

Order Below Exh. 14 in Trade Mark Suit No. 1/2023

1. Read the present application. Heard, learned advocates for both the parties. The short facts of the present application is that the suit was filed by the plaintiff for permanent and mandatory injunction for infringement of a trademark and passing off action under The Trade Marks Act, 1999.
 - 1.1 That the primary grounds for seeking return of the plaint is that the defendants argued that the plaint must be returned for two main reasons, both relating to the Court jurisdiction : lack of Territorial Jurisdiction and non-compliance with the provisions of The Commercial Courts Act, 2015 (CCA, 2015) concerning Specified Value.
 - 1.2 That Lack of Territorial Jurisdiction - The defendants argued that the plaintiff has failed to establish that the cause of action arose within the territorial jurisdiction of the Hon'ble Commercial Court. They rely on Section 134 of The Trade Marks Act, 1999 and Section 20 of the CPC, arguing that the conditions precedent for establishing jurisdiction, such as the defendant's residence/business or the place where the cause of action arose, have not been met or properly pleaded.

1.3 That non-compliance with the Commercial Courts Act, 2015 (Specified Value). The defendants argued that the Hon'ble Commercial Court lacks pecuniary jurisdiction because the suit fails to comply with the mandatory provisions of the CCA, 2015, specifically regarding the "Specified Value" of the commercial dispute. They point to Section 2(1)(i) read with Section 12(1)(d) of the CCA, 2015, which states that for a commercial dispute relating to an intangible right (like a trademark/intellectual property), the market value of the said rights, as estimated by the plaintiff, must be taken into account for determining the Specified Value (which must not be less than one crore rupees, or such higher value as notified). The defendants assert that the plaint is "absolutely silent" and contains no averments whatsoever regarding the specified market value of the intangible rights which is a mandatory requirement for the suit to be considered a "commercial dispute of a Specified Value" falling under the jurisdiction of the Commercial Court (Section 6). They also argue that the suit appears to relate to "tangible rights only," but even if it relates to intangible rights, the mandatory valuation under Section 12(1)(d) is missing.

- 1.4 The defendants argued relating to improper service of summons. They were served only a simple civil suit notice/summons, not the commercial suit notice/summons or proceedings documents as required under the CCA, 2015. The defendants submit that the suit is illegal, false, frivolous and vexatious. The plaintiff is accused of being guilty of forum shopping. The plaint is of a combination/joinder of various causes of action which is allegedly not permissible in law.
- 1.5 The defendants prayed that to hear and decide the present application as to jurisdiction first before proceeding further. To allow the application and return the plaint (suit) under Order VII, Rule 10 read with Section 151 of the CPC along with The Trade Marks Act, 1999 and The Commercial Courts Act, 2015. To order the plaintiff to pay the costs of the application/proceeding.
2. The plaintiff has filed reply to the above application vide Exh. 16 wherein the plaintiff strongly denies all averments made by the defendants and requests the Court to dismiss the application with exemplary costs.

2.1 The plaintiff's reply is on two main counter-arguments. The suit is a Trademark Suit, not a Commercial Suit. The plaintiff asserts that as per the defendants' application that the suit is barred due to non-compliance with the Commercial Courts Act, 2015 is basically defected. The nature of suit is that the suit is explicitly filed as a Trademark Suit under the provisions of The Trade Marks Act, 1999 (Sections 27, 28, 29, 134 and 135). The plaintiff states the suit was neither filed as a Commercial Suit nor registered as a Commercial Suit under the CCA, 2015. When the suit is not a Commercial Suit, the mandatory provisions of the CCA, 2015 (including those concerning "Specified Value" under Section 2(1)(i) read with Section 12(1)(d)) are not applicable. The plaintiff agrees with the defendants that the Hon'ble Commercial Court would not have jurisdiction, but only because the suit was filed as a Trademark Suit before the Hon'ble District Court. The plaintiff agrees they did not provide the specified market value of intangible rights but argues this is because the valuation (for damages/loss) can only be accurately decided after the interpretation of accounts by the defendants. The plaintiff denies improper service, stating that since it is not a Commercial Suit, no special summons under the CCA, 2015 were required. The plaintiff also

claim advance notice, the plaint and other documents were served to the defendants' Advocate via email.

2.2 On the second point of territorial jurisdiction, the plaintiff states that the Hon'ble Court has proper territorial jurisdiction as per the special provisions of the TMA, 1999 which overrides the general law. The plaintiff argued that this section is a "notwithstanding" clause, meaning it supersedes anything contained in the Code of Civil Procedure, 1908 (including Section 20) for trademark suits. That the Section 134 (2) specifically provides that a "District Court having jurisdiction" shall include a District Court within whose limits the person instituting the suit "actually and voluntarily resides or carries on business or personally works for gain." That when the plaintiff - M/s. Saurashtra Cement Ltd. has its registered office and principal place of business at Ranavav, Porbandar, the District Court of Porbandar has the right and proper jurisdiction to try the matter. The plaintiff denies the charge of forum shopping, stating the suit was filed precisely where the law i.e. Section 134 of TMA, 1999 strictly allows him to file. In short, the plaintiff contends that the defendants are "misguiding and deceiving" the Court by deliberately converting the Trademark

Suit into a Commercial Suit in their application, finding fault with non-compliance of a law i.e. CCA, 2015 that is not applicable to the suit as filed. The plaintiff states that the defendants' application is baseless and should be dismissed with costs.

3. Based on the facts mentioned in the plaintiff's reply Exh. 16, the defendants' application Exh. 14 for the return of the plaint is likely to be dismissed for the following reasons:
 - A. **That valid territorial jurisdiction Under the Trade Marks Act, 1999.** The plaintiff establishes that the suit is properly instituted as a Trademark Suit, not a general civil suit, giving the Court jurisdiction under special law i.e. Supremacy of Section 134(2) of TMA, 1999. The plaintiff correctly cites the "notwithstanding" clause in Section 134(2) of the Trade Marks Act, 1999 which overrides the general jurisdiction provision in Section 20 of the Code of Civil Procedure.
 - B. **That jurisdiction based on plaintiff's location:** Section 134(2) specifically allows a trademark suit to be instituted in a District Court within whose limits

the plaintiff "actually and voluntarily resides or carries on business or personally works for gain."

- C. **Fact of plaintiff's business:** The plaintiff asserts that their registered office and principal place of business are at Ranavav, Porbandar which falls within the local limits of this Court. This fact alone is sufficient under the TMA, 1999 to confer jurisdiction, regardless of where the defendants reside or where the cause of action partially arose.
- D. **Misplaced challenge based on The Commercial Courts Act, 2015.** The defendants' primary argued that the suit plaint must be returned for failing to comply with the "Specified Value" requirement of the Commercial Courts Act, 2015 is rendered moot by the plaintiff's reply that the plaintiff explicitly states that the suit was not filed as a Commercial Suit and is not registered as a Commercial Suit under the CCA, 2015. When the suit is not governed by the CCA, 2015, the mandatory requirement to specify the market value of the intangible rights under Section 12(1)(d) of the CCA, 2015 is not applicable. The Court therefore does not lose jurisdiction on this ground.

- E. **Defendants' admission/agreement:** The plaintiff sharply pointed out that the defendants' own arguments agree that a commercial Court lacks jurisdiction over the suit as filed due to the missing valuation/specified value. This supports the plaintiff's position that the suit is a Trademark Suit filed before the competent District Court, not an improperly filed Commercial Suit.
4. Hence, the present application of defendants to return of the plaint under Order VII, Rule 10 CPC is based on the erroneous premise that the suit is a Commercial Suit. When the suit is validly instituted under the special jurisdiction provision of Section 134(2) of the Trade Marks Act, 1999 at the location of the plaintiff's principal place of business, the Court holds the requisite territorial jurisdiction to entertain the matter.
5. In view of the above findings, the present application filed by the defendants, Exh. 14, is devoid of merit. Hence, it is hereby ordered that the application Exh. 14 filed by the defendants under Order VII, Rule 10 of the CPC for the return of the plaint is hereby dismissed.

6. This Court holds that it has jurisdiction to try, entertain, and decide the present Trademark Suit.
7. The present suit shall proceed in accordance with law.
8. No order as to costs.

Signed and pronounced in the open Court on this 10th day of October, 2025.

Place: Porbandar.
Date : 10.10.2025.

(Pravinkumar H. Sharma)
Additional District Judge,
Porbandar.
UID Code No.GJ00701.