

28.11.2025
Ct. No. 06
Sl. No.05
Cp

C.O. No. 3987 of 2025

Rabindra Nayak
Vs.
Virendra Prasad Jaiswal

Mr. Abhisek Halder
Mr. Omar Faruk Gazi
Mr. Maidul Islam Kayal
Mr. Kaushik Roy
Mr. Noorul Amin Sardar

.....for the petitioner.

The petitioner challenges the order dated September 12, 2025, passed by the learned Judge, 11th Bench, City Civil Court, Calcutta in Title Suit No.334 of 2022.

By the order impugned, the learned court rejected an application under Order 7 Rule 10 of the Code of Civil Procedure, filed by the petitioner/defendant in the suit. The petitioner urged that the suit could not have been filed before the said court as the cause of action arose at Berhampur, Ganjam, Odisha. The learned court was of the view that, at a matured stage of the suit, after the evidence had started, objection as to the territorial jurisdiction of the court could not be raised.

Mr. Halder, learned advocate appearing for the petitioner, submits that the finding is erroneous. An application under Order 7 Rule 10 of the Code of Civil Procedure could be filed at any stage of the suit.

In my view, the point raised by Mr. Halder with regard to lack of territorial jurisdiction is not available to the defendant as Sub-Section (2) of Section 134 of the Trade Marks Act, 1999, provides that a suit for infringement of a registered trade mark or for passing off, shall be instituted in any court inferior to a district court having jurisdiction to try the suit and a district court having jurisdiction shall, notwithstanding anything contained in the Code or any other law for the time being in force, shall include a district court within the local limits of whose jurisdiction at the time of institution of the suit or other proceeding, the person instituting the suit or proceeding voluntarily resides or carries on business.

Section 62(2) of the Copy right Act, also has a similar provision. As the plaintiff's registered office is within the jurisdiction of the trial court, the court has the jurisdiction to take up the suit.

Reliance has been placed by Mr. Halder on the decision of the Hon'ble Apex Court in the matter of **Indian Performing Rights Society Limited vs. Sanjay Dalia & Anr.**, reported in AIR 2015 SC 3479. The said decision does not apply, inasmuch as, this is not a situation where the plaintiff has filed the suit in an obscure location intending to drag the defendant to such location and cause inconvenience to the defendant. The suit has been

filed in the court within whose jurisdiction the registered office of the plaintiff is situated.

Under such circumstances, the application is disposed of without any interference with the order impugned.

However, the learned Judge shall proceed expeditiously with the suit.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)