

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

% **Date of decision: 8th March, 2019.**

+ **CS(OS) 139/2019**

ESCORTS LIMITED

..... Plaintiff

Through: Mr. Gyanendra Kumar with Ms. Shikha
Tandon & Mr. Robin Grover, Advs.

Versus

TEJPAL SINGH SISODIA

.....Defendant

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

IA No.3417/2019(for exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

IA No.3416/2019(u/S.149 CPC)

3. Accepting the undertaking of the counsel for the plaintiff that the court fees shall be deposited within one week, the time for filing court fess is extended by one week.

4. The application is disposed of.

CS(OS) 139/2019, IA No.3414/2019(u/O.XXXIX R-1 & 2 CPC) & IA No.3415/2019(u/O.II R.2(3) CPC)

5. The Registry to list the suit, if the deficient court fees is not filed within one week as undertaken.

6. The plaintiff having its registered office at Faridabad, Haryana has instituted this suit against the defendant resident of Udaipur, Rajasthan for (i) recovery of damages of Rs.2,00,05,000/- for defaming the plaintiff; (ii) mandatory injunction directing the defendant to take down / remove all tweets posted / published on Twitter or any other statement defamatory of the plaintiff, its affiliates and personnel etc. published at any place, forum or social media; and, (iii) permanent injunction restraining the defendant from further defaming the plaintiff and/or from approaching the plaintiff or its management or employees or personnel or affiliates with intent to defame the plaintiff and disparaging the business of the plaintiff.

7. I have at the outset enquired from the counsel for the plaintiff, how this Court has territorial jurisdiction to entertain the suit.

8. To appreciate the contentions of the counsel for the plaintiff, it is deemed appropriate to summarise the case of the plaintiff. It is the plea of the plaintiff in the plaint (a) that the plaintiff is carrying on business *inter alia* of manufacture of tractors; (b) that the defendant, vide application dated 8th December, 2005 approached the plaintiff seeking appointment as an authorised dealer of Farmtrac Tractors, accessories and spare parts, of the plaintiff, for Tehsil Nimbahera, Chotisadri, Barisadri and Dungla of District Chittorgarh, Rajasthan and a Letter of Intent dated 9th January, 2006 was issued by the plaintiff appointing the defendant, carrying on business in the name and style of 'Geeta Tractors', as the General Sales and Services Dealer of the plaintiff for the aforesaid areas, on the terms and conditions contained therein; subsequently, a Dealer Sales Agreement dated 11th November, 2007 was also executed between the parties; (c) that the plaintiff supported the

defendant to establish the said business and to serve the customers and provided various monetary incentives including the dealers incentive, salesman incentive, publicity charges, customer support discounts etc., to promote the business of the defendant; (d) that the defendant however had huge dues towards the plaintiff as well as towards the distributors and other creditors and defaulted in repaying outstanding dues and pursuant to which the distributors and dealers stopped supplying goods to the defendant resulting in the defendant not having sufficient inventory of goods to sell to the customers; (e) that the plaintiff thus called off its business arrangement with the defendant; (f) that post cessation of business dealings, the defendant started harassing the plaintiff and its management, by sending false legal notices with the intent to involve the plaintiff in its dispute with the distributors / dealers; the defendant, in the legal notices dated 4th July, 2013 and 14th August, 2013 made false allegations against the plaintiff and its management; (g) that though the plaintiff replied to the aforesaid legal notices but the defendant, in the year 2014 filed an application under Section 156(3) of Code of Criminal Procedure, 1973 before the Additional Chief Judicial Magistrate and pursuant where to, FIR No.85/2014 was lodged with the Police Station Govardhanvilas, Udaipur of offences under Sections 406 and 420 of the IPC against the plaintiff; (h) that the plaintiff participated in the investigation and police, being satisfied that no criminal allegations were made out against the plaintiff, closed the investigation on 13th June, 2014; (i) that thereafter the plaintiff had no interaction with the defendant; (j) that the defendant, in November, 2018, suddenly started publishing false and threatening tweets against the plaintiff and tagging the same to the Chairman and Managing Director of the plaintiff and alleging that certain officers of

the plaintiff had cheated the defendant of Rs.2 crores and threatening the plaintiff and its Managing Director by posting / publishing that the defendant had no option but to commit suicide, after exposing the plaintiff before the news media, police and Court; (k) that the defendant also tagged the twitter handles of famous news channels, Aaj Tak and ABP News Hindi which have 7.8 million and 1.2 million followers respectively on Twitter, thereby harming the reputation and goodwill of the plaintiff; (l) that the officers of the plaintiff reached out to the defendant on compassionate grounds, to understand the issue and to ensure that the defendant does not take any untoward steps; a senior officer of the plaintiff went to Udaipur and had a meeting with the defendant, his wife, his daughter and his brother-in-law on 20th November, 2018; (m) that the plaintiff invited the defendant to visit the plaintiff's office at Faridabad, to meet the senior officials of the plaintiff and on humanitarian grounds, paid the expenses for the flight for the defendant's travel to Faridabad; (n) that the defendant arrived at Faridabad on 4th December, 2018 and had a meeting with the senior officials of the plaintiff and threatened that he will continue to make defamatory statements and false accusations against the plaintiff on public forums, unless he is paid a sum of Rs.2 crores; (o) that the plaintiff, on humanitarian and compassionate grounds offered some monetary help to the defendant but which was turned down by the defendant who stuck to his demand of Rs.2 crores; (p) that the defendant also refused to take down the defamatory and false tweets; (q) that the defendant continues to so tweet against the plaintiff, tagging the twitter handles of various well-known individuals and associations including the Prime Minister of India, Mr. Arun Jaitley, FICCI, Escorts Group, Make in India and Mr. Nikhil Nanda; (r) that the said tweets of the defendant malign

the reputation and goodwill of the plaintiff and are defamatory; (s) that the tweets of the defendant can also be accessed by general public by doing a search on Search Engines like Google; and, (t) that the plaintiff has filed a Criminal Complaint dated 20th February, 2019 with the Commissioner of Police, Sector 21C, Faridabad, Haryana.

9. Territorial jurisdiction of this Court is invoked, pleading:

“37. That this Hon’ble Court has territorial jurisdiction in the matter as the defamatory, disparaging, malicious and denigrating tweets in question were uploaded and published by the Defendant on Twitter, a social media platform, which has been and can be seen and accessed by the general public across the globe including in New Delhi and as such this Hon’ble Court has the necessary territorial jurisdiction to try and entertain the present suit. It is further submitted that that this Hon’ble Court has territorial jurisdiction to entertain the present suit inasmuch as the Chairman and Managing Director of the Plaintiff company, Mr. Nikhil Nanda, has been tagged in the tweets, who is a resident of New Delhi and accessed such tweets in New Delhi. It is further submitted that this Hon’ble Court has territorial jurisdiction to entertain the present suit inasmuch as several employees of the Plaintiff company are residents of New Delhi and accessed such tweets in New Delhi. As such, this Hon’ble Court has the jurisdiction to entertain and try the present Suit.”

10. The counsel for the plaintiff has referred to my judgment in ***Frank Finn Management Consultants Vs. Subhash Motwani*** ILR (2009) II Delhi 158 followed in ***Frankfinn Aviation Services Pvt. Ltd. Vs. Tara Kerkar*** 2016 SCC OnLine Del 4641 and also to the order dated 4th March, 2009 of

this Court in CS(OS) No.1717/2007 titled ***Indian Potash Ltd. Vs. Media Contents & Communication Services (India) Pvt. Ltd.*** and has argued that since the defamatory tweets of the defendant can be accessed all over the world and also in Delhi and since the defendant has tagged his tweets to the twitter handles of aforesaid persons at Delhi and in whose eyes the plaintiff has been defamed, the plaintiff is entitled to maintain the suit at Delhi.

11. I have enquired from the counsel for the plaintiff, whether not on the parity of the aforesaid reasoning, the plaintiff could have instituted the suit in the Court in any District in India and dragged the defendant from Udaipur, to contest the suit in a far off place.

12. The counsel for the plaintiff reiterates that Delhi has been chosen because of the Prime Minister of India being at Delhi and because of the plaintiff having been defamed at Delhi.

13. I have enquired, whether not the followers on the twitter handle of the Prime Minister of India are unlikely to be interested in the plaintiff and there are tweets of far more relevance and public interest on the Prime Minister's twitter handle.

14. The counsel for the plaintiff, without expressly replying to the aforesaid states that "because plaintiff is 'Escorts' people would be interested".

15. I have further enquired from the counsel for the plaintiff, whether not the plaintiff, by compelling the defendant at Udaipur, to travel to Delhi to contest the suit, would be causing more misery and agony to the defendant, than being already expressed by the defendant and whether not the action of the plaintiff, of not suing the defendant at Udaipur, where he is carrying on

business and where also according to the plaintiff, the plaintiff has been defamed, should be construed as *mala fide*. It has been highlighted that when the plaintiff, claiming to be caring for the defendant, sent its senior officer to Udaipur to meet the defendant and even paid for the visit of the defendant from Udaipur to Faridabad, whether not the action of instituting the suit at a far off place from the comfort area of the defendant, is contrary to the said caring attitude.

16. No proper answer is forthcoming.

17. In ***Frank Finn Management Consultants*** supra, one of the issues, in the suit for recovery of damages for defamation, for adjudication after trial, was with respect to the territorial jurisdiction of the Courts at Delhi. The defendants in that suit were resident of and carrying on business at Mumbai and the magazine containing the defamatory material was also published from Mumbai. The jurisdiction of this Court was invoked on the plea of the plaintiff having its office at Delhi and the magazine containing the defamatory material having circulation at Delhi and the defendant having posted the said defamatory material on their website accessible at Delhi and the plaintiff having noticed the defamatory material at its office in Delhi. Finding the plaintiff therein to have proved that the magazine containing the defamatory material had circulation at Delhi and further finding that the plaintiff therein had its registered office at Delhi, it was held that the Courts at Delhi had jurisdiction. Referring to Section 19 of the Code of Civil Procedure, 1908 (CPC), it was held that the cause of action for defamation was publication and damage which was claimed had been proved to have

been caused to the plaintiff at Delhi and thus Courts at Delhi had territorial jurisdiction.

18. As would immediately become obvious, the position here is not the same. Here, the plaintiff has its registered office at Faridabad. Merely because the alleged defamatory tweets can be accessed at Delhi or have been tagged to the twitter handle of the Prime Minister of India having residence at Delhi, would not confer jurisdiction on the Courts at Delhi.

19. Moreover, I reiterate that it is inexplicable why the plaintiff, who at several places in the plaint has pleaded its humanitarian spirit and dealer friendly attitude and who claims to have gone to the extent of financing the visit of the defendant to Faridabad, while instituting this suit, would do so at Delhi and not at a place, either where the registered office of the plaintiff is situated or of which the defendant is resident of and where the defendant can conveniently contest the claim of the plaintiff if so desires. The intent of the plaintiff from such conduct appears to be, to harass the defendant and/or to obtain a walkover and deprive the defendant of a chance to contest the suit. No response has been forthcoming, where the said humanitarian spirit and dealer friendly attitude is now.

20. As far as the reliance on *Indian Potash Ltd.* supra is concerned, the suit therein was for recovery of damages for defamation for telecasting in the national media that the plaintiff, engaged in sale of fertilizer as well as milk, had adulterated its milk. The challenge to the territorial jurisdiction of the Courts at Delhi was made by way of an application under Order VII Rule 11 of the CPC. On the anvil of the parameters of Order VII Rule 11 of the CPC, it was held that the plaintiff having pleaded defamation and resultant loss in

sales of milk at Delhi, as per averments in the plaint was entitled to maintain the suit at Delhi.

21. As distinct from the aforesaid, there are no averments in the plaint in the present suit of the plaintiff having suffered any loss of business of sale of tractors in Delhi or reputation at Delhi. The business claimed of the plaintiff is of manufacture and sale of tractors and the loss, if any to the plaintiff is unlikely to be at Delhi and more in rural areas where the tractors are required and sold. It is not the case that on account of alleged tweets of the defendant, anyone at Delhi has surrendered or refused to take dealership of tractors of plaintiff at Delhi. In fact, in Delhi, no showrooms / dealers of tractors are found, as found of four and two wheels vehicles. A perusal of the allegedly defamatory tweets reproduced by the plaintiff in paragraph 22 of the plaint shows the defendant to have therein claimed, (i) that officials of the plaintiff, involved in a scandal with the distributor of the plaintiff, cheated the defendant and the management of the plaintiff had not supported the defendant and rather made a fool of the defendant for the past seven years; (ii) that owing to the actions of the plaintiff and its management, the defendant's family had been brought on the road; (iii) that the plaintiff had dumped the defendant with high inventory; (iv) that the plaintiff usurped the dues of the defendant; (v) that the plaintiff had made false promises to the defendant; (vi) that the plaintiff and its management "are insisting the defendant to commit suicide"; (vii) that owing to the cheating by the plaintiff, the defendant was forced to commit suicide; and, (viii) that the plaintiff had conspired to defraud the defendant of all his wealth and property. It is obvious from the said tweets that the defamation if any therefrom, is in the matter of dealings of the plaintiff with its dealers and

distributors and the wrong if any therefrom to the plaintiff can be in the matter of discouraging others from taking up dealership of the plaintiff.

22. Attention of the counsel for the plaintiff has also been drawn to ***Mahadev I. Todale Vs. Frankfinn Aviation Services Pvt. Ltd.*** (2017) 242 DLT 273 (SLP(C) No.28925/2017 preferred whereagainst was dismissed *in limine* on 10th November, 2017). Frankfinn Aviation Services 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 Frankfinn. The said police official applied for deletion of his name from the suit. It was observed that the act of plaintiff Frankfinn 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.

23. I find the same to be the position here in the aforesaid facts and circumstances.

24. In ***Primero Skill & Training Pvt. Ltd. Vs. Selima Publications Pvt. Ltd.*** 2017 SCC OnLine Del 7619 also, I was concerned with a suit for recovery of damages for defamation and for permanent injunction restraining the defendants from further defaming the plaintiff. Finding that all the defendants in the suit were situated at Assam and the plaintiff was also carrying on business at Assam, it was enquired from the counsel for the plaintiff at the threshold, as to why the principle of forum conveniens

incorporated in the domestic law in *Kusum Ingots & Alloys Ltd. Vs. Union of India* (2004) 6 SCC 254 and *Sterling Agro Industries Ltd. Vs. Union of India* AIR 2011 Del 174 (Five Judges) should not be invoked. However, since the suit was otherwise dismissed, though it was observed that this Court had no territorial jurisdiction to entertain the suit, but no conclusive finding on the said aspect returned.

25. The Code of Civil Procedure, 1908, in Part I thereof under the head “Place of Suing”, in Sections 15 to 25 makes provision therefor. Statutory provision having been made in this respect, application of any other principle / doctrine is ruled out.

26. Section 15 provides that every suit shall be instituted in the Court of the lowest grade competent to try it. Section 16 is in respect of the suits for recovery, partition, foreclosure, sale or redemption in the case of a mortgage, for determination of any other right, for compensation to immovable property and for recovery of movable property actually under distraint or attachment. The present suit does not fall in the said category. Section 17 provides for suits for immovable property situated within the jurisdiction of different Courts and Section 18 provides for place of institution of suit where local limits of jurisdiction of Courts are uncertain. Thereafter, Section 19 is 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.

Illustrations:

- (a) A, residing in Delhi, beats B in Calcutta, B may sue A either in Calcutta or in Delhi.*
- (b) A, residing in Delhi, publishes in Calcutta statements defamatory of B. B may sue A either in Calcutta or in Delhi.”*

The only other section relating to ‘Place of Suing’ is Section 20 titled “Other suits to be instituted where the defendants reside or cause of action arises” and commences with “subject to the limitations aforesaid...”. It is thus clear that Section 20 applies to suits other than those which are governed by Sections 16 to 19 and is a residuary provision for suits other than those to which Sections 16 to 19 apply. Sections 21 to 25 do not provide for the ‘Place of Suing’ but are concerned with objections to jurisdiction, power of transfer and withdrawal etc.

27. I have already hereinabove observed that the present suit does not fall in Section 16 and obviously does not fall in Sections 17&18. However, the present suit for recovery of compensation for defamation, is a suit for compensation for wrong done to the person of the plaintiff, within the meaning of Section 19 supra and would fall in Section 19. Once it so falls in Section 19, applicability of Section 20 thereto is excluded by the language of Section 20.

28. Both, *Indian Potash Ltd.* and *Frank Finn Management Consultants* supra, cited by the counsel for the plaintiff also hold a suit for compensation for defamation to be falling under Section 19 of the CPC.

29. Under Section 19 of the CPC, where the wrong done to the person is 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 the jurisdiction of another Court, the plaintiff has a choice of instituting the suit in either of the two Courts and axiomatically in no other Court. The plaintiff herein thus, though has a choice under Section 19 of the CPC of suing the defendant in the Courts at Udaipur within the local limits of whose jurisdiction the defendant resides or carries on business or personally works for gain, but has chosen not to do so. The question for consideration is, whether this Court, on the averments in the plaint, qualifies as a Court within the local limits of whose jurisdiction, the wrong has been done to the person of the plaintiff.

30. 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.

31. 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.

32. I have wondered, that if such is the plea, whether a plaintiff in a suit for compensation for defamation by publication on internet, has an option under Section 19 of the CPC to sue the defendant anywhere in India.

33. 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.

34. In my opinion, wrong by defamation, ordinarily would be done to a natural person, at the place of his residence, where he / she has a reputation and to an artificial person as a corporation / company, at the place of registered office of the corporation / company. In such case, the Court of the place of which a person is residence of or where the corporation / company has its registered office, would be a natural court which would have jurisdiction and in a suit instituted at such place, averment of publication without even a specific plea of ‘wrong done’ with particulars of the persons in whose esteem the plaintiff has fallen may suffice. However, where a

plaintiff in a suit for defamation, chooses to invoke the jurisdiction of an unnatural place i.e. a place of which that person is not a resident of and / or if a corporation / company in which it does not have its registered office, to invoke the jurisdiction of that Court, the plaint has to necessarily contain specific pleas of wrong done within the jurisdiction of that Court, by giving particulars of the persons in that jurisdiction, in whose esteem the plaintiff claims to have fallen and /or the loss or damage suffered.

35. What next has to be seen is, whether the plaintiff has pleaded wrong to have been done to its person, not at the place of its registered office, but within the jurisdiction of this Court. The plea of the plaintiff in this respect is in paragraph 37 of the plaint reproduced above, where the plaintiff has pleaded that wrong has been done to it within the jurisdiction of this Court because, (a) the defamatory tweets were uploaded and published on Twitter, a social media platform, “which has been and can be seen and accessed by the general public across the globe including in New Delhi”; and, (b) the Chairman and Managing Director of the plaintiff company Mr. Nikhil Nanda has been tagged in the tweets and the said Mr. Nikhil Nanda is resident of New Delhi.

36. According to paragraph 37 of the plaint itself, the defamatory tweets can be accessed, not only at New Delhi but “across the globe”. The question which arises is, whether in case of defamation alleged on such social media platform, the plaintiff under Section 19 has an absolute option to institute the suit anywhere across the globe or across the country. In my view, Section 19 of the CPC, though drafted in the pre-internet era, cannot be so interpreted. I reiterate that it is clear from a reading of Section 19 of the CPC that the

legislative intent was to confine the choice of jurisdiction to only two Courts i.e. either where the defendant resides or carries on business or “where wrong was done”. Wrong of defamation on social media platform / internet cannot be said to have been done across the globe or across the country, permitting a plaintiff to choose jurisdiction of a Court, contest wherein would cause maximum harassment to the defendant, compelling the defendant to give in to the demand of the plaintiff, even if unreasonable. No such intent can be imputed to the Legislature in enacting Section 19 of the CPC.

37. Even otherwise, no wrong can be held to have been “done” across the globe or across the country, wherever such social media platform / internet can be accessed. The Legislature has used the words “where wrong was done” and not “where wrong is likely to be done” or “wherever wrong is possible”.

38. Wrong to the person of the plaintiff by libel would be done not by the mechanical act of tweeting by the defendant of the content defamatory to the plaintiff but by communication thereof to at least one person other than the plaintiff or the defendant and knowing the plaintiff and in whose esteem, the plaintiff would fall by reading the defamatory tweets. Merely the tweets of the defendant, even if defamatory of the plaintiff, sitting on the internet, even if accessible anywhere, would cause no wrong of defamation to the plaintiff. Merely because the tweets or other material on any other social media / internet can be accessed anywhere, would not amount to a wrong being done to the plaintiff everywhere. A post on the internet which has not been downloaded, accessed and read, is like a defamatory letter in a sealed

envelope and which letter cannot be said to have done any wrong of defamation till the seal is broken, the letter taken out and read and on which reading, the esteem in which the reader holds the plaintiff, falls. Wrong would be done only at the place where the said tweets are accessed and read by someone other than the plaintiff or the defendant and who knows the plaintiff.

39. The plaintiff, not only in para no.37 of the plaint reproduced above, but in no other paragraph of the plaint has pleaded the said tweets of the defendant to have been downloaded, accessed and read by anyone in Delhi and in whose esteem the plaintiff has fallen by reading the said tweets. The plaintiff has merely pleaded that the defendant has tagged the twitter handles of famous news channels having large number of followers and also on the twitter handles of various well-known individuals and organizations including 'Prime Minister of India', 'Arun Jaitley', 'Federation of Indian Chambers of Commerce and Industry (FICCI)', 'Escorts Group', 'Make In India' etc. There is no averment in the plaint that the said tweets were downloaded, accessed and read by anyone in Delhi, causing wrong to the plaintiff.

40. There is no presumption in law or of fact, of content posted on the internet, though accessible, having been read. There is no publication of libel, till communication thereof is completed i.e. till the sealed envelope is opened and the libellous content thereof read.

41. I reiterate that the plaintiff has not given any such particulars in the plaint. No damage to the reputation of the plaintiff at Delhi has been

pleaded. For that matter, it is not even the plea that the plaintiff has a reputation at Delhi.

42. I may further state that even in cases where the wrong done by the defamation is spread out across several jurisdictions, as would be the case with respect to a natural person enjoying a public stature and in the case of a company / corporation having business interest across several jurisdictions, in my opinion, the jurisdiction even then for institution of a suit for defamation would be of a Court where the maximum wrong is done and which generally in the case of a company / corporation would be the place where the registered office of the company / corporation is, unless it is pleaded that at the place of registered office wrong done is minuscule in comparison to wrong done at another place where the business interest largely is.

43. The second ground pleaded in para no.37 of the plaint reproduced above is of Mr. Nikhil Nanda, Chairman & Managing Director of the plaintiff being a resident of Delhi. However, in the matter of defamation, the Chairman & Managing Director of the plaintiff cannot have an existence separate from the plaintiff. It is not the case of the plaintiff that owing to the Chairman & Managing Director of the defendant reading the tweets at Delhi, the esteem in which the plaintiff is held by its Chairman & Managing Director has fallen. Thus, publication even if any to the Chairman & Managing Director of the plaintiff at Delhi would not qualify as a publication, furnishing a cause of action for a claim for compensation for damages for defamation.

44. The plaint thus, is not found to be disclosing any wrong done to the plaintiff at Delhi for this Court at Delhi to have jurisdiction to entertain the suit.

45. There is another aspect. Section 19 vests a plaintiff in a suit for compensation for defamation with 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.

46. It is not the case of plaintiff that it has no reputation in Udaipur or no wrong has been done to it at Udaipur. In fact the wrong done, if any, would be maximum at Udaipur where, both plaintiff as well as defendant would be known. The plaintiff, by pleading wrong done across the globe, has rather admitted wrong done at Udaipur.

47. In spite of finding this Court to be not having territorial jurisdiction and / or being not a forum convenience to entertain the suit, if summons / notice of the suit are issued to the defendant, the same itself would cause

harassment and inconvenience to the defendant. Judicial notice can be taken of the fact that once summons / notice is issued and written statement within the prescribed time filed, the decision on the aspect of territorial jurisdiction takes considerable time and in which time the defendant, resident of Udaipur, even if ultimately succeeds in his defence if any of this Court not having territorial jurisdiction, would have suffered. It is thus deemed appropriate to, in view of the aforesaid, not entertain the suit and not issue summons / notice thereof to the defendant.

48. I thus hold the plaint to be not disclosing this Court to be having territorial jurisdiction to entertain the suit. Alternatively, I also hold that even if this Court were to be held to have territorial jurisdiction, this Court is not the forum convenience to entertain the suit on the averments contained in the plaint.

49. The plaint is accordingly rejected. The plaintiff of course would have liberty to sue in the Court having jurisdiction to entertain the suit on the same cause of action.

50. However, no costs.

51. Once the plaintiff has deposited the court fees, a certificate entitling the plaintiff to get refund thereof less Rs.20,000/- be issued and handed over to the counsel for the plaintiff.

A copy of this order be given *dasti*.

RAJIV SAHAI ENDLAW, J.

MARCH 08, 2019/‘bs/gsr’
(corrected & released on 16th March, 2019)