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

Reserved on: 08.12.2025

Date of Decision: 12.03.2026

Judgment uploaded on: As per digital signature

+ **CS(COMM) 628/2023 & CC(COMM) 1/2024 I.A. 18297/2023 I.A. 29589/2025**

ITW GSE APS & ANR.

.....Plaintiffs

Through: **Mr. Anirudh Bhakhru, Ms. Vaishali Mittal, Mr. Siddhant Chamola and Mr. Gursimran Singh Narula, Advocates**

versus

DABICO AIRPORT SOLUTIONS PVT LTD & ORS.

.....Defendants

Through: **Ms. Swathi Sukumar, Sr. Advocate with Ms. Apoorva Murali, Ms. Aishwarya Chaturvedi and Ms. Aishwarya Mukherjee, Advocates for D-1, D-2 & D-3. Mr. Rohan Swarup, Advocate for D-4**

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J:

I.A. 18297/2023(application on behalf of defendant no. 3 under Order I Rule 10(2) CPC)



1. This is an application filed by defendant no. 3 under Order I Rule 10(2) read with Section 151 of the Code of Civil Procedure, 1908 ['CPC'], seeking its deletion from the array of parties in the instant suit.
2. The plaintiffs have filed this suit seeking permanent injunction for restraining infringement of their Indian Patent No. 330145 ['IN'145']; rendition of accounts; damages, etc. against defendant nos. 1 to 4.
 - 2.1. It is averred in the plaint that plaintiffs have acquired knowledge that defendants are manufacturing, using, offering for sale, selling, etc., by way of airport tenders, infringing Pre-Conditioned Air units ['PCA units'], in which both the plaintiffs and defendants have participated.
 - 2.2. The plaint sets out the infringing activities of the defendants in Section 'D' of the plaint, wherein the plaintiffs have raised a grievance about the sale and installation of PCA units by the defendants at the Rajiv Gandhi International Airport at Hyderabad ['Hyderabad Airport'], Manohar International Airport at Goa ['Goa Airport'] and Indira Gandhi International Airport at New Delhi ['Delhi Airport'].
 - 2.3. It is alleged that the infringing PCA units have been manufactured by defendant no. 4 and installed by defendant no. 1¹.
 - 2.4. The alleged infringing models manufactured by defendants are enlisted in Section 'F' of the plaint².
 - 2.5. The cause of action has been set out in Section 'H' of the plaint³, which reiterates that the plaintiffs are aggrieved with the supply of allegedly infringing PCA units at the Hyderabad Airport, Goa Airport and New Delhi Airport.

¹ Paragraph No. 36 of the plaint.

² Paragraph No. 59 of the plaint.

³ Paragraph Nos. 65 to 69 of the plaint.



3. Defendant no. 3 in the captioned application, as well as in its written statement, has categorically asserted that it is neither making, using, offering for sale, selling, nor importing the alleged infringing PCA units or products for which the IN'145 is allegedly applied.

3.1. It contends that there is no specific allegation made against defendant no. 3 in the plaint, no relief has been sought against it and, therefore, contends that defendant no. 3 has been incorrectly impleaded by the plaintiffs.

3.2. It contends that it is neither involved in the day-to-day business of defendant nos. 1 and 2, nor does it have control over the businesses of the said defendants.

3.3. The said pleas have been specifically pleaded in paragraph nos. '6 to 9' of the preliminary submissions of its written statement.

4. The plaintiffs in their replication have stated that defendant no. 3, as per the website of defendant no. 1, plays a pivotal role in the business of defendant no. 1 inasmuch as it is involved in the management expertise, combining capital with intellectual property, addressing functional areas, etc.

4.1. It is contended that defendant no. 3 is a proper party, and the plaint sufficiently discloses the cause of action qua the said defendant.

4.2. The plaintiffs contend that Ms. Nidhi Arora, who has filed the written statement on behalf of defendant no. 1 in the present suit, is also the Vice President of defendant no. 3, and this fact highlights that defendant no. 3 plays a significant role in the day-to-day business operations of defendant no. 1.

4.3. The plaintiffs have also relied upon the fact that the infringement was initially carried out by an entity called Cavotec SA, which supplied the allegedly infringing PCA units at the Hyderabad Airport and defendant no. 3 has acquired this [Airport] business from the said entity, i.e., Cavotec SA,



with knowledge of the patent disputes raised by the plaintiffs. In this regard, the plaintiffs are relying upon the communication dated 09.05.2022.

4.4. Furthermore, the plaintiffs plead in replication that they believe that defendant no. 3 is a key driver behind defendant no. 1's decision to continue infringement of the plaintiffs' patent IN' 145, and therefore the plaintiffs have sufficient cause of action against defendant no. 3 to maintain this suit. Therefore, the plaintiffs have stated that defendant no. 3 is a proper party to the instant suit.

COURT'S FINDINGS

5. This Court has heard the learned counsel for the parties and perused the record.

6. The suit has been filed by the plaintiffs aggrieved by the alleged infringement of their patent IN'145 by the defendants, who, as per the plaintiffs, are manufacturing the alleged infringing PCA units and supplying the said units in India, specifically at Hyderabad Airport, Goa Airport and New Delhi Airport.

The record of the suit shows [and it is not disputed by the plaintiffs] that defendant no. 3 had no direct role in the said supply of the PCA units at any of the three [3] Airports. It is a matter of record that supplies of the PCA units have been made by defendant no. 1 in the case of Goa Airport and Delhi Airport. The supplies of PCA units for the Hyderabad Airport have been made by a distinct UAE entity (who is not a party to these proceedings).

Defendant No. 4 has been impleaded in its capacity as the manufacturer of the allegedly infringing PCA units.

7. In the plaint, the sole basis for impleading defendant nos. 2 and 3 is on the premise that they are the shareholders in defendant no. 1. The plaint



identifies defendant no. 1 and defendant no. 4 as the infringing entities. In the replication, the plaintiffs have averred in response to applicant/defendant no. 3's plea for its deletion that the said defendant is a '*proper party*'.

8. Before examining the merit of this plea raised by the plaintiffs, it would be appropriate to refer to the judgment of the Supreme Court in **Ramesh Hirachand Kundanmal v. Municipal Corporation of Greater Bombay and Others**⁴ which sets out the well-settled legal principles for determining who is a necessary or proper party. The relevant paragraph 6 reads as follows:

“6. Sub-rule (2) of Rule 10 gives a wide discretion to the Court to meet every case of defect of parties and is not affected by the inaction of the plaintiff to bring the necessary parties on record. The question of impleadment of a party has to be decided on the touchstone of Order 1 Rule 10 which provides that only a necessary or a proper party may be added. A necessary party is one without whom no order can be made effectively. A proper party is one in whose absence an effective order can be made but whose presence is necessary for a complete and final decision on the question involved in the proceeding. The addition of parties is generally not a question of initial jurisdiction of the Court but of a judicial discretion which has to be exercised in view of all the facts and circumstances of a particular case.”

9. The expressions necessary or proper party have been considered by the Courts in several decisions, and it is well settled that a necessary party is one without whom no order can be passed effectively. Whereas a *proper party* is one in whose absence though an effective order can be passed, but whose presence is necessary for a complete and final decision on the question involved in the proceedings. [**Re: Globe Ground (India) Employees Union v. Lufthansa German Airlines**]⁵.

10. Initially, when the captioned application was argued on 04.09.2025, the plaintiffs had opposed the prayer for deletion by reiterating the plea that

⁴ (1992) 2 SCC 524

⁵ (2019) 15 SCC 273 [Paragraph No. 10]



defendant no. 3 is a shareholder in defendant no. 1 and, therefore, a *proper party*.

11. Defendant no. 3 disputed the said submission of the plaintiffs and sought liberty to file an affidavit. Defendant no. 3 has since filed an affidavit dated 22.09.2025 in support of the captioned application, setting out in detail facts to demonstrate that it is not a direct shareholder in either defendant no. 1 or defendant no. 2. The relevant paragraphs of the said affidavit read as under:-

“3. I state that Fernweh Group LLC (Defendant No. 3) has filed the Application under Order I Rule 10 read with Section 151 of the Code of Civil Procedure, 1908 ("CPC") seeking the deletion of its name from the array of parties in the present Suit.

4. I state that Defendant No. 3 acquired the airport solutions business of Cavotec SA, which was later rebranded to Dabico Airport Solutions.

5. I say that Defendant No. 3, a United States limited liability company, is an investment holding entity that ultimately owns and controls a portfolio of companies, including Femweh Dabico LLC and Femweh Dabico Holdings LLC.

6. I say that Defendant No. 3 directly owns 100% of Femweh Dabico LLC which in turn holds a direct 94.21 % economic interest (with 100% voting control) in Femweh Dabico Holdings LLC. I say that four other LLC companies unrelated to our company, also have economic interest in Femweh Dabico Holdings LLC in amounts ranging from 0.29% to of 2.49% each.

7. I state that Femweh Dabico Holdings LLC owns the Dabico Corporation and its operating subsidiaries, including Dabico Netherlands Holding BV (Defendant No. 2) which in turn owns Dabico Airport Solutions India Pvt. Ltd. (Defendant No. 1).

8. As is evident from the foregoing, Defendant No.3 is merely a shareholder, through a chain of intermediary entities, in Defendant No. 1 and Defendant No.2.

9. I state that the involvement of Defendant No.3 in Dabico Corporation, including Defendant No. 1 and 2, is limited to that of a **passive shareholder** and ultimate beneficiary owner without any effective operational control, or



day-to-day involvement in the affairs or business decisions of the said Defendants.

10. I confirm that Defendant No.3 does not:

- (a) manufacture, use, sell, offer for sale, or import any products alleged to infringe the Plaintiffs' Indian Patent No. 330145;**
- (b) participate in, direct, supervise or control the business operations, strategic decisions, or technical functions of Defendant Nos. 1 and 2;**
- (c) derive any revenue in India other than by way of shareholder returns, if any, declared by Defendant No.1.**

11. I state that Defendant No.3's role is confined to that of a passive financial investor whose role does not extend to the day-to-day activities of its portfolio companies."

[Emphasis supplied]

12. Similarly, defendant nos. 1 and 2 in their joint written statement⁶ have categorically averred that defendant no. 2 is a shareholder of defendant no. 1 company and holds 100% shareholding in defendant no. 1. Thereby confirming that defendant no. 3 is not a shareholder in defendant no. 1.

13. The aforesaid fact with respect to the composition of the shareholding of defendant no. 1 is now undisputed.

14. Therefore, the initial premise setup in the plaint alleging that defendant no. 3 is a shareholder in defendant no. 1, as the basis for the impleadment of defendant no. 3 is factually incorrect. The captioned application for deletion is liable to be allowed on this ground alone.

15. Nevertheless, this Court has also examined the legality of the plaintiffs' submission regarding whether defendant no. 3 can be considered a *proper party* to the suit on the premise that defendant no. 3 is the shareholder of defendant no. 1.

⁶ Dated 29.12.2023



16. In the considered opinion of this Court, the plaintiffs' plea that defendant no. 3 is a *proper party* to the suit as it is the shareholder of defendant no. 1 cannot form the legal basis for impleading defendant no. 3 in this suit, as a *proper party*. It is a settled position in law that the liabilities of each juristic entity, even if it is a wholly owned subsidiary of another company, are distinct and separate. And the holding company or a shareholder is not liable for the actions of the subsidiary company. The authoritative judgment on this issue by the Supreme Court in **Vodafone International Holdings BV v. Union of India**⁷ is as under: -

254. **The Companies Act in India and all over the world have statutorily recognised subsidiary company as a separate legal entity.** Section 2(47) of the Companies Act, 1956 defines "subsidiary company" or "subsidiary", a subsidiary company within the meaning of Section 4 of the Act. For the purpose of the Companies Act, a company shall be subject to the provisions of sub-section (3) of Section 4, be deemed to be subsidiary of another, subject to certain conditions, which includes holding of share capital in excess of 50% controlling the composition of the Board of Directors and gaining status of a subsidiary with respect to the third company by the holding company's subsidisation of the third company.

255. **A holding company is one which owns sufficient shares in the subsidiary company to determine who shall be its Directors and how its affairs shall be conducted. The position in India and elsewhere is that the holding company controls a number of subsidiaries and respective businesses of companies within the group and manage and integrate as a whole as though they are merely departments of one large undertaking owned by the holding company. But, the business of a subsidiary is not the business of the holding company** (see *Gramophone and Typewriter Ltd. v. Stanley* [(1908) 2 KB 89: (1908-10) All ER Rep 833], All ER Rep at p. 837).

256. Subsidiary companies are, therefore, the integral part of corporate structure. Activities of the companies over the years have grown enormously of its incorporation and outside and their structures have become more complex. Multinational companies having large volume of business nationally or internationally will have to depend upon their subsidiary companies in the national and international level for better returns for the

⁷ (2012) 6 SCC 613



2026:DHC:21



2026:DHC:2059

investors and for the growth of the company. When a holding company owns all of the voting stock of another company, the company is said to be a WOS of the parent company. Holding companies and their subsidiaries can create pyramids, whereby a subsidiary owns a controlling interest in another company, thus becoming its parent company.

257. The legal relationship between a holding company and WOS is that they are two distinct legal persons and the holding company does not own the assets of the subsidiary and, in law, the management of the business of the subsidiary also vests in its Board of Directors. In *Bacha F. Guzdar v. CIT* [AIR 1955 SC 74], this Court held that shareholders' only right is to get dividend if and when the company declares it, to participate in the liquidation proceeds and to vote at the shareholders' meeting. Refer also to *Carew and Co. Ltd. v. Union of India* [(1975) 2 SCC 791] and *Carrasco Investments Ltd. v. Directorate of Enforcement* [(1994) 79 Comp Cas 631 (Del)].

258. Holding company, of course, if the subsidiary is a WOS, may appoint or remove any Director if it so desires by a resolution in the general body meeting of the subsidiary. Holding companies and subsidiaries can be considered as single economic entity and consolidated balance sheet is the accounting relationship between the holding company and subsidiary company, which shows the status of the entire business enterprises. Shares of stock in the subsidiary company are held as assets on the books of the parent company and can be issued as collateral for additional debt financing. *Holding company and subsidiary company are, however, considered as separate legal entities, and subsidiary is allowed decentralised management. Each subsidiary can reform its own management personnel and holding company may also provide expert, efficient and competent services for the benefit of the subsidiaries.*

259. The US Supreme Court in *United States v. Bestfoods* [141 L Ed 2d 43 : 524 US 51 (1998)] explained that it is a general principle of corporate law and legal systems that a parent corporation is not liable for the acts of its subsidiary, but the Court went on to explain that corporate veil can be pierced and the parent company can be held liable for the conduct of its subsidiary, if the corporal form is misused to accomplish certain wrongful purposes, when the parent company is directly a participant in the wrong complained of. Mere ownership, parental control, management, etc. of a subsidiary is not sufficient to pierce the status of their relationship and, to hold parent company liable. In *Adams v. Cape Industries Plc.* [1990 Ch 433 : (1990) 2 WLR 657 : (1991) 1 All ER 929 (CA)], the Court of Appeal emphasised that it is appropriate to pierce the corporate veil where special circumstances exist indicating that it is mere facade concealing true facts.



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260. Courts, however, will not allow the separate corporate entities to be used as a means to carry out fraud or to evade tax. Parent company of a WOS, is not responsible, legally for the unlawful activities of the subsidiary save in exceptional circumstances, such as a company is a sham or the agent of the shareholder, the parent company is regarded as a shareholder. Multinational companies, by setting up complex vertical pyramid-like structures, would be able to distance themselves and separate the parent from operating companies, thereby protecting the multinational companies from legal liabilities.

[Emphasis supplied]

17. It would also be apposite to refer to the dicta of the Supreme Court in **Globe Ground (India) Employees Union** (supra), which held in favour of the respondent [holding company] therein whilst reiterating the well-settled legal principle that though shares may be held by a holding company in a subsidiary, the subsidiary continues to exist as an independent corporate entity. The Supreme Court opined that the mere fact that a company holds shares in such a subsidiary cannot, by itself, constitute sufficient grounds for directing the impleadment of the parent or holding company. The relevant paragraph reads as follows: -

“18. The other judgment relied on by the learned Senior Counsel for the respondents in *Kasturi v. Iyyamperumal*, this Court again considered the test to be applied while considering the application filed under Order 1 Rule 10 of the Code of Civil Procedure, 1908. It is held that to consider the scope of application, the tests are:

- (1) there must be a right to some relief against such party in respect of controversies involved in the proceedings;
- (2) no effective decree can be passed in its absence.

Applying the aforesaid ratio laid down in the judgment, referred in the aforesaid cases, we are of the view that the said judgment relied on supports the case of the respondents. **Further, we are of the view that even in a subsidiary company which is an independent corporate entity, if any other company is holding shares, by itself is no ground to order impleadment of parent company per se.** In the case at hand, it is clear that the second respondent itself is a company in which the subsidiary of the first



respondent, namely, Globe Ground Deutschland GmbH, was holding 51% shares and 49% shares were held by the Bird Group. As per the case of the appellant, the Bird Group has floated another company and started handling services from the month of January, 2009 by utilising the same equipments and vehicles belonging to the second respondent.”

[Emphasis supplied]

18. In view of the settled position of law which recognizes the subsidiary as an entity separate from the holding company and a juristic entity separate from its shareholder, the fact that defendant no. 3 is the ultimate beneficial owner or shareholder of defendant no. 1, would not make it liable for the alleged infringement actions of defendant no. 1 and therefore, the plaintiffs cannot have any cause of action against defendant no. 3.

19. This Court has also perused the plaint, and it notes that the plaint fails to disclose any cause of action against defendant no. 3. The cause of action of the plaintiffs against defendant no. 3 is not clearly discernible from the plaint and appears to have changed/evolved in the pleadings filed subsequent to the institution of the suit. The sole basis for impleading defendant no. 3 in the plaint is that it acquired defendant no. 1⁸ from Cavotec, SA.

20. This Court notes that at paragraph nos. ‘19’, ‘20’ and ‘21’ of the plaint, after referring to defendant no. 3, the plaint makes a declaration that the defendant nos. 1 to 3 in the plaint will be simply referred to collectively as DABICO. Resultantly, there are no specific pleadings *qua* defendant no. 3’s role *qua* infringement of IN’145 in the plaint. This form of pleading has led to ambiguity, as the plaint fails to identify the specific role of defendant no. 3 in the cause of action of infringement, which forms the fundamental basis of the plaintiffs’ grievance. The plaintiffs cannot be permitted to take advantage of

⁸ Paragraph 20 of the plaint.



the deliberate ambiguity in their pleading in the plaint to oppose this prayer of deletion of defendant no. 3.

21. The only discernible plea in the plaint is that defendant no. 3 is a shareholder of defendant no. 1 [which as noted above is incorrect]. In the considered opinion of this Court, the plaintiffs cannot maintain this suit for infringement against defendant no. 3 on the plea that defendant no. 3 exercises any alleged indirect control over defendant no. 1's managerial decisions.

22. Defendant no. 3 has already stated that it is not manufacturing the alleged infringing PCA units.

23. As a matter of fact, defendant no. 3 played no role in the supply of PCA units to Hyderabad Airport, Goa Airport and New Delhi Airport, and this fact is not disputed by the plaintiffs, which is itself sufficient to allow the application. Admittedly, it is defendant no. 4, who is manufacturing the PCA units and defendant no. 1, who is installing the said units.

24. If the plaintiffs succeed in proving their claim of infringement in the suit, their claim for damages would be maintainable against defendant no. 1 only [for the supplies made by defendant no. 1 to Goa Airport and Delhi Airport] as well as defendant no. 4. However, there can be no claim for the said supplies against defendant no. 3. For determination of the said reliefs sought by the plaintiffs against defendant no. 1 and defendant no. 4, the presence of defendant no. 3 is not required [which is the only test for a *proper party*].

25. The plaintiffs, during arguments, *orally* submitted that defendant no. 1 in the pleadings has denied its [monetary] liability for the supply of infringing PCA units made to Hyderabad Airport and for this reason, defendant no. 3's



presence is proper. It is argued that the supply of PCA units to Hyderabad Airport was made by an entity called Cavotec, Middle-East, FZE, UAE [‘Cavotec UAE’], and since the airport business of Cavotec SA has been taken over by defendant no. 3, the liabilities on account of patent infringement attached with the said sale to Hyderabad Airport would also fall on defendant no. 3.

26. For raising this plea, the plaintiffs rely upon the reply filed by defendant nos. 1 and 2 to I.A. 37937/2024 for making these submissions. The relevant paragraphs of the reply read as follows: -

“6. In good faith and without prejudice to its rights and contentions, it is submitted that the order for supplying the PCA units to the Hyderabad Airport was placed on Cavotec Middle East FZE (a UAE entity) [‘Cavotec UAE’] by Megawide Construction (Singapore) PTE. Ltd.

7. It is submitted that the scope of this order included the supply of 25 (twenty-five) Ground Power Units [‘GPU’] and 36 (thirty-six) PCA units along with accessories. The revenue earned by Cavotec UAE from the sale of the said 36 (thirty-six) PCA units (excluding accessories) was USD 42,71,612 [USD Four Million Two Hundred Seventy-One Thousand Six Hundred and Twelve Only].”

27. The submission of the plaintiffs that defendant no. 3 is a *proper party* to enable the plaintiffs to recover their claim of damages for the infringing products supplied/sold at Hyderabad Airport by Cavotec UAE, is a plea that is not raised in the plaint, the replication or reply to the application. This is a plea raised during arguments and in the written submissions.

28. In the replication filed to the plaint, the impleadment of defendant no. 3 was sought to be justified by stating that defendant no. 3 exercises decision-making control on the affairs of defendant no. 1 and, therefore, sought to attribute the alleged act of infringement of defendant no. 1 to the managerial control of defendant no. 3 over defendant no. 1.



29. The plaintiffs thereafter changed their stand in their written submissions dated 10.12.2025 filed in support of the captioned application, contending that the role of defendant no. 3 in the supply of PCA units to Hyderabad Airport would require determination at trial. It was further submitted therein that the impleadment of defendant no. 3 is necessary to ensure accountability in respect of the disclosures made by defendant nos. 1 and 2 regarding the income which accrued to Cavotec, UAE, under the Hyderabad contract, and for confirmation of the revenue disclosures made by defendant nos. 1 and 2.

30. However, the Supreme Court in its judgment of **Ramesh Hirachand Kundanmal** (supra) has held that no person can be made a party to the suit for the purposes of seeking information from it. The relevant para 14 reads as follows:-

“14. It cannot be said that the main object of the rule is to prevent multiplicity of actions though it may incidentally have that effect. But that appears to be a desirable consequence of the rule rather than its main objective. **The person to be joined must be one whose presence is necessary as a party.** What makes a person a necessary party is not merely that he has relevant evidence to give on some of the questions involved; that would only make him a necessary witness. It is not merely that he has an interest in the correct solution of some question involved and has thought of relevant arguments to advance. The only reason which makes it necessary to make a person a party to an action is so that he should be bound by the result of the action and the question to be settled, therefore, must be a question in the action which cannot be effectually and completely settled unless he is a party. The line has been drawn on a wider construction of the rule between the direct interest or the legal interest and commercial interest. It is, therefore, necessary that the person must be directly or legally interested in the action in the answer, i.e., he can say that the litigation may lead to a result which will affect him legally that is by curtailing his legal rights. It is difficult to say that the rule contemplates joining as a defendant a person whose only object is to prosecute his own cause of action. Similar provision was considered in *Amon v. Raphael Tuck & Sons Ltd.* [(1956) 1 All ER 273 : (1956) 1 QB 357], wherein after quoting the observations of Wynn-Parry, J. in *Dollfus Mieg et Compagnie S.A. v. Bank of England* [(1950) 2 All ER



605, 611], that their true test lies not so much in an analysis of what are the constituents of the applicants' rights, but rather in what would be the result on the subject matter of the action if those rights could be established, Devlin, J. has stated:

“The test is ‘May the order for which the plaintiff is asking directly affect the intervenor in the enjoyment of his legal rights’.”

[Emphasis supplied]

31. The aforesaid improvements and changing stances in the pleadings and oral submissions show that the plaintiffs are without any legal basis raising pleas to somehow continue the suit defendant no. 3 on one ground or another as a party to the present suit, seemingly with a view to exert some form of coercion. It is otherwise apparent that the alleged acts of infringement, of which the plaintiffs claim to be aggrieved, are attributed only to defendant nos. 1 and 4.

This plea is, therefore, liable to be rejected and not considered on this ground alone.

32. Nevertheless, this Court notes that the Cavotec UAE entity is also a distinct and separate juristic entity, and there is no legal basis for the plaintiffs to seek recovery of damages from defendant no. 3 for the supplies made by Cavotec, UAE, to the Hyderabad Airport.

33. The suit cannot continue against defendant no. 3 on the plea that it has acquired the airport business of Cavotec SA, in the absence of proof of any legal liability assumed by defendant no. 3 for the supplies made by Cavotec UAE to the Hyderabad Airport, and to permit the continuation of the suit against defendant no. 3 on such a vague *oral* plea would be without any legal basis. The plaintiffs have sought to rely upon the e-mail/letter dated 09.05.2022 addressed by the plaintiffs to defendant no. 3 as forming the basis



of its cause of action. However, in the considered opinion of this Court, the said e-mail would not make defendant no. 3 liable for the actions of Cavotec, UAE or Cavotec, SA.

34. There is no basis in law for the plaintiffs to contend that defendant no. 3 is liable for rendering accounts for the sale made of the PCA units by Cavotec, UAE, to Hyderabad Airport.

35. Therefore, as noted above, the plaintiffs have been unable to set forth any facts which would persuade this Court to hold that defendant no. 3's presence is necessary in these proceedings for the determination of the issue of infringement of IN' 145 by defendant no. 1 and defendant no. 4. The relief of injunction and damages prayed for by the plaintiffs, if the plaintiffs succeed, can be granted against defendant no. 1 and defendant no. 4 without the presence of defendant no. 3. This Court, therefore, finds that defendant no. 3 is not a *proper party* in these proceedings.

36. In these facts, this Court finds that the application is liable to succeed as defendant no. 3 is neither a proper nor a necessary party.

37. This Court takes on record the statement made by defendant no. 3 that it is not making, using, offering for sale, selling or importing the products on which the IN'145 is allegedly applied as set out in paragraph '8' of the preliminary submissions of its written statement. Defendant no. 3 is bound down to the said statement.

38. The application is accordingly allowed.

39. It is made clear that the deletion of defendant no. 3 is not an expression of opinion on the merits of the claim made by the plaintiffs with respect to the infringement *qua* its PCA units.



40. This application has been allowed upon the consideration and the finding that defendant no. 3 is not liable for the alleged acts of infringement, which acts are specifically ascribed to an independent legal entity, such as defendant nos. 1 and 4 in the plaint and the cause of action, if any, which the plaintiffs can have is only *qua* the UAE entity which made the supplies to the Hyderabad Airport.

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41. The plaintiffs are directed to file an amended memo of parties.

42. List before the Roster Bench for directions on 27.03.2026.

**MANMEET PRITAM SINGH ARORA
(JUDGE)**

MARCH 12, 2026/mt/aa