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

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Judgment delivered on: 30.08.2019

+ C.R.P. 163/2019 & CM APPL. 34784/2019, CM APPL.
34783/2019

M/S EVER BAKE

..... Petitioner

versus

M/S EVERBAKE BAKERS PRIVATE LTD

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Ajay Amitabh Suman, Adv.

For the Respondent : Mr. Anshul Goel, Advocate

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 25.04.2019 whereby the application of the petitioner under Order 7 Rule 10 and 11 CPC has been rejected. Petitioner had filed the application seeking rejection of the plaint on the ground of lack of territorial jurisdiction.

2. Respondent/plaintiff had filed the subject suit for permanent injunction restraining infringement of registered Trademark, delivery up and rendition of accounts against the petitioner/defendant.

3. Respondent claims to be the registered proprietor of the

trademark “EVER BAKE”. Subject suit was filed contending that the petitioner was violating the statutory rights of the respondent and were running a restaurant. It is further contended that the petitioner had made an application seeking registration of an identical trademark and had adopted the registered trademark of the respondent for their goods and services which were identical to the goods and services of the respondent/plaintiff.

4. The only objection raised by the petitioner was lack of territorial jurisdiction. It is contended that the petitioner was carrying on its business at Assam and the suit has been filed in Delhi and no part of cause of action arose within the territorial jurisdiction of Courts at Delhi.

5. Trial court noticed the judgment of the Supreme Court in *Indian Performing Rights Society Limited Vs. Sanjay Dalia & Anr. (2015) 10, SCC 161* and also the judgment of the Division Bench of this Court in *Ultra Home Construction Pvt. Ltd. Vs. Purushottam Kumar Chaubey & Ors (2016) 227 DLT 320(DB)*, wherein relying on Section 134 of the Trademarks Act it has been held that Section 134 of the Trademarks Act confers jurisdiction in addition to the jurisdiction conferred on a Court under Section 20 CPC in the cases of registered trademarks and permits the plaintiff to institute a suit seeking enforcement of rights in registered trademarks before the Court of the District Judge having jurisdiction over the territory in

which the plaintiff resides or carries on business or personally works for gain.

6. The respondent/plaintiff has registered office in Delhi situated within the territorial jurisdiction of the Trial Court. Noting is pointed out to the contrary.

7. Since Section 134 of the Trademarks Act confers additional jurisdiction and the Suit of the plaintiff on bare reading of the plaint has been correctly instituted within the territorial jurisdiction of the Courts where the registered office of the respondent/plaintiff is situated, there is no infirmity in the view taken by the trial court and in rejecting the application of the petitioner under Order 7 Rules 10 & 11 CPC.

8. In view of the above, I find no merits in the petition. The petition is accordingly dismissed.

AUGUST 30, 2019
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SANJEEV SACHDEVA, J