

Atandra Ray vs Abhijit Iyer Mitra & Ors. on 28 March, 2025

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 28.03

+ C.R.P. 21/2024, CM APPL. 2639/2024

ATANDRA RAY

.....Petiti

Through: Mr. Priyadarshi Banerjee, Mr.
Aarlin Money, Advs.

versus

ABHIJIT IYER MITRA & ORS.

.....Respon

Through: Mr. Raghav Awasthi, Ms. Simran
Brar , Advs. for R-1
Mr. Shoumendu Mukherji, SPC
with Ms. Megha Sharma, Ms.
Aniruddha Ghosh, Advs. for UOI
Abhishek Kumar for Respondent
No. 5

+ C.R.P. 22/2024, CM APPL. 2654/2024

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CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. Learned Counsel for the parties have been briefly heard.

2. The present Petitions have been filed by the Petitioner under Section 115 of the Code of Civil Procedure, 1908 [hereinafter referred to as 'CPC'] seeking to challenge two orders both dated 13.10.2023 passed by learned ADJ-07, South-East District, Saket Court, Delhi [hereinafter referred to as 'Impugned Orders']. By one of the Impugned Orders, the learned Trial Court has allowed the Application under Order VI Rule 17 CPC filed by Respondent No.1 (Plaintiff before the learned Trial Court) and by the other Impugned Order, the learned Trial Court has dismissed the Application under Order VII Rule 10 CPC filed by the Petitioner (Defendant before the learned Trial Court).

3. No serious objection has been raised to the Impugned Order dated 13.10.2023 by the Petitioner/Revisionist by which the Application under Order VI Rule 17 of the CPC filed by the Respondent No.1 in CS No. 407/22 captioned Abhijit Iyer Mitra vs. Atandra Ray & Ors. was allowed. by the parties. Learned Counsel for the Petitioner restricts his submissions to challenge to Impugned Order by way of which Application under Order VII Rule 10 CPC filed by the Petitioner has been dismissed. Accordingly, CRP No. 21/2024 is disposed of on the basis of the statement made by learned Counsel for the Petitioner.

4. It is the contention of the Petitioner that the learned Trial Court does not have the jurisdiction to adjudicate the Complaint filed by the Respondent No.1 since the Complaint fails to demonstrate as to how cause of action has arisen in the South-East District of Delhi. It is contended that the Petitioner is neither the resident of nor works for gain/carries on business within territorial jurisdiction of the learned Trial Court. The Respondent No.1 also does not reside within territorial jurisdiction of the learned Trial Court. Thus, it is contended that learned Trial Court lacks territorial jurisdiction to adjudicate the Complaint.

4.1 It is further contended that since Respondent No.1 has filed a Suit for permanent injunction and damages for defamation against the Petitioner and the Courts of South District, Saket Court, Delhi would have the jurisdiction to adjudicate the Complaint filed by Respondent No.1 since, as is evident from the Memo of Parties, Respondent No.1 has his residence at Safdarjung Enclave, New Delhi-110029 which would fall within the territorial jurisdiction of South District, Saket Court, New Delhi.

4.2 In this regard, reliance is placed by the learned Counsel for the Petitioner on the judgement of the Coordinate Bench of this Court in the case of Escorts Limited vs. Tejpal Singh Sisodia¹ wherein the Court has held that wrong by defamation ordinarily would be done to a natural person at the place of his residence, where he/she has a reputation and thus the Court of the area where the person is resident of would be the natural court which would have jurisdiction to entertain the Suit. Reliance is placed on paragraph 35 of the Escorts Limited case which is reproduced below:

"35. In my opinion, wrong by defamation, ordinarily would be done to a natural person, at the place of his residence, where he/she has a reputation and to an artificial person as a corporation/company, at the place of registered office of the corporation/company. In such case, the Court of the place of which a person is residence of or where the corporation/company has its registered office, would be a natural court which would have jurisdiction and in a suit instituted at such place, averment of publication without even a specific plea of 'wrong done' with particulars of the persons in whose esteem the plaintiff has fallen may suffice. However, where a plaintiff in a suit for defamation, chooses to invoke the jurisdiction of an unnatural place i.e. a place of which that person is not a resident of and/or if a corporation/company in which it does not have its registered office, to invoke the jurisdiction of that Court, the plaint has to necessarily contain specific pleas of wrong done within the jurisdiction of that Court, by giving particulars of the persons in that jurisdiction, in whose esteem the plaintiff claims to have fallen and/or the loss or damage suffered."

[Emphasis Supplied] 2019 SCC OnLine Del 7607

5. On the other hand, it is the contention of Respondent No.1 that learned Trial Court has the territorial jurisdiction to adjudicate the Complaint since Respondent No.1 has his office at Jangpura which falls within the territorial jurisdiction of the learned Trial Court and his reputation has been lowered down in estimation of his fellow colleagues in his office and the neighbours around the office by the publications of the Petitioner and thus learned Trial Court has the territorial

jurisdiction to adjudicate the Plaintiff.

5.1 It is further contended that the Respondent No .2 (Defendant No.5 before the learned Trial Court) has its office at Lodhi Road, Delhi which falls within the territorial jurisdiction of the learned Trial Court. Thus, it is contended that the Impugned Order does not suffer from any infirmity.

6. The record reflects that a Coordinate Bench of this Court by order dated 02.02.2024 directed that the amended pleadings be completed by the Parties before the learned Trial Court, however the trial in the matter would remain in abeyance until these Petitions have been decided.

7. Learned Counsel for the parties submit that the matter is not proceeding any further before the learned Trial Court. In this view of the matter, the parties now jointly submit that the matter be disposed of with directions that the matter to be taken up in the jurisdiction of South District, Saket Court, New Delhi.

8. By the Application under Order VI Rule 7 of the CPC, what was amended in the plaint was paragraph 15 of the suit which was the jurisdiction paragraph. The effect of amendment is that the cause of action also arose in the jurisdiction of South-East District, Delhi.

9. As stated above, the Respondent No.1 has filed a suit for permanent injunction and damages in view of articles which are stated to be defamatory to the Respondent No.1. It is the case of Respondent No.1 that the Respondent No.1 was defamed at his workplace in Jangpura and thus, the Courts at South-East would have jurisdiction.

10. It is settled law that where two or more courts have the jurisdiction to adjudicate a dispute, the parties can choose any one jurisdiction of the two competent jurisdictions for adjudication of their disputes.

10.1 The Supreme Court, in the case of *Shriram City Union Finance Corpn. Ltd. v. Rama Mishra*², has held that if one or more courts have the jurisdiction to try any suit, it is open for the parties to choose any one of the two competent courts to decide their disputes.

" 9. ... It is open for a party for his convenience to fix the jurisdiction of any competent court to have their dispute adjudicated by that court alone. In other words, if one or more courts have the jurisdiction to try any suit, it is open for the parties to choose any one of the two competent courts to decide their disputes. In case parties under their own agreement expressly agree that their dispute shall be tried by only one of them then the parties can only file the suit in that court alone to which they have so agreed. In the present case, as we have said, through clause 34 of the agreement, the parties have bound themselves that in any matter arising between them under the said contract, it is the courts in Calcutta alone which will have jurisdiction. Once parties bound themselves as such it is not open for them to choose a different jurisdiction as in the present case by filing the suit at Bhubaneswar. Such a suit would be in violation of the said agreement."

[Emphasis Supplied]

11. Learned Counsel for the Respondent No.1 submits that in lieu of the fact that the trial of the Suit cannot proceed during the pendency of these Revision Petitions and in the interest of expediency, he would be willing (2002) 9 SCC 613 to have the matter tried at the Courts in the South District Courts.

12. Given the submissions of the parties, it is likely that both South and South-East District Courts have jurisdiction to entertain the present Petitions.

13. In view of the foregoing concession of the Respondent No.1 and in the interest of expediency, the Impugned Order dated 13.10.2023 which dismisses the Application under Order VII Rule 10 of the CPC is set aside. The Plaint shall be returned to the Respondent No.1 to be filed at the appropriate jurisdiction. The matter shall be taken up from the stage where it is already pending.

14. The petitions are disposed of with the foregoing directions. All pending Applications stand closed.

15. It is clarified that this Court has not examined the matter on merits and the order passed by this Court today is without prejudice to the rights and contentions of both parties.

16. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J MARCH 28, 2025/ha/jn Click here to check corrigendum, if any