

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 24.08.2020

PRONOUNCED ON: 26.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

**A.No. 909 of 2020
IN
C.S.No.SR 18927 of 2020**

A.No. 909 of 2020:

Dr.Prabaharan SRS

... Plaintiff

Vs.

1. Vellore Institute of Technology (VIT)
Represented by its Chancellor Dr.G.Viswanathan,
Vellore – 632014
Tamil Nadu, India
Also having administrative office at
New No.6, Old No. 73 W,
W Block 2nd Street,
Anna Nagar,
Chennai – 600 040.
2. National Institutional Ranking Framework (NIRF)-
National Board of Accreditation
Represented by its Member Secretary
NBCC Place, East Tower, 4th Floor
Bhisham Pitamah Marg
Pragati Vihar
New Delhi 110 003, INDIA

3. National Assessment and Accreditation Council (NAAC)
P.O. Box No.1075, Nagarbhavi
Opp. To NLSIU
Bangalore – 560 072
Karnataka, India.
4. University Grants Commission (UGC)
Represented by its Chairman
Bahadur Shah Zafar Marg
New Delhi – 110 002 ...Defendants

This application filed under Order XIV Rule 8 of O.S Rules under Clause 12 of Letters Patent to grant an order of leave to sue as against defendants 2 to 4 who are carrying on business outside the jurisdiction of this Hon'ble Court.

For Plaintiff : Mr. G.Rajagopalan
Senior Counsel for
Mr.A.K.Balaji

For 1st Defendant: Mr. A.Saravanan

For 2nd Defendant: Mr. B.Rabu Manohar

For 4th Defendant: Ms. V.Sudha

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ORDER

Application filed under Clause 12 of the Letters Patent seeking leave to sue as against the defendants 2 to 4, who are carrying on business outside the jurisdiction of this Court.

2. In the affidavit filed in support of the said application, the plaintiff had stated that the suit had been filed for the relief of breach of trust, illegal using, making false and misleading representation by the first defendant in its online website platform by way of Brochure and illegally gaining enrichment and misleading the educational seekers and also towards the severe mental agony suffered by the plaintiff.

3. It had been stated that the cause of action for the suit arose when the first defendant illegally used the plaintiff's Patent information and published in its website online by way of brochure. It had been stated that the contents can be accessed within the limits of this jurisdiction of this Court in Chennai. It was also stated that the plaintiff had issued cease and desist notice to the first defendant. It was stated that the first defendant has an Administrative Office at Chennai within the jurisdiction of this Court. However, the second, third and fourth defendants, which are Central Government organisations, have offices in New Delhi and in Karnataka and therefore, this application under Clause 12 of the Letters Patent has been filed.

4. An affidavit had been filed refuting the said allegations by the first defendant. It had been stated that the main campus of the first

defendant is at Vellore and an off-campus is at Kanchipuram District. It had been stated that the plaintiff was working as Dean at the VIT off-campus and the contents are only from the junk data file, which are not accessible for general users of the website. It had been stated that the first defendant has no activity within the jurisdiction of this Court. It had been stated that the application should be dismissed.

5. The learned counsel, who had represented on behalf of the second and fourth defendants, did not file any counter, neither did they raise any serious objections.

6. Heard Mr.G.Rajagopalan, learned Senior Counsel appearing on behalf of the plaintiff and Mr.A.Saravanan, learned counsel for the first defendant and Mr.Rabu Manohar, learned standing counsel for the second defendant and Ms.V.Sudha, learned standing counsel for the fourth defendant.

7. On 20.08.2020 this Court had observed that so far as the second, third and fourth defendants are concerned, they are Central Government entities and naturally they should have no objection in entering into a litigation at any Court. It had also been observed that the application

had been filed only out of abundant caution.

8. The first defendant has an administrative office at Chennai. The complained contents, according to the plaintiff are available in the website and accessible at any place and also in Chennai. The contention of the first defendant that they are junk files and not accessible is an issue to be decided during trial. At any rate, it does not lie in the mouth of the first defendant to object to this application since leave is only sought against the second, third and fourth defendants. The first defendant has not denied that they do not have an Administrative Office at Chennai.

9. Clause 12 of the Letters Patent provides that the Madras High Court shall have jurisdiction to try a suit be instituted at the place where the defendant carries on business. Naturally having an Administrative Office, the first defendant carries on business at Chennai also.

10. In *(2008) 3 CTC 724, Wipro Limited, SP-26, Thriu.vi.ka. Industrial Estate, Guindy, Chennai – 32, rep. by its Legal Manager, Vishal Mittal and another, V. Oushadha Chandrika Ayurvedic India (P) Limited, rep.by its Managing Director, K.S.Kochumon, Azad*

Road, Irinjalakuda – 680 125, Kerala and others, a Division Bench of this Court held as follows:

“11. While it is the contention of the plaintiffs that they can institute a Suit either in a Court within whose local limits the principal place of business or its branch or branches where its business is carried on, is situate, the defendants submitted that it is the principal place of business that is material. According to the defendants, it is the only reasonable interpretation of Section 62(2) of the Copyright Act and Section 134(2) of the Trade Marks Act, and therefore, as the head office of the plaintiffs is at Bangalore, Courts in Bangalore alone will have jurisdiction. Section 62(1) of the Copyright Act stipulates the forum for institution of infringement proceedings, etc., to be the District Court. Section 62(2) of the Copyright Act provides that the term “District Court having jurisdiction”, notwithstanding anything contained in the C.P.C. or any other law for the time being in force, would include a District Court

within the local limits of whose jurisdiction, the person, or one of the persons, instituting the Suit actually or voluntarily resides or carries on business or personal works for gain. By inserting Section 134(2) of the Trade Marks Act, the legislature has brought the Trade Marks law in line with the provisions contained in the Copyright Act, as very often a trade mark is also registered as an artistic work under the Copyright Act. In Section 62(2) of the Copyright Act as well as in Section 134(2) of the Trade Marks Act, a deliberate departure is made from Section 20 of the C.P.C to enable the plaintiff to sue one who infringed his copyright in the Court within whose local limit he carried on business at the time of the institution of the Suit or other proceedings. If the contrast as between two expressions namely, “actually and voluntarily resides” and “carries on business” is correctly perceived, it would reveal that while there is limitation, regarding residence, there is no such restriction with reference to “carrying on business”.

business” is not confined to only principal place of business. If the Legislature intended to mean the principal place only, it would have suitably qualified the expression “carries on business”. The plain meaning of the above expression will only convey that wherever there is a business activity — be it the principal place or branch or branches — the party is said to carry on business in all such places.”

11. It has also been pointed out by the learned Senior Counsels that there had been earlier suits when the first defendant themselves have instituted suits taking advantage of the fact that they have an Administrative Office at Chennai and have therefore filed suits this Court. It is also to be noted that the present application is filed seeking leave to sue as against defendants 2 to 4 alone, who are, as stated above, as Central Government entities.

12. In view of the fact that the plaintiff seeks relief against the first defendant, who has an Administrative Office at Chennai and also in view of the fact that the second, third and fourth defendants are Central Government entities, who should be prepared to litigate in any Court in

India, I hold that this Application should be allowed and leave is to be granted. Accordingly, the application is allowed.

Sd/.C.V.K.J.
26.08.2020

//Certified to be a true copy//
Dated this the day of 2020.

SU/28.08.2020

COURT OFFICER(O.S.)

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.



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