IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
LEAVE PETITION (L) NO. 12067 OF 2025
IN
COMMERCIAL IPR SUIT (L) NO. 12028 OF 2025

Metro Brands Limited
A Company incorporated under
the Companies Act, 1956 having
its Registered Office at 401,
Kanakia Zillion, 4th floor,
L.B.S. Marg & C.S.T. Road
Junction, Kurla (West)
Mumbai-400 070 … Petitioner/Plaintiff

Versus

Met Brands Private Limited
MSB Mansion, Building No.
TMC-22/406 (TMC-15/119-1)
7th Mile, Kuttikol, Kannur
Taliparamba, Kerala
India-670 141 ... Respondent/Defendant

Mr.Rashmin Khandekar a/w. Mr. Prateek Pansare, Mr. Alhan Kayser, Ms. Varsha Vasave, Ms. Gauri Sansare i/b. Mr. Avesh Kayser for the Petitioner/Plaintiff.

Mr. Manas Hameed (Through VC) i/b. Ms. Hemali Kurne for the Respondent/Defendant.

CORAM : GAURI GODSE J

RESERVED ON : 16 th JUNE 2026

PRONOUNCED ON : 3rd SEPTEMBER 2026

JUDGMENT:

1. This petition is filed by the plaintiff to seek leave under Clause 14 of The Bombay High Court Letters Patent. The suit is filed for an injunction restraining and prohibiting the defendant from infringing the plaintiff's registered trade mark. The registered trade mark is described as ‘METBRANDS’ as well as its graphical representation or any other mark identical and/or deceptively similar to the plaintiff’s registered trade mark ‘METRO’. The plaintiff has also prayed for a decree of damages alleging trade mark infringement, passing off and unfair competition.

2. The defendant’s address is in the State of Kerala. The plaintiff’s registered address is within the jurisdiction of this court. The plaintiff claims that as of December 2024, it has been operating 895 stores in 203 cities across 31 Indian states and union territories, of which 18 Metro stores are in the State of Kerala. The plaintiff claims to be the registered proprietor of its house mark, METRO BRAND, and of the mark as described in the plaint. The defendant is carrying on the business of

designing, manufacturing, and distributing clothing, headgear, and footwear in the State of Kerala. It is alleged that the defendant offers the impugned goods and services under the name of METBRANDS/METBRANDS SHOES & BAGS. It is thus alleged that by using the impugned mark which is identical to the plaintiffs' registered trade mark, the defendant has committed infringement of the plaintiffs' registered trade mark.

3. Since the plaintiffs' registered address is within the jurisdiction of this court, the suit is filed in this court in view of Section 134 of the Trade Marks Act, 1999 ("Trade Marks Act"). Since there is a prayer for damages on account of infringement, passing off and unfair competition, the plaintiff seeks leave to join the cause of action for alleged infringement of trade mark and passing off as the cause of action for seeking damages on account of passing off has occurred within the State of Kerala, i.e. beyond the jurisdiction of this court. The plaintiff therefore seeks leave to join the cause of action in respect of infringement of trade mark and passing off as pleaded in the plaint.

4. Learned counsel for the plaintiff relies upon the Apex Court's decision in ***Food Corporation of India vs. Evdomen***

Corporation[1] ("***Food Corporation of India***")***.*** In the said decision, the Apex Court held that under Section 120 of the Code of Civil Procedure, 1908 ("CPC"), Sections 16, 17 and 20 of the CPC do not apply to the High Court in exercise of its original civil jurisdiction to entertain the suit in its ordinary original civil jurisdiction as determined under Clause 12 of the Letters Patent. It is held that under Clause 12 of the Letters Patent, a place where the defendant, or each of the defendants where there are more than one, at the commencement of the suit, carries on business would be a place where the court would have jurisdiction. He submits that in the present case, for the claim for damages arising from the breach of a registered trade mark and passing off, the cause of action has arisen beyond the jurisdiction of this court. Hence, in view of Clause 14 of the Letters Patent, the plaintiff is entitled to join the cause of action as the prayer for breach of infringement would fall within the jurisdiction of this court in view of Section 134 of the Trade Marks Act.

5. Learned counsel for the plaintiff relies upon the Apex Court's decision in ***Indian Performing Rights Society Limited vs.***

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1 (1999) 2 SCC 446

Sanjay Dalia and Another[2] ("***Sanjay Dalia***"). He submits that it takes a view that the intendment of the Explanation to Section 20 of the CPC is that once the corporation has a subordinate office in the place where the cause of action arises wholly or in part, it cannot be heard to say that it cannot be sued there or it does not carry on business in that place. It is held that linking the place with the cause of action in the Explanation where a subordinate office of the corporation is situated is reflective of the intention of the legislature and that such a place has to be the place of filing of the suit and not the principal place of business. It is further held that in case where the cause of action has arisen at a place where the plaintiff is residing or where there are more than one such persons, any of them actually or voluntarily resides or carries on business would oust the jurisdiction of other place where the cause of action has not arisen though at such a place by virtue of having subordinate office, the plaintiff instituting a suit or other proceedings might be carrying on business or personally works for gain.

6. Learned counsel for the plaintiff submitted that in the present case, the plaintiff's registered address is in Mumbai,

[2] (2015) 10 SCC 161

and the control of the entire business of the plaintiff is deemed to have been from its registered address. The Apex Court while explaining the nature of the corporation in reference to an Explanation to Section 20 of the CPC held that in the case of company registered under The Companies Act, 1956 the controlling power is, as a fact, generally exercised at the registered office, and that office is therefore not only for the purposes of the Companies Act, but for other purposes the principal place of business. Hence, according to the learned counsel for the plaintiff in the present case, the plaintiffs' registered address being within the jurisdiction of this court, the cause of action for passing off, though arising within the jurisdiction of the State of Kerala, the plaintiff would be entitled to join the cause of action in view of Clause 14 of the Letters Patent.

7. Learned counsel for the plaintiff also relied upon the decision of this court in ***Jagdish Gopal Kamath and Others vs. Lime and Chilli Hospitality Services P. Ltd.***[3]***,*** ("***Jagdish Kamath***") which explains the scope of Clause 14 of the Letters Patent Act. Learned counsel for the plaintiff relies upon the conclusion in

[3] 2013 (4) Mah. L.J.

paragraph 16 of the said decision holding that in the absence of proven mala fides or hardship, the argument that grant of leave will drag the defendant from a forum where the defendant is situated to a court from which Clause 14 is sought and that it is prejudicial or inconvenient to the defendant is fallacious and misconceived. It is thus held that the primary consideration while deciding the applications for grant of leave under Clause 14 is to avoid multiplicity of litigation.

8. Learned counsel for the plaintiff also relied upon the decision of this court in ***Manugraph India Limited vs. Simarq Technologies Pvt. Ltd. and Others***[4] ("***Manugraph***"). He submits that, in the said decision, this court has explained the law governing the issue of joining causes of action, in light of the legal principles settled in the decision of ***Sanjay Dalia.*** He submits that this court held that a plaintiff can always file a suit in a court within the local jurisdiction of which its registered office or principal office is located. Such a filing of suit is a pure matter under Section 134(2) of the Trade Marks Act for invocation of jurisdiction. Learned counsel for the plaintiff therefore submits that in view of the well-settled legal principles,

4 2016 SCC OnLine Bom 5334

the plaintiff is entitled to grant of leave under Clause 14 for joining of the cause of action for the claim of damages on account of passing off and the cause of action for the relief against infringement of the registered trade mark as contemplated under Section 134(2) of the Trade Marks Act.

9. Learned counsel for the defendant opposes grant of leave for joining of the cause of action. He submits that the grant of leave in the present case would violate the strict application of Section 20 of the CPC and would enable forum shopping contrary to the balance of convenience, which favours the defendant’s location of business. He submits that, in the affidavit-in-reply on behalf of the defendant, it is specifically contended that the defendant is a smaller Kerala-based entity and that forcing litigation in a distant forum without any nexus to the passing-off tort would cause serious hardship to the defendant. Hence, leave under Clause 14, which is discretionary in nature, may not be exercised in favour of the plaintiff.

10. He submitted that the plaintiff’s presence in the State of Kerala is undisputed, as they are running 18 METRO stores in the State of Kerala. Hence, a composite suit combining both

causes of action would not be maintainable only on the ground that the plaintiff's registered address is within the jurisdiction of this court. To support his submissions, learned counsel for the defendant relied upon the decision of this court in ***Shree Sai Plast Pvt. Ltd. IN Prince Pipes & Fittings Ltd. vs. Shree Sai Plast Pvt. Ltd***[5] ("***Shree Sai Plast***"). Learned counsel for the defendant submitted that this court in the said decision has referred to the case of ***Sanjay Dalia*** and ***Manugraph*** and held that when the entire business activity was carried out from Mumbai, only having a registered office beyond the jurisdiction of Mumbai cannot be considered as a place where from the company controls its business activities or where the centre of power of the corporate body is located. It is thus held that it is quite possible that the principal place of business is also its registered office, but this may not be true in every scenario. He submits that, in the present case, it is undisputed that the plaintiff has been operating the METRO stores in the State of Kerala. Hence, having only a registered address within the jurisdiction of this court would not entitle the plaintiff to file the suit within this court's jurisdiction by joinder of cause of action.

5 2024:BHC-OS:4767

11. To consider the rival submissions made on behalf of the parties, it is necessary to refer to the well-settled legal principles. In ***Food Corporation of India***, the Apex Court held that under Section 120 of the CPC, Sections 16, 17, and 20 do not apply to the Bombay High Court in the exercise of its original civil jurisdiction. It is held that the jurisdiction of the Bombay High Court to entertain a suit under its ordinary original civil jurisdiction is determined by clause 12 of the Letters Patent of the Bombay High Court. Under clause 12, a place where the defendant, or each of the defendants where there are more than one, at the commencement of the suit, carries on business would be a place where the court would have jurisdiction.

12. In ***Jagdish Kamath***, this court discussed the provisions of law and the decisions governing the application for leave under Clause 14 of the Letters Patent, and summarised the legal principles. It is held that (i) the grant of leave under Clause 14 of the Letters Patent is a discretionary exercise, (ii) the primary consideration, while deciding applications for grant of leave under Clause 14 of the Letters Patent, is 'avoiding multiplicity of litigation'; (iii) in the absence of proven mala fides/hardship, the argument that grant of leave

will drag the defendant from a forum where the defendant is situated, to the Court from which Clause 14 is sought and that this is prejudicial/inconvenient to the defendant, is fallacious and misconceived; (iv) leave may be declined considering undue hardship to the defendant or such other similar grounds; (v) leave may be declined if the suit as filed is on the face of it not maintainable and the same is nothing but an abuse of law/Court; (vi) the inquiry whether on facts, the plaintiff is entitled to grant of leave has to be minimal, so as to ensure that observations made do not adversely affect the parties while considering the prayers for grant of interim relief or while deciding the suit. It is thus held that the Court has to use its judicial discretion and arrest any abuse of the process of a Court without going into the merits of the case to the extent of virtually obliterating the distinction between grant of leave and grant of interim relief.

13. In ***Sanjay Dalia*,** the question before the Apex Court was the interpretation of Section 62 of the Copyright Act, 1957, and Section 134(2) of the Trade Marks Act, 1999, regarding the place where a suit may be instituted by the plaintiff. It is held that (i) the expression “notwithstanding

anything contained in the CPC does not oust the applicability of the provisions of Section 20 of the CPC, and it is clear that an additional remedy has been provided to the plaintiff so as to file a suit where he is residing or carrying on business, as the case may be. (ii) “Corporation” in the Explanation to Section 20 of the CPC would mean not only the statutory corporation but companies registered under the Companies Act. In the case of companies registered under the Companies Act, the controlling power is, as a fact, generally exercised at the registered office, and that office is therefore not only for the purposes of the Act, but for other purposes, the principal place of business. A company may have subordinate or branch offices in fifty different jurisdictions, and it may be sued in any one of such jurisdictions in respect of a cause of action arising there. (iii) The very intendment of the insertion of the provision in the Copyright Act and the Trade Marks Act is the convenience of the plaintiff. There is no doubt about it that the words used in Section 62 of the Copyright Act and Section 134 of the Trade Marks Act, “notwithstanding anything contained in CPC or any other law for the time being in force”, emphasise that the requirement of Section 20 CPC would not have to be complied with by the plaintiff if he resides or carries on business in the local limits of the court where he has filed the suit but, at the same time, as the provision providing for an additional forum, cannot be interpreted in the manner that it has authorised the plaintiff to institute a suit at a different place other than the place where he is ordinarily residing or having principal office and incidentally where the cause of action wholly or in part has also arisen, (iv) Section 134(2) of the Trade Marks Act is applicable to clauses (*a*) and (*b*) of Section 134(1) of the Trade Marks Act. Thus, a procedure to institute suit with respect to Section 134(1)(*c*) in respect of "passing off" continues to be governed by Section 20 of the CPC.

14. In ***Manugraph***, this Court discussed the legal principles settled in ***Sanjay Dalia*** and concluded as under:

> " *What emerges from this discussion is this:*
>
> *(a) a plaintiff suing under the Trade Marks Act or Copyright Act can always file the suit in the jurisdiction where he lives, works for gain or carries on business. In the context of a company, given the view in Sanjay Dalia, this would mean where the company has its principal or registered*

office. All issues of cause of action and situs or location of the defendant or the cause of action are inconsequential. It makes no difference where the defendant resides. It makes no difference where the cause of action arose. It certainly makes no difference that the plaintiff also happens to have a branch office in another location where the cause of action may have arisen or where the defendant may reside or carries on business.

(b) Where the plaintiff has only one office, it presents no difficulty. Where the plaintiff has multiple offices, however, he has a limited choice. He may either bring a Suit under Section 134(2) or Section 62(2), i.e., within the jurisdiction where he resides; or he may invoke Section 20 and file a suit where the Defendants reside or work for gain or where the cause of action arose wholly or in part. The fact that the Plaintiff has the choice of bringing a suit based on Section 20 of the CPC does not mean that his rights under Section 134(2) or Section 62(2) are in any way eroded, curtailed or restricted.

(c) However, where the plaintiff chooses not to file a Suit at his or its principal business or where his registered office is located, and also chooses not to file a suit in a jurisdiction covered by Section 20 of the CPC but instead attempts to file the suit at some other location where the plaintiff happens to have a subsidiary or satellite office, but where there is absolutely nothing else (neither cause of action nor any of the defendants) the Plaintiff cannot

invoke Section 134(2) or Section 62(2) to drag the Defendant to that distant location. That, following the decision of the Supreme Court, is the abuse that is required to be prevented. That is in fact the only abuse that is required to be prevented.

(d) The Section 134(2) and Section 62(2) privilege or advantage attaches to the registered office or principal place of work. It is a privilege not to be used by abandoning the registered office situs, abandoning the Section 20 situs options, and travelling to some remote location where there is neither defendant nor cause of action. That is the mischief addressed in Sanjay Dalia. To illustrate : the plaintiff has its registered office in Mumbai. The defendant is in Delhi. The cause of action arose in Delhi. The plaintiff also has another branch office in Port Blair. A plaintiff can sue in Mumbai or in Delhi, but not in Port Blair."

15. In ***Shree Sai Plast***, this Court dismissed the defendant's application for return of plaint filed on the ground that this Court would have no jurisdiction. The suit was filed for infringement of trademark and copyright, and for passing off. The defendant contended that the plaintiff's registered office is in Goa, which would be the principal place of business. This Court relied upon the decision in ***Sanjay***

Dalia and ***Manugraph***. It is held that the principal place of business need not be equated every time with the registered office, as the principal place of business of the company is the place from which the company controls its business activities. In that case, the plaintiff's registered office was in Goa, but the business activities were in Mumbai; hence, it was held that this Court had jurisdiction and the defendant's application was dismissed.

16. In the present case, the plaintiff, in paragraph 23 of the plaint, has pleaded that, since the plaintiff's registered address is in Mumbai, this Court has jurisdiction with respect to infringement of a trade mark under Section 134 of the Trade Marks Act. It is further pleaded that the defendant carries on business outside the territorial jurisdiction of this Court, but the impugned goods of the defendant are available within the jurisdiction of this Court. It is further pleaded that the tort of passing off is taking place outside the territorial jurisdiction of this Court. Hence, the petitioner has prayed for leave under Clause 14 of the Letters Patent to join the cause of action with respect to passing off. While relying upon such pleadings for joining of cause of action on

the ground of passing off, the plaintiff in paragraph 1.1 of the plaint has pleaded that since 1955 the plaintiff has been a one-stop shop for all footwear needs and has a strong business/presence in all categories, i.e. premium, affordable luxury and value line as also fashion, lifestyle, casuals and sports. It is also pleaded that as of December 2024, the plaintiff has been operating in 895 stores in 203 cities across the States and Union territories of India, including the State of Kerala. It is further pleaded that out of the total stores, 18 METRO stores are in the State of Kerala, i.e. the State of the defendant.

17. The plaintiff, except for pleading that its registered address is within the jurisdiction of this Court, has nowhere pleaded that its principal place of business is only within the jurisdiction of this Court from where it controls all its business activities. As held by the Apex Court in ***Sanjay Dalia*** and explained by this Court in ***Manugraph***, where the plaintiff has multiple offices, he may either bring a suit under Section 134(2), i.e. within the jurisdiction where he resides or carries on business; or he may invoke Section 20 and file a suit where the defendant reside or work for gain or where

the cause of action arose wholly or in part. Thus, the plaintiff has the option to bring a suit under Section 20 of the CPC seeking an injunction against trademark infringement. However, this court's jurisdiction to maintain the prayer for passing off would be governed in the present case by Clause 12 of the Letters Patent. Clause 12 grants jurisdiction to this Court if the cause of action has arisen within the jurisdiction of this Court or the defendant resides or carries on business. Neither of the two contingencies has arisen in the present case.

18. As per the plaintiff's pleadings, the plaintiff has been operating 895 stores in 203 cities across the States and Union Territories of India, of which 18 are in the State of Kerala. Even according to the plaintiff, the cause of action for passing off has arisen in Kerala. As held by the Apex Court in ***Sanjay Dalia***, under Section 134(2) of the Trade Marks Act the expression "notwithstanding anything contained in the CPC" does not oust the applicability of the provisions of Section 20, and that an additional remedy has been provided to the plaintiff so as to file a suit where he is residing or carrying on business, as the case may be.

Therefore, in the present case, both prayers, i.e., infringement of trademark and passing off, would fall within the jurisdiction of the State of Kerala, where the cause of action has arisen, and the defendant carries on business. As pleaded in the plaint, even the plaintiff operates 18 Metro stores in the State of Kerala.

19. The place where the cause of action arises is convenient for conducting a trial as relevant witnesses, documents, transactions and other evidence are likely to be available within that jurisdiction. Hence, a choice available to the plaintiff under Section 134 (2) of the Trade Marks Act must be exercised reasonably and must be justified. Whether hardship is caused or not to the defendant cannot be the only criterion to grant or refuse leave under Clause 14. Leave under Clause 14 of the Letters Patent is not an empty formality. It is a discretionary power to be exercised after an opportunity of hearing to the defendant.

20. This Court in ***Jagdish Kamath*** held that the grant of leave under Clause 14 of the Letters Patent is a discretionary exercise and the primary consideration, while deciding an application for grant of leave under Clause 14 of

the Letters Patent, is 'avoiding multiplicity of litigation'. In the present case, except the ground of avoidance of multiplicity of proceedings, no other ground is pleaded by the plaintiff to join the cause of action for the prayer of passing off. When both prayers fall within the jurisdiction of the State of Kerala, there is no question of multiplicity of proceedings, as the plaintiff has a choice of forum. Since the cause of action has arisen within the State of Kerala, it would be convenient to conduct a trial within the State of Kerala. The balance of convenience lies in favour of conducting a trial within the Court's jurisdiction in the State of Kerala and not within this Court's jurisdiction. Therefore, in the present case, the court where the cause of action has arisen would be a convenient forum in all respects. So far as hardship is concerned, although it is not the sole criterion, the defendant claims to be a small entity without any nexus within this Court's jurisdiction, whereas the plaintiff operates 18 stores in the State of Kerala. Therefore, hardship, if any, may be caused to the defendant. The optional forum chosen by the plaintiff in the present case is not found to be justifiable for exercising the discretionary power under Clause 14 in favour of the plaintiff.

21. The Leave Petition is therefore dismissed. The plaintiff is therefore at liberty to take appropriate steps in accordance with law.

[GAURI GODSE, J.]