

**IN THE COURT OF SH. ANIL KUMAR SISODIA: DISTRICT
JUDGE (COMMERCIAL COURT-04), CENTRAL DISTRICT,
TIS HAZARI COURTS, NEW DELHI**

CS (COMM) 140/2026

**Dayanand Anglo-Vedic College Trust
and Management Society & Anr.**

.....Plaintiffs

Versus

MR DAV Institute

..... Defendant

**I.A. No. 03/2026 (Application u/O 7 Rule 10 CPC for return of the
plaint)**

ORDER

1. This order shall dispose of an application filed by the defendant under Order 7 Rule 10 r/w Section 151 CPC for return of the plaint.

2. In the application, it has been stated that the defendant institute is situated at 5th Km Stone Sonapat Road, Rohtak, Haryana. The entire cause of action has arisen within the territorial jurisdiction of the courts of Rohtak Haryana as defendant carries on its educational activities exclusively from Rohtak and alleged acts of infringement of Trade

Mark has taken place at Rohtak. It is further stated that defendant in para 5 of the preliminary objection of the WS has specifically pleaded that this court has no territorial jurisdiction and the suit is liable to be filed before the Court at Rohtak, Haryana. It is further state that this plea has also been taken by the defendant in its WS at page 24 and 25. Defendant further stated in the WS that plaintiff has its subordinate branch / office namely DAV Centenary Public School in the vicinity of defendant school merely 4.8 km away from the premises of the defendant and the plaintiff has not denied this fact in the replication. It is stated that filing of the suit at Delhi District courts is contrary to the settled legal position laid down by Hon'ble Supreme Court and Hon'ble High Court of Delhi and entirely cause of action has arisen at Rohtak, Haryana. It is stated that Section 134 (2) of the Trade Marks Act does not confer any right on the plaintiff to institute the suit at their distant principal office in Delhi when they maintain subordinate / branch office at every place where cause of action has arisen. Reliance has been placed on the judgments of **IPRS Vs Sanjay Dalia (2015) 10 SCC 161** and **Ultra Home Construction Pvt. Ltd. Vs Purushottam Kumar Chaubey and Ors, FAO (OS) 494/2015 (Delhi High Court) (DB) dated 20.01.2016**. A prayer has been made for return of the plaint u/O 7 Rule 10 CPC to be presented before court of competent jurisdiction at Rohtak Haryana.

3. Counsel for plaintiffs has not filed any reply to the application

and has submitted that he is ready to argue on the application without filing the reply.

4. I have heard counsel for defendant and counsel for plaintiffs and have perused the record carefully.

5. Briefly stated the facts necessary for disposal of the application are that plaintiffs have filed the present suit u/s 134 of the Trade Mark Act for permanent, mandatory injunction and rendition of accounts against the defendant. The case of the plaintiffs is that plaintiff no. 1 society is the registered proprietor of the trade mark “Dayanand Anglo Vedic” “D.A.V.”, “D.A.V.” and the logo as detailed in para 2 K of the plaint. It is further the case of the plaintiffs that plaintiffs are running about 950 educational institution across India and have earned huge goodwill and attained distinctiveness in the field of education. It is further the case of the plaintiffs that defendant was using the acronym D.A.V without prior notice and authorization of the plaintiffs and despite cease and desist notice dated 22.11.2024 served upon the defendant. Defendant has failed to comply with the same. It was further stated that plaintiffs have their registered office in Central District in Delhi and the trade mark in question were also registered by the plaintiffs with Registrar of Trade Mark having office at Delhi and the plaintiffs do not have any other office/ branch offices in any other state of India. Therefore, this court has jurisdiction to entertain and try

the present suit.

6. The summons of the suit were served upon the defendant and defendant filed the written statement and denied the claim of the plaintiffs. It was stated that defendant is an education institute which is run by MR DAV Educational Trust located at Rohtak Haryana. Defendant institute is approved by All India Council for Technical Education since 1997-98 and name of the institute is appearing in the newspaper regularly since 2005. No case of infringement is made out as plaintiff has never used the registered name of “Dayanand Anglo Vedic” “D.A.V.” of “D.A.V.” independently. It was further stated that this court does not have territorial jurisdiction to entertain the present suit as use of the name “MR DAV Institute of Management Studies” has been used in Rohtak District of Haryana and plaintiff no. 1 society is registered in Delhi. The adoption of institute name after initial of late Chaudhary Matu Ram Hooda is bonafide and honest and the abbreviation MR forming the part of name MR DAV Institute of Management Studies has historically denoted “Matu Ram” reflecting the legacy and identity associated with defendant institution. It is further stated that the name DAV adduced by numerous institutions, colleges, schools and foundations engaged in imparting education. On merits, the contents of the plaint have been denied and a prayer was made for dismissal of the suit.

7. I have heard counsel for plaintiffs as well as counsel for defendant and have perused the record carefully. Counsel for the defendant has argued that this court does not have territorial jurisdiction to entertain the present suit as the alleged act of infringement of trademark took place in Rohtak, Haryana. The defendant institute is situated in Rohtak Haryana and no part of cause of action arose within the territorial jurisdiction of this court. It was argued that in the judgment of *IPRS Vs Sanjay Dalia* (supra), Hon'ble Supreme Court after discussing Section 20 CPC, Section 134 of Trade Mark Act and 66 of Copy Right Act held that it is clear that if a cause of action has arisen wholly or in part, where the plaintiff is residing or having its principal office, the suit can be filed at such place. It was further held that if the plaintiff is residing or carrying on business etc. at a place where cause of action, wholly or in part has also arisen he has to file a suit at that place. Counsel for the plaintiff has also placed reliance on the judgment of *Ultra Home Construction Pvt. Ltd. (supra)* wherein it was observed that where the plaintiff was carrying on business in Deogarh, Jharkhand and Delhi but because of cause of action arose in Deogarh Jharkhand and not in Delhi, the plaintiff cannot sue the defendant in Delhi in view of the decision in *Sanjay Dalia (supra)* and this court does not have territorial jurisdiction to entertain the suit.

8. Per Contra, Counsel for the plaintiffs has argued that plaintiff in para 15 of the plaint has categorically averred that the plaintiffs do not

have any other office/ branch offices in any other state of India and all the affairs of school run, managed or affiliated to the plaintiffs are carried out by the plaintiffs office in Delhi and as such this court has jurisdiction to entertain and try the present suit. Counsel for plaintiffs has also placed the reliance on the judgment of Hon'ble Supreme Court in **Transfer Petition (Civil) NO. 1233-1237 of 2008** titled as **DAV Boys Sr. Secondary School etc vs DAV College Managing Committee decided on 23.07.2010** and **Kohinoor Seeds Fields India Pvt. Ltd. Vs Veda Seed Sciences Pvt. Ltd, 2025:DHC:10789-DB** to argue that Hon'ble Supreme Court dismissed the transfer application against the plaintiff. He also argue that Hon'ble Division Bench of Delhi High Court in *Kohinoor Seed Fields India Pvt. Ltd (supra)* after discussing the judgment of *Ultra Home Construction (supra)* observed that Section 134 of Trade Mark Act confers an absolute right on the plaintiff to sue the defendant at the place where the plaintiff has its principal office of its business. The Hon'ble Division Bench further observed in para 20.5 of the judgment as :-

“To hold that, even if the plaintiff has its principal office of business at place A, it has to sue the defendant at place B where it has its subordinate office of business, because the cause of action has arisen at place B, would, in our view, be re-writing Section 134 of the Trade Marks Act, which a Court cannot do.”

9. Order 7 Rule 10 CPC deals with the return of the plaint on the

ground of lack of territorial jurisdiction. It is a settled preposition of law that the objection to territorial jurisdiction in an application under Order 7 Rule 10 CPC is by way of a demurrer. This means that the objection to territorial jurisdiction has to be construed after taking all the averments in the plaint to be correct. In **Exphar SA and Another Vs Eupharma Laboratories Limited and Another (2004) 3 SCC 688**, the Supreme Court observed that 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 procedure, are true. The Supreme Court further observed that the objection as to jurisdiction in order to succeed must demonstrate that granted those facts, the Court does not have jurisdiction as a matter of law. It is a settled proposition of law that while considering a plaint from the standpoint of Order 7 Rule 10 CPC, it is only the plaint and the documents filed along with it, that need to be seen. The written statement is not to be looked into at all.

10. Bearing the aforesaid principle in mind, it is necessary to refer to the averments made in the plaint. The memo of parties shows that the plaintiffs have mentioned their office at Chitrugupta Road, Paharganj, New Delhi which is situated within the territorial jurisdiction of this court. Further, in para 15 of the plaint relating to territorial jurisdiction of this court reads as under:-

“15. That the plaintiffs have their registered office in Central District, Delhi. The Trade Marks in question was registered by the plaintiffs with the Registrar of Trade Marks having office at Delhi, part of cause of action to file the present suit has also arisen in Delhi. That the plaintiffs do not have any other office/ branch office(s) in any other state of India and all the affairs of the schools, run, managed or affiliated to the plaintiffs are carried out by the plaintiffs from their office in Delhi. That as such this Hon’ble Court has jurisdiction to entertain and try the present suit.”

11. A bare perusal of para 15 would show that plaintiffs have categorically averred in the plaint that they do not have any other office/ branch office(s) in any other state of India and all the affairs of the school, run, managed or affiliated to the plaintiffs are carried out by the plaintiffs from their office in Delhi. This averment is duly supported by the affidavit and Statement of Truth of AR of the plaintiff and there is no reason to disbelieve the same.

12. Therefore, I am of the considered opinion that at this stage, it cannot be said that the plaintiffs have branch offices in other parts of the country, more particularly Rohtak Haryana where a cause of action has arisen. Hence, the judgments of *Sanjay Dalia (supra)* and *Ultra Home Construction (supra)* will not be applicable to the present case as

plaintiffs do not have any branch office / subordinate office in Rohtak where the cause of action has arisen. Hence, in view of Section 134 (2) Trade Marks Act, this court has territorial jurisdiction to entertain and try the present suit as the plaintiffs are having their registered office within the territorial jurisdiction of this court.

In view of the aforesaid discussion, the present application filed by the defendant is rejected and the application stands disposed of accordingly.

Announced in the open Court
Dated : **21.04.2026**

(ANIL KUMAR SISODIA)
District Judge (Commercial Court-04)
Central District, Tis Hazari Courts, Delhi