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

+ CM(M)-IPD 22/2026, CM 104/2026 & CM 105/2026

NATIONAL HEALTHCARE INSTITUTE AND MEDICAL
RESEARCH CENTRE

.....Petitioner

Through: Mr. Arnav Goyal, Advocate.

versus

MAX HEALTHCARE INSTITUTE LIMITED

.....Respondent

Through: Mr. Raunaq Kamath, Mr. Siddharth
Varshney and Mr. Yash Raj,
Advocates.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **23.04.2026**

1. This is a petition under Article 227 of the Constitution of India, 1950, challenging the impugned order dated 25.03.2026, passed by the learned District Judge (Commercial Court-02), South District, Saket, New Delhi in CS(COMM.) 127/2026 whereby the learned Trial Court dismissed the application under Order VII Rule 10 of the Code of Civil Procedure, 1908 (hereinafter referred to as “CPC”).

2. Learned counsel appearing on behalf of the petitioner/defendant states that the learned Trial Court has erred in exercising jurisdiction by issuing summons to the petitioner/defendant in the suit for the reason that there is no territorial jurisdiction available with the Delhi Courts as the petitioner/defendant is located in Jaipur and offers its services only in Jaipur.

3. So far as the issue of interactive website is concerned, he states that the website is not at all interactive and there is no way by which any individual or a person can obtain any appointment of any doctor rendering services in the defendant's hospital at Jaipur and as such the basis on which the learned Trial Court has dismissed the application, filed on behalf of the petitioner/defendant itself is unfounded.

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4. Moreover, so far as the conferring of territorial jurisdiction under Section 134(2) of the Trade Marks Act, 1999 is concerned, learned counsel brings attention of this Court to para 2.5 of the writ petition wherein the petitioner has extracted the GST registration details as also the company details available with the Ministry of Corporate Affairs pertaining to the respondent/plaintiff. He states that while the company is incorporated and registered at ROC Mumbai, the only reason on the basis of which the present suit was filed, is the GST registration which is at Delhi. He states that in terms of the judgment of the Supreme Court in Civil Appeal Nos. 10643-10644 of 2010 titled “**Indian Performing Rights Society vs. Sanjay Dalia**” dated 01.07.2025, the suit would be maintained only in the place where it has its registered or a principal place of business. He states that the respondent/plaintiff has incorrectly stated Delhi to be the principal place of business. He states in such view of the matter, the impugned order is unsustainable and has to be set aside.

5. Learned counsel appearing for the respondent/plaintiff states that so far as the respondent/plaintiff is concerned, it is only the mere averment in the plaint stating that a particular territorial jurisdiction conferred on a particular place, should be enough for the Court to proceed to issuing summons of the suit.

6. He relies upon the judgment of learned Division Bench of this Court in “**PUMA SE vs. DK ARORA**” reported in **2022 SCC OnLine Delhi 4142**.

7. Learned counsel states that in **Puma SE (supra)** the learned Division Bench had relied upon the Supreme Court’s judgment in “**Expfar SA vs. Eupharma Laboratories Ltd.**” dated 20.02.2024 wherein it was categorically held that if the objection to jurisdiction is raised by way of a demurrer, the trial must proceed on the basis that the facts pleaded by the plaintiff in the impugned proceedings are true. He states that on the basis of the aforesaid



observations, the impugned order is clearly sustainable in law.

8. That apart, learned counsel for the respondent/plaintiff had also handed over to the Court the copies of the screenshots of the website maintained by the petitioner/defendant to submit that the said website is an interactive website whereby any individual can seek and obtain an appointment for consultation with a doctor. He emphasizes that the said screenshot also indicates that at least 300 appointments were booked *via* the interactive website. Predicated on the above, learned counsel states that the law has developed further from what the learned Division Bench in the case of CS(OS) 894/2004 dated 23.11.2009 titled ***“Banyan Tree Holding (P) Limited vs. Murali Krishna Reddy & Anr.”*** had held. He states that the judgment of the learned Division bench of this Court in FAO(OS) (COMM) 66/2025 titled ***“Kohinoor Seed Fields India Pvt. Ltd vs. Veda Seed Sciences Pvt. Ltd.”*** dated 03.12.2025 also clearly observes that if there are any interactive websites, wherever such websites are accessible, that place would have jurisdiction to entertain a suit.

9. Having heard the learned counsel for the parties, this Court is of the considered opinion that the petition of the petitioner/defendant must fail.

10. Clearly, at the stage of considering any application under Order VII Rule 10 of CPC or for that matter under Order VII Rule 11 of the CPC, the Courts are to be only guided by the averments in the plaint and nothing else.

11. This Court has perused the judgment in ***Indian Performing Rights Society (Supra)***, relevant portions are extracted hereunder:

“23. The provisions of Section 62(2) of the Copyright Act and Section 134 of the Trade Marks Act are in pari materia. Section 134(2) of the Trade Marks Act is applicable to clauses (a) and (b) of Section 134(1) of the Trade Marks Act. Thus, a procedure to institute suit with respect to Section 134(1)(c) in respect of “passing off” continues to be governed by Section 20 CPC.

24. If the interpretation suggested by the appellant is accepted, several mischiefs may result, intention is that the plaintiff should not go to far-flung places than that



of residence or where he carries on business or works for gain in order to deprive the defendant a remedy and harass him by dragging to distant place. It is settled proposition of law that the interpretation of the provisions has to be such which prevents mischief. The said principle was explained in Heydon's case¹¹. According to the mischief rule, four points are required to be taken into consideration. While interpreting a statute, the problem or mischief that the statute was designed to remedy should first be identified and then a construction that suppresses the problem and advances the remedy should be adopted. Heydon's¹¹ mischief rule has been referred to in Interpretation of Statutes by Justice G.P. Singh, 12th Edn., at pp. 124-25 thus:

“(b) Rule in Heydon's case¹¹; purposive construction: mischief rule

When the material words are capable of bearing two or more constructions the most firmly established rule for construction of such words ‘of all statutes in general (be they penal or beneficial, restrictive or enlarging of the common law)’ is the rule laid down in Heydon's case¹¹ which has now attained the status of a classic (*Kanai Lal Sur v. Paramnidhi Sadhukhan*²⁰). The rule which is also known as “purposive construction” or “mischief rule” (*Anderton v. Ryan*²¹), enables consideration of four matters in construing an Act: (i) What was the law before the making of the Act; (ii) What was the mischief or defect for which the law did not provide; (iii) What is the remedy that the Act has provided; and (iv) What is the reason of the remedy. The rule then directs that the courts must adopt that construction which “shall suppress the mischief and advance the remedy”. The rule was explained in *Bengal Immunity Co. Ltd. v. State of Bihar* by S.R. Das, C.J. as follows: (AIR p. 674, para 22)

22. It is a sound rule of construction of a statute firmly established in England as far back as in 1584 when Heydon's case was decided that: (ER p. 638)

“...for the sure and true interpretation of all statutes in general (be they penal or beneficial, restrictive or enlarging of the common law) four things are to be discerned and considered:

1st: What was the common law before the making of the Act.

2nd: What was the mischief and defect for which the common law did not provide.

3rd: What remedy Parliament hath resolved and appointed to cure the disease of the commonwealth, and

4th: The true reason of the remedy;

and then the office of all the Judges is always to make such construction as shall suppress the mischief, and advance the remedy, and to suppress subtle inventions and evasions for continuance of the mischief, and pro private commodo, and to add force and life to the cure and remedy, according to the true intent of the makers of the Act, pro bono publico.' (*Bengal Immunity Co. Ltd. v. State of Bihar*²²).

47. The facts of the instant cases and the question posed is different which did not come up for consideration in any of the aforesaid decisions rendered by the High



Courts and even otherwise any observations in any of the aforesaid decisions contrary to our decision cannot hold the field. Interpretation of provisions cannot be so wide so as to open it to be misused, it has to be subject to object of the Act as explained above.”

12. This Court has also perused the judgment of learned Division Bench in ***Puma SE (supra)*** and it appears appropriate to extract the para 16 as also para 17 hereunder:

“16. As mentioned above, the law in relation to rejection of plaint at the initial stage while considering application under Order VII Rule 10 is no longer res integra. The Supreme Court in Exphar SA v. Eupharma Laboratories Ltd. observed as under: (SCC p. 692, para 9)

9. Besides, when an objection to jurisdiction is raised by way of demurrer and not at the trial, the objection must proceed on the basis that the facts as pleaded by the initiator of the impugned proceedings are true. The submission in order to succeed must show that granted those facts the court does not have jurisdiction as a matter of law. In rejecting a plaint on the ground of jurisdiction, the Division Bench should have taken the allegations contained in the plaint to be correct. However, the Division bench examined the written statement filed by the respondents in which it was claimed that the goods were not at all sold within the territorial jurisdiction of the Delhi high Court and also that Respondent 2 did not carry on business within the jurisdiction of the Delhi High Court. Having recorded the appellants’ objections to these factual statements by the respondents, surprisingly the Division Bench said:

“Admittedly the goods are being traded outside India and not being traded in India and as such there is no question of infringement of trade mark within the territorial limits of any court in India what to say of Delhi.”

17. The principle laid down was, thereafter, followed by this Court in RSPL Ltd. case, and, thereafter, followed consistently by this Court in Allied Blenders & Distillers (P) Ltd. v. Parag Distillery (P) Ltd., and various other judgments such as Mann Pharmaceuticals Ltd. v. Singh Chandra Kishore Chaurasia v. R A Perfumery Works (P) Ltd. and Dassault Systems SE vs. Automobile Corpn. of Goa Ltd.”

13. Therefore, the law in this regard is trite. In that, this Court is to consider the averments in the plaint as a whole without reference to the written statement and the defendant is to show that granted those facts mentioned in the plaint, the Court does not have jurisdiction as a matter of law. The petitioner/defendant has failed in that endeavour.



14. So far as the objections raised by the learned counsel for the petitioner, on facts, is concerned, at this stage, the documents which have been filed alongwith the plaint specially the website of the petitioner/defendant, appears to be an interactive website, although whether the website is interactive or not cannot be ascertained with conviction at this stage and may be considered at the stage of trial.

15. At this stage, this Court is to *prima facie* see if territorial jurisdiction is available with the Court at New Delhi on the basis of a website which appears to be interactive. This Court has no reason, at this stage, to doubt that the website is indeed interactive.

16. It is also on record that not only has the respondent-plaintiff asserted that its carrying on business within the territorial jurisdiction of Delhi and that its principal place of business is located in N-110, Panchsheel Park, New Delhi-110017, but also has its GST registration at Delhi.

17. The plaintiff also has asserted that it has two multi specialty hospitals running within the territorial jurisdiction of this Court apart from relying upon the Section 20(C) of the CPC.

18. In view of the facts as obtaining in the present case, the ratio in ***Indian Performing Rights Society (Supra)*** would not apply.

19. On an overall conspectus, this Court does not find any reason to interfere with the impugned order dated 25.03.2026, passed by the learned Trial Court.

20. This Court also does not find any illegality or impropriety or any infirmity or an erroneous exercise of jurisdiction conferred upon by the learned District Court while passing the impugned order and as such the petition is dismissed being bereft of any merits. However, no costs are imposed on the said petition.

21. The aforesaid observations shall not tantamount to expression on merits



of the matter and the parties are at liberty to take any and all objection as and when the trial proceeds.

APRIL 23, 2026

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TUSHAR RAO GEDELA, J