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

+ CS(OS) 172/2020 & I.A. 5505/2020(O-39 R-1 & 2), I.A. 5754/2020(O-7 R-10 & 11),

BENNETT, COLEMAN AND COMPANY LIMITED..... Plaintiff

Through: Mr. Kunal Tandon, Mr. Kumar S. Shekhar and Mr. Abhinav Dubey, Advocates

versus

SAMEET THAKKAR & ANR. Defendants

Through: Mr. Raghav Awasthi and Mr. Mukesh Sharma, Advocates for Defendant No.1, Mr. Deepak Gogia and Mr. Aadhar Nautiyal, Advocates for D-2

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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08.08.2022

I.A. 5757/2020(O-VI R-17 of the CPC)

1. The present application has been filed on behalf of the plaintiff under Order VI Rule 17 of the Code of Civil Procedure, 1908 (CPC) seeking amendment of the plaint.
2. The present suit has been instituted seeking permanent injunction and other consequential reliefs against the defendants based on defamatory posts made by the defendant no.1 against the plaintiff company.
3. An application under Order VII Rules 10 and 11 of the CPC was filed



on behalf of the defendant no.1 on the ground that this Court does not have territorial jurisdiction to entertain the present suit and necessary averments in this regard have not been made in the plaint. By way of the present application, the plaintiff company seeks to amend the plaint so as to insert additional paragraphs in the plaint with regard to territorial jurisdiction of this Court.

4. No reply to the present application has been filed on behalf of the defendant no.1. However, the counsel for the defendant no.1 opposes this application. He relies upon the judgment passed on 22nd April, 2008 in CS(OS) 1420/2005 titled **Archie Comic Publications, Inc. v. Purple Creations Pvt. Ltd. & Ors.**, (2010) 172 DLT 234 (DB).

5. I have gone through the aforesaid judgment. The said judgment proceeds on the basis that this Court did not have the inherent jurisdiction to entertain the suit in light of provisions of the Trade Marks Act, 1999. In the present case, it cannot be said that this Court lacks inherent jurisdiction to entertain the present suit. In fact, necessary averments have been made in paragraph 48 of the original plaint with regard to territorial jurisdiction of this Court. By way of the present application, the plaintiff seeks to further amplify the averments made in the plaint in support of the territorial jurisdiction of this Court.

6. The suit is at an early stage and issues are yet to be framed in the suit. No prejudice would be caused to the defendants if the present application is allowed. The amendments sought are not in any way contradictory to the averments made in the plaint. Accordingly, the present application is allowed and the amended plaint filed with the application is taken on record.



CS(OS) 172/2020

7. In view of the amended plaint being taken on record, written statement(s) to the amended plaint be filed within thirty days. Replication thereto be filed within fifteen days from the receipt of the written statement(s).

8. List before the Joint Registrar on 13th October, 2022.

I.A. 5871/2020(O-XXXIX R-2A of the CPC) and I.A. 5263/2022(O-XXXIX R-2A of the CPC)

9. List before Court on 4th November, 2022.

AMIT BANSAL, J.

AUGUST 08, 2022

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