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

+ CM(M)-IPD 40/2025, CM 244/2025 & CM 245/2025

YATISHKUMAR BABURAO GAIKWAD & ANR. ....Petitioners

Through: Mr. Yuvraj Singh and Ms. Vibhati  
Gupta, Advocates

versus

SACHIN SARIYA .....Respondent

Through: Mr. Sudarshan Kumar Bansal, Ms.  
Namrata Jain, Mr. Vijay Soni, Mr.  
Shivendra Pratap Singh and Ms.  
Nishtha Kapoor, Advocates

**CORAM:**

**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA**

**ORDER**

% **19.01.2026**

1. The present petition under Article 227 of the Constitution of India, 1950 assails the order dated 17.09.2025 of the learned Trial Court whereby the application under Order VII Rule 11 (a) and (d) of Code of Civil Procedure, 1908 (hereinafter referred to as "CPC"), seeking rejection of the plaint on the ground that it is barred by law and discloses no cause of action for having been instituted in the territorial jurisdiction of Delhi, was dismissed.

2. Mr. Yuvraj Singh, learned counsel for the petitioner/defendant brings attention of this Court to para 46 of the plaint filed by the respondent/plaintiff to submit that except for a bald averment that a cause of action has arisen in the third week of February, 2025 where the defendants were found advertising, soliciting and supplying their goods, which were available in Delhi markets at Naraina, R.K. Puram and Sarojini Nagar, there is no



document filed worth its name, which would prove or atleast *prima facie* establish that Delhi Courts have territorial jurisdiction of the subject matter.

3. Learned counsel for the petitioner vehemently submits that the plaintiff has not filed any document till date in support of the contention in para 46, nor is there any application which has been filed seeking permission to file any document or invoice or any other such paper document or evidence, which would atleast *prima facie* indicate that Courts at Delhi could exercise territorial jurisdiction over the subject matter. He also submits that though the respondent/plaintiff has claimed that an agent at Delhi has purchased the alleged infringed products, however, neither the name of the agent nor the shop from where such alleged purchase has taken place or even the purchase order has been placed alongwith the plaint.

4. He submits that the petitioner/defendant is situated in Solapur, where it manufactures the goods like fuses, etc. and has not supplied anywhere beyond the territory of the State of Maharashtra alone. He asserts that the petitioner/defendant has never sold any goods in Delhi. Accordingly, the averments being bald have to be nipped in the bud and the suit of the respondent/plaintiff may be dismissed.

5. He relies upon the judgments of ***Banyan Tree Holding (P) Limited vs. A. Murali Krishna Reddy & Anr.*** reported in 2009 SCC OnLine Del 3780, judgment of this Court dated 20.08.2023 ***Vikrant Chemico Industries Pvt. Ltd vs. Shri Gopal Engineering and Chemical*** in CS(COMM) 85/2018 as also ***Indovax Pvt. Ltd vs. Merck Animal Health and Ors.*** reported in 2017 SCC OnLine Del 9393 to buttress his arguments.

6. Predicated on the aforesaid, he submits that the order assailed in the present petition is unsustainable in law and as also on facts.

7. Mr. Sudarshan Kumar Bansal, learned counsel appearing for the respondent/plaintiff submits that the dismissal or the rejection of the



application under Order VII Rule 11, CPC by the learned Trial Court is sustainable in law as also on facts.

8. He invites attention of this Court not only to para 46 but also paras 47 and 48 to submit that not only has the respondent/plaintiff indicated where the goods were being sold but also has given clear indication as to what were the goods that were purchased. Coupled with that, he also submits that the respondent/plaintiff has also averred in para 48 of the plaint that while conducting a search on the internet, the respondent/plaintiff also found that the petitioner/defendant were also advertising, soliciting, supplying, wholesaling, selling, trading, marketing, dealing and inviting trade inquiries for the impugned trademarks under the impugned trademarks and labels through the e-commerce platform "Just Dial". He submits that in such view of the matter, having regard to the fact that the plaint has all the necessary concomitants, which would confer the territorial jurisdiction upon the Court to entertain and adjudicate the present suit, the impugned order is sustainable.

9. He also invites attention to page 567 of the present paper book to submit that the respondent/plaintiff has actually filed on record of the Trial Court the printouts of the "Just Dial" website where the offer of sale or proposal for sale of the defendant alongwith the same impugned goods have been placed on record. He submits that offer for sale on e-commerce would also confer jurisdiction on Courts at Delhi.

10. He relies upon the judgment of **TATA Sons Pvt. Ltd vs. Hakunamatata TATA Founders** reported in 2022 SCC OnLine Del 2968 particularly on para 17 and that of the judgment of this Court dated 03.12.2025 in **Kohinoor Seed Fields India Pvt Ltd vs. Veda Seeds Sciences Pvt. Ltd** passed in FAO(OS) (COMM) 66/2025 particularly para 19.13, to submit that the law in respect of where the territorial jurisdiction would lie in case the infringing goods are sold through e-commerce platform, has developed from what was originally



laid down by the Division Bench of this Court in ***Banyan Tree*** (supra).

11. Relying on those paragraphs, he submits that even if there is no sale, the necessary concomitant that is to be seen is whether the impugned goods are capable of being sold at a particular place. He submits that, that read with assertion in paras 46, 47 and 48 would be sufficient for the learned Trial Court to take cognizance of the suit. In that view of the matter, he submits that the petition is bereft of any merits and should be dismissed.

12. This Court has heard the arguments of learned counsel for the petitioner and that of the respondent/plaintiff.

13. On an appreciation of the arguments addressed by learned counsel appearing for the petitioner, the same appeared at the first blush to be attractive, however, on a closer scrutiny, there is no merit in the contentions raised by learned counsel. Though the fact may remain as of today that no document in respect of the sale or purchase alleged to have been made in Delhi has been filed, however the non-filing of the said document may not necessarily, at this stage, result in dismissal of the suit under Order VII Rule 11 CPC. It is only the averments in the plaint which alone are to be considered for adjudication of application under Order VII Rule 11 CPC. To that extent, counsel for the petitioner does not dispute that the pleadings in para 46 to 48 of the plaint do raise the contentions, though denied by the petitioner.

14. This Court has also perused the judgments of the learned Division Bench in ***TATA Sons*** (supra) and ***Kohinoor Seeds*** (supra). The relevant paragraphs are extracted hereunder:-

***(i) TATA Sons Pvt. Ltd vs. Hakunamatata TATA Founders***  
reported in ***2022 SCC OnLine Del 2968***:

*“17. We are in complete agreement with the above view of the English Court. Even if a website is not directed at customers in a particular country, the fact that they are not restricted by the website*



to have access to it, is enough to characterise it as targeting. Targeting need not be a very aggressive act of marketing aiming at a particular set of customers. Mere looming presence of a website in a geography and ability of the customers therein to access the website is sufficient, in a given case. It may not be forgotten that in the matters of infringement of trademark, it is the possibility of confusion and deception in the mind of public due to infringing trademark that is good enough for the Court to grant injunction.”

**(ii) Kohinoor Seed Fields India Pvt Ltd vs. Veda Seeds Sciences Pvt. Ltd** passed in **FAO(OS) (COMM) 66/2025**:

*“19.13 We are in agreement with Mr. Agarwal that the issue of whether the listing on the IndiaMart and Kalugudi e-commerce platforms, of the allegedly infringing goods of the respondent, for sale, were at the instance of the respondent or of some other party, is extraneous to the aspect of territorial jurisdiction. Once the infringing goods were available for sale, the tort of infringement, which predicates use of the infringed mark, or a mark which is deceptively similar thereto, for trade, stood committed. The suit, seeking relief thereagainst, could be filed before every Court having territorial jurisdiction over the situs of sale of such goods. **World Wrestling Entertainment** extends, in a case of e-commerce, the situs to include every place where a commercial transaction could be concluded and the goods bought or sold. Every Court having jurisdiction over such place can, therefore, adjudicate on the aspect of infringement, or passing off. The decision of the learned Single Judge is clearly contrary to this principle.”*

(emphasis supplied)

Thus, in view of the above ratio, the argument of learned counsel for the petitioner that no sale has taken place in Delhi over e-commerce platform or that no document has been filed by plaintiff to support the settlement is concerned, is untenable.

15. Though, the Supreme Court in **T. Arvindandam vs. T.V. Satyapal** reported in **(1977) 4 SCC 467**, has laid down that all those suits which are based on clever drafting has created the illusion of a cause of action, it should be nipped in the bud. However, there is a caveat attached thereto which is that in a plaint once the plaintiff alleges a particular fact requiring proof thereof at the stage of trial, then, at the stage of considering an application under Order



VII Rule 11, CPC, the Courts will not carry out a mini trial. It is enough if the plaintiff makes an averment which may or may not be proved by the plaintiff at the stage of the trial.

16. The defendant's defence as to whether the goods were sold in actual or not, is yet to be tested at the stage of trial. All that the Court has to consider at this stage as to whether there is an averment to the extent conferring territorial jurisdiction on a particular Court. From the overall reading of paragraphs 46, 47 and 48, this Court is of the considered opinion that the averments made therein are sufficient to confer jurisdiction upon the Courts at Delhi.

17. In that view of the matter, this Court is unable to accede to the arguments rendered by learned counsel for the petitioner and as such finding no merit, the petition is dismissed. However, without any order as to costs.

18. It is made clear that in case, any similar contention has been raised as a preliminary objection in the written statement, that would be considered by the learned Trial Court at an appropriate stage, in accordance with law.

**TUSHAR RAO GEDELA, J**

**JANUARY 19, 2026**

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