, character and repute of the plaintiffs' intellectual property with the sole intention of riding upon its goodwill and reputation and thereby derive unfair gains for themselves.

10. For purposes of the present discussion, the averments in the plaint on the subject of jurisdiction, as appearing in paragraphs 31-32 of the plaint, need to be quoted in extenso :-

“31. The plaintiffs’ are the registered proprietors of the trademark in issue. They have a registered branch office at New Delhi at Rasna Pvt. Ltd., 1203, 12th floor, Vikrant Tower, Rajender Place, New Delhi-110 008 and another office at 1506/1507, 15th Floor, Devika Tower, 6, Nehru Place, New Delhi-110 019 and also have an exclusive C&F Agent at New Modern Logistics, Khasra No.346, Near Tata Dharam Kanta, Alipur, Garhi, Delhi-36 and is thus carrying on business within the territorial limits of this Hon’ble Court. Therefore, this Hon’ble Court has the necessary territorial jurisdiction to adjudicate the present suit under the provisions of Section 134(2) of the Trade Marks Act, 1999.

32. The defendants due to their aforesaid acts of infringement and passing-off have caused and are causing loss to the plaintiffs accruing within the jurisdiction of this Hon’ble Court. Further, large bulk of plaintiff’s business is carried on within Delhi which is being affected in Delhi due to the defendants’ acts and thus, this Hon’ble Court also has jurisdiction by virtue of Section 20 of Code of Civil Procedure, 1908 since a part of the cause of action has arisen within the jurisdiction of this Hon’ble Court.”

11. Summons on the suit and notice on the application for *ad interim* injunction (IA 24014/2014) were issued to the defendants by order dated 18.12.2014. The defendants entered appearance on 19.01.2015 and upon request were granted extended time to file the written statement though subjected to restraint, till further orders, against opening any further restaurant or hotel using the trade name or trademark “RASNA”.

12. On 06.04.2015, the defendants moved, *inter alia*, application (IA 6876/2015) praying for return of the plaint for want of territorial jurisdiction under Order VII Rule 10 of the Code of Civil Procedure, 1908 (CPC) mainly pointing out that both parties were located in Ahmedabad in the state of Gujarat, their registered offices also being beyond the territorial jurisdiction of this court and stating that no part of the cause of action has arisen here, the plaintiffs as well as the defendants being the residents of and carrying of business / working for gain in Ahmedabad only.

13. The application for return of the plaint is resisted by the plaintiffs, *inter alia*, referring to the provisions contained in Section 134(2) of the Trademarks Act, 1999 stating that the place of jurisdiction is the place where the plaintiff carries on business and pointing out, in this context, that the plaintiff has a registered branch office at 1203, 12th Floor, Vikrant Tower, Rajendra Place, New Delhi-110 008, located within the territorial jurisdiction of this court. It is the contention of the plaintiff that Section 134 of the Trademarks Act, 1999 provides for an additional forum for suing and is not curbed in any manner by Section 20 of CPC.

14. Both sides have been heard at length on the prayer of the defendants for return of the plaint under Order VII Rule 10 CPC pressed on the averment that there is no territorial jurisdiction vested in this court to entertain this case.

15. The Code of Civil Procedure, 1908 (CPC) contains detailed provisions governing the subject of territorial jurisdiction as contained in Part I in the second section captioned “place of suing”. The provision contained in Section 20 CPC appearing in the said part is relevant for the present discussion and may be noted as under :-

“Section 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 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 carries on business, or personally works for gain; or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit actually and voluntarily resides, or carries on business, 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) the cause of action, wholly or in part, arises.

Explanation – 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 also a subordinate office, at such place.”

16. It may be mentioned here that the provisions preceding Section 20 (i.e. Sections 15 to 19) CPC concededly do not apply and therefore,

“limitations” indicated therein are not attracted to the case at hand. It is not the case of the plaintiff that any of the defendants have engaged in any acts of commission or omission within the territorial jurisdiction of this court as may be construed or be indicative of they actually or voluntarily residing or carrying on business or personally working for gain here. It is quite apparent that there is no averment made on the basis of which any acquiescence to the institution of the suit by the plaintiff against the defendants in this court might be inferred. Therefore clauses (a) and (b) of Section 20 CPC quoted above have no role to play.

17. The plaintiffs rely upon clause (c) of Section 20 CPC to argue that the cause of action has also arisen within the jurisdiction of this court. It is trite that accrual of cause of action is *sine qua non* for a suit to be instituted or entertained. There are, however, no averments made on the subject for purposes of supporting such contention, as may be seen from the following pleadings (in para 30) of the plaint :

“30. The cause of action in the present suit first arose in the month of October 2014 when the plaintiffs came to know about the defendants’ impugned restaurant under the mark RASNA TWO. The cause of action again arose when the plaintiffs confirmed the infringing activities of the defendants through an investigation. The cause of action also arose when the plaintiffs came to know about incorporation of the defendant no.3 company with the identical name Rasna. The cause of action in the present case is a continuous one and continues to subsist till such time as the defendants are restrained by an order of injunction passed by this Hon’ble Court.”

18. Noticeably, the explanation appended to Section 20 CPC, as quoted above — “corporation” also means a company [see *Patel*

Roadways Ltd. Vs. Pratap Trading Company, 1991 (4) SCC 270] - indicates that in case of a company, it is deemed that it carries on business “*at its sole or principal office in India*” or for purposes of “cause of action” even at a place where it also has “a subordinate office”. Having regard to the averments made in the plaint, it not being the case of the plaintiff that the defendants have any principal office or subordinate office within the territorial jurisdiction of this court, the explanation appended to Section 20 cannot come to the aid of the plaintiffs for insisting that the case has been properly instituted invoking the jurisdiction of this court in Delhi.

19. Against the above backdrop, the objection of the defendants to the invocation of the jurisdiction of this court has to be examined in the light of the provision contained in Section 134 of the Trade Marks Act, 1999, which reads as under :

“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,

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, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of

1908) or any other law for the time being in force, include a 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 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.

Explanation.—For the purposes of sub-section (2), “person” includes the registered proprietor and the registered user.”

20. Since the plaintiffs also refer to copyright in the marks / labels referred to earlier, it may be noted that the Copyright Act, 1957 contains a provision governing the issue of jurisdiction, in Section 62 which is *pari materia* similar to the one quoted above and reads as under :

“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.

(2) For the purpose of sub-section (1), a “district court having jurisdiction” shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law for the time being in force, include a 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.”

21. The questions as to the interpretation of Section 134 (2) of the Trade Marks Act, 1999 and Section 62 of the Copyrights Act, 1957 with regard to the place where a suit can be instituted came up for consideration before the Supreme Court in the case leading to the judgment reported as *Indian Performing Rights Society Ltd. Vs. Sanjay Dalia and Anr*, 2015 10 SCC 161. The issue had come up before the Supreme Court against the backdrop of decisions taken by this court in two different civil suits, each involving allegations of infringements of the plaintiffs trademark. In one of the said cases, the head office of the plaintiff was situated at Mumbai, the averments about infringement having been made on account of defendant running cinema halls in Mumbai (Maharashtra) the cause of action concededly having arisen there. The objection on account of lack of territorial jurisdiction was upheld by this court notwithstanding the fact that the plaintiff had a branch office in Delhi and was also carrying on business in Delhi. In the other suit also similar factual matrix prevailed, the registered office of the plaintiff (a magazine) being in Mumbai with a branch office, sale and circulation to subscribers in Delhi. The learned Single Judge had upheld the contention of the defendant holding that mere location of the branch office was not enough. But the Division Bench in appeal had allowed certain amendment to the plaint to be incorporated. The plaintiffs in both the said appeals contended before the Supreme Court that Section 20 CPC was not applicable as Section 134 of Trade Marks Act and Section 62

(2) of the Copy Right Act had no co-relation to the cause of action and that the suit could be filed where the plaintiff resided or carried on his business or personally worked for gain, *inter alia*, relying on the earlier decisions of the Supreme Court in *Exphar SA & Anr. vs. Eupharma Laboratories Ltd. & Anr.*, 2004 (3) SCC 688; and *Dhodha House vs. S.K. Maingi*, 2006 (9) SCC 41.

22. *Per contra*, the respondents in the appeals before the Supreme Court contended that the object of the legislature in enacting the two above-noted provisions, the public policy and convenience to party had to be taken into consideration and that the interpretation must be such as would avoid hardship and absurdity, invoking *Heydon's Mischief* rule, commending purposive construction and arguing that the expression "carrying on business" could not be defined subjectively, it being the submission that the interpretation suggested by the plaintiffs was likely to result in abuse of the above noted provisions at the hands of multi-national corporations intending to harass the defendants. After taking note of the backdrop against which afore-quoted provisions in the Copyright Act and Trade Marks Act were enacted, while accepting the argument of abuse and mischief, the court observed thus:-

"23. ...the common law which was existing before the provisions of law were passed was section 20 of the 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....

...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 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 unconnected place as compared to a place where plaintiff is carrying on their business, and at such place, cause of action too has arisen.”....

(emphasis supplied)

23. The prime holdings of the Supreme Court in *Sanjay Dalia* (*supra*) may be extracted as under:-

“12. ...In our opinion, the expression “notwithstanding anything contained in the Code of Civil Procedure” does not oust the applicability of the provisions of section 20 of the Code of Civil Procedure and it is clear that additional remedy has been provided to the plaintiff so as to file a suit where he is residing or carrying on business etc., as the case may be....”

“13. ...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 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.”

“16. On a due and anxious consideration of the provisions contained in section 20 of the 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. 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 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, 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 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 of the CPC as well. The interpretation of provisions has to be such which prevents the mischief of causing inconvenience to parties.”

“17.... 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....”

“18. In our opinion, in a case where 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.”

“19. ... the impediment imposed under section 20 of the 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 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 plaintiff is having branch offices etc.”

21. ... Section 134(2) of the Trade Marks Act is applicable to clauses (a) and (b) of section 134(1) of the Trade Marks Act. Thus, a procedure to institute suit with respect to section 134(1)(c) in respect of “passing off” continues to be governed by section 20 of CPC.”

(emphasis supplied)

24. Pertinent to note here that the Supreme Court did not accept the arguments of the plaintiffs based on earlier rulings in *Exphar SA (supra)* and *Dhodha House (supra)* noting that in the former case the court had laid down that Section 62 of Copyright Act prescribed an additional ground other than the normal ground prescribed in Section 20 of CPC, while in the latter case, the question considered was about

maintainability of a composite suit for infringement of the Copyright Act and the Trade and Merchandise Marks Act, 1958, the decision being that merely by combining the causes of action, a court which does not have the jurisdiction to entertain the claim could not be conferred such jurisdiction.

25. Thus, in *Sanjay Dalia (supra)*, the Supreme Court concluded as under:-

“47. ... 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 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 cause of action, wholly or in part, has also arisen, he has to file a suit at that place...”

26. From the above it is clear that the question of “*cause of action*” continues to have a co-relation with the issue of territorial jurisdiction. If the cause of action has arisen, wholly or in part, in passing off actions under the Trade Marks Act, the place of institution of the suit for appropriate relief continues to be regulated by the provisions of Section 20 CPC which includes the place where the cause of action, wholly or in part, arises. For infringement suits, by virtue of Section 62 of the Copyright Act and Section 134 of the Trade Marks Act, the plaintiff may bring the case in terms of Section 20 (a) and (b) of CPC at the place where the defendant actually and voluntarily resides or

carries on business or personally works for gain which, in the context of a company, or corporation, is the place where it has its sole or principal office in India.

27. Section 134 of the Trade Marks Act and Section 62 of Copyright Act only add to the remedy permitting the plaintiff to bring an action at a place other than that of the defendant. Since the objective of these provisions is to sub-serve the convenience of the plaintiff, if the cause of action has arisen, wholly or in part, at the same place where the plaintiff resides or carries on business, having its head office, it is not permissible for it to ignore such a place on the pretext that it carries on business at other places as well. In such factual background, it is incumbent that the plaintiff institutes the suit at the place of its ordinary residence, or principal place of business, which is also the place where the cause of action has arisen and “*not at other places*”. In fact, the jurisdiction of the courts at other places (*i.e.*, the places where the plaintiff may have subordinate/branch office so as to be carrying on business or personally working for gain there) stands “*ousted*”.

28. Applying the above-noted principles to the facts and circumstances of the case at hand, it is clear that the plaintiff has wrongly invoked the jurisdiction of this court. The plaintiff is a company incorporated having its registered office and the principal place of business in Ahmadabad (Gujarat). Defendant no.3 in which the other two defendants are Directors, is also a company incorporated with its registered office and principal office of business in Ahmadabad (Gujarat). The cause of action on the basis of which the

present suit has been instituted for reliefs earlier mentioned essentially arose on account of setting up, and operations, of the business of *Rasna Two Restaurant* by defendant no.3 in a locality within the city of Ahmadabad (Gujarat). The pleadings of the plaintiff on the subject of “cause of action” and “jurisdiction” have been extracted earlier in this judgment. Mere facts that the plaintiff had its registered branch office, additional office or the C&F agents in Delhi may be indicative of it carrying on business within the territorial limits of this court, but that is not sufficient to permit the plaintiff to bring the suit to Delhi on the facts that have been alleged. The argument that the promotional campaign in which the defendants have engaged for purposes of the business of their restaurant in question even in Delhi, also by way of advertisements carried on the internet is indicative of cause of action having arisen also in Delhi is specious and cannot be accepted. Since the cause of action has essentially arisen in Ahmadabad (Gujarat) where the plaintiffs have their registered office, it being the principal place of business, per the ruling in *Sanjay Dalia (supra)*, this suit could have been instituted only in the court of jurisdiction at Ahmadabad in the State of Gujarat.

29. Pertinent to note here that in the proceedings arising out of the plaintiffs’ own similarly placed earlier suit against almost the same set of defendants, it being CS(OS) No.1144/2010, to which reference has come up earlier, it having been later re-registered as CS(Comm) No.310/2016, on an identical application under Order VII Rule 10 CPC of the defendant, this very plaintiff had conceded before another Single Bench of this court that this court would not have the requisite

territorial jurisdiction and, at its instance, the court, exercising the power under Order VII Rule 10-A CPC, had directed, by order dated 27.04.2016, return of the plaint while fixing a date for the parties to appear before the Principal District and Sessions Judge, Ahmadabad (Gujarat) for the plaint to be presented in that jurisdictional court for further proceedings in accordance with law.

30. Since this court is of the view that the case at hand was wrongly instituted here and that the court at Ahmadabad (Gujarat) would be the appropriate court of jurisdiction, it being the principal place of business of the plaintiffs (as indeed of the defendants) as also the place where the cause of action has arisen and consequently the plaint is liable to be returned in terms of Rule 10 of Order VII CPC, the plaintiffs, through counsel, was informed accordingly, in response to which the learned counsel submitted that the plaintiff does not wish to avail of the provision contained in Rule 10A of Order VII CPC for the plaint to be returned so as to be presented again in the court referred to earlier. In this view, no opportunity for moving an application under Order 7 Rule 10 A (2) CPC having been sought or availed by the plaintiff, it is directed that the plaint be returned under Order VII Rule 10 CPC for being presented to the appropriate court of jurisdiction.

31. Interim orders passed by this court earlier are vacated. The proceedings in the suit and the applications filed therein in this court stand disposed of in above terms.

(R.K. GAUBA)
JUDGE

DECEMBER 20, 2016

yg/vk