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A.No.801 of 2023

**A.No.801 of 2023**  
in  
**C.S.(Comm.Div.) No.178 of 2022**

|               |            |
|---------------|------------|
| Reserved on   | 22.02.2023 |
| Pronounced on | 24.05.2023 |

**C.SARAVANAN, J.**

This application has been filed by the defendant for revoking the leave granted to the respondent/plaintiff in A.No.3679 of 2022 *vide* order dated 26.08.2022. This application has been filed on the ground that no part of cause of action has arisen within the jurisdiction of this Court and that the applicant/defendant had already vacated the registered office during October 2020.

2. In support of the above contention, the applicant/defendant has filed a copy of Form No.INC-22 from the Ministry of Corporate Affairs evidencing the change of registered office of the applicant/defendant from the address, i.e. G-2<sup>nd</sup> Floor, East Coast Chambers, No.92, GN Chetty Road, Chennai, Tamil Nadu, which was given in the plaint for the



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purpose of filing of the suit before this Court, to the address, i.e. No.279,  
E Rajendran Building, Gudapakkam Kandigai, Puduchatiram Post,  
Tiruvallur – 600 124.

3. The applicant/defendant has also filed a copy of e-mail dated 06.10.2020 sent to the landlord giving notice for vacating the address in G-2<sup>nd</sup> Floor, East Coast Chambers, No.92, GN Chetty Road, Chennai, Tamil Nadu.

4. It is further submitted that on the date of commencement of the suit, the applicant/defendant was not carrying on business within the Jurisdiction of this Court. It is therefore submitted that the leave which was granted by this Court on 26.08.2022 under Clause 12 of the Letters Patent was liable to be revoked.

5. It is further submitted that the respondent/plaintiff is also not residing within the Jurisdiction of this Court, even if it is assumed that there is an alleged violation of copyright of the respondent/plaintiff.



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6. The learned Counsel for the applicant/defendant has placed reliance on the decision of the Hon'ble Supreme Court in **M/s.Dhodha House Vs S.K.Maingi with M/s.Patel Field Marshal Industries and others Vs M/s.P.M.Diesel Limited**, (2006) 9 SCC 41 / AIR 2006 SC 730.

7. On the other hand, the learned Counsel for the respondent/plaintiff would submit that the print out of the applicant's/defendant's website prior to filing of the suit declares the address in G-2<sup>nd</sup> Floor, East Coast Chambers, No.92, GN Chetty Road, Chennai, Tamil Nadu and therefore, leave that was granted by this Court on 26.08.2022 based on the averments in the plaint and the documents filed in support of the plaint, cannot be revoked.

8. That apart, a reference is made to the purchase orders dated 08.03.2022 and 09.03.2022 placed on the applicant/defendant by M/s.Ashok Leyland and that said M/s.Ashok Leyland was also having registered office at Sardar Patel Road, Chennai and therefore, a part of



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cause of action has arisen within the Jurisdiction of this Court and therefore, leave that was granted by this Court on 26.08.2022 in A.No.3679 of 2022 is agreeable.

9 A reference is made to Paragraph 10 of the decision of the Hon'ble Supreme Court in **Indian Mineral & Chemicals Co. & others Vs Deutsche Bank**, 2004 (12) SCC 376/CDJ 2004 SC 778, which reads as follows:-

*"10. We are of the opinion that the learned Judges erred in revoking leave under clause 12 of the Letters Patent in view of the clear assertions made in the plaint and the assertions in a plaint must be assumed to be true for the purpose of determining whether leave is liable to be revoked on a point of demurrer. [See Abdulla bin Ali Vs. Galappa 1982 (3) SCC 487; Ritu Sachdev Vs. Anita Jindal AIR 1982 Cal 333 and Secretary of State Vs. Golabrai Paliram AIR 1932 Cal 146]. In the plaint the jurisdiction of the High Court was claimed on the ground that:*

*1) UCO Bank's branch which was within the Courts jurisdiction intimated the plaintiffs that the letter of Credit had been issued by the Respondent;*

*2) The documents were presented by the plaintiffs to the said branch of UCO Bank; and*

*3) Payment was to be received by the Plaintiffs from the said branch of UCO Bank."*



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10. The learned Counsel for the respondent/plaintiff has also placed reliance on the decision of the Delhi High Court in **M/s.V Guard Industries Limited Vs Sukan Raj Jain and another**, dated 05.07.2021 in C.S.(Comm.)No.25/2021.

11. I have considered the arguments advanced by the learned counsel for the applicant/defendant and the learned counsel for the respondent/plaintiff. I have perused the decisions referred by the learned counsels for the applicant/defendant and the respondent/plaintiff.

12. In this case, the respondent/plaintiff has stated that applicant/defendant is carrying on business in Chennai and has produced documents to show that the address of the applicant/defendant is within the jurisdiction of this Court.

13. The leave that has been granted under Clause 12 of the Letters Patent cannot be revoked unless the applicant/defendant makes out a case for revoking the leave. If no part of cause of action had arisen within the



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jurisdiction of this Court, the leave can be revoked, in which case, the plaintiff can be asked to re-present the plaint before the Court of competent jurisdiction. This would be in consonance with Order VII Rule 10 of Code of Civil Procedure.

14. However, while revoking the leave, the Court has to be convinced that the leave was wrongly granted to the respondent/plaintiff. The Court is only expected to look into the averments in the plaint and not at the defence in the Written statement or the evidences which are produced before the Court by the applicant/defendant. Those are matters of evidence.

15. Therefore, I do not find any merits in this application filed for revoking the leave that was granted under Clause 12 of the Letters Patent. Therefore, this application is liable to be rejected.

16. Considering the fact that the dispute is a commercial dispute, the applicant/defendant is directed to file their Written Statement for the Court to frame the issues and fix the dates for case management



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schedule, within the period stipulated under the provisions of the  
Commercial Courts Act, 2015.

17. This application is accordingly rejected.

24.05.2023

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**C.SARAVANAN, J.**

Jen

Pre-Delivery Order made in

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in

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24.05.2023