



2025:DHC:2908



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

% *Reserved on: April 16, 2025*
Pronounced on: April 25, 2025

+ **CM(M)-IPD 4/2025, CM 41/2025-Stay and CM 42/2025-Exp**

M/S KRANTI SOAP PVT. LTD. & ORS.

.....Petitioners

Through: Mr. Mohan Vidhani, Mr. Saurabh
Kumar and Ms. Nidhi Pandey,
Advocates

Versus

M/S DEEP CHAND ARYA INDUSTRIES

.....Respondent

Through: Mr. J. Sai Deepak, Senior Advocate
with Mr. Rishabh Srivastava, Ms.
Yasheswini Sharma, Ms. Purnima
Vashishtha, Advocates

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

Preface:

1. The petitioners/ defendants, by way of the petition under *Article 227* of the Constitution of India, seek to assail the order dated 11.02.2025¹ passed by the learned District Judge (Commercial)-08, Central District, Tis Hazari Courts, Delhi² whereby their application under *Order XIV Rule 5* read with *Section 151* of the Code of Civil Procedure, 1908³ in CS (COMM)

¹ Hereinafter referred as "*impugned order*"

² Hereinafter referred as "*learned Trial Court*"

³ Hereinafter referred as "*CPC*"



No.502/2024 instituted by the respondent/ plaintiff entitled *M/s. Deep Chand Arya Industries v. M/s. Kranti Soap Private Limited & Ors.* has been dismissed.

Brief Factual Matrix:

2. In the suit for infringement of registered trademark 'KRANTI', damages along with other ancillary reliefs instituted by the respondent against the petitioners before the learned Trial Court, upon completion of pleadings, on 09.12.2024, the learned Trial Court framed the following issues as under:-

“From the pleading of the parties, the following issues are framed:

- (1) Whether the plaintiff is entitled for decree of permanent injunction as prayed for? ...OPP*
- (2) Whether the plaintiff is entitled to rendition of accounts? ...OPP*
- (3) Whether the plaintiff is entitled to damages as prayed for? ...OPP*
- (4) Whether this Court does not have territorial jurisdiction to entertain the present suit? ...OPD*
- (5) Relief?*

No other issue arises or is pressed by the parties from the pleadings.”

3. On the same day itself, i.e. on 09.12.2024, a Local Commissioner was appointed for recording of evidence, whereafter, recording of evidence has commenced before the said Local Commissioner. Though throughout all stages, the petitioners have been duly represented by their counsel, however, after approximately *54 days*, the petitioners filed an application under *Order*



XIV Rule 5 read with *Section 151* of the CPC for framing of additional issues since, according to the petitioners, the respondent had not complied with mandatory requirements under *Section(s) 6* and *12* of the Commercial Courts Act, 2015⁴, and as such the suit before the learned Trial Court was not a ‘*commercial suit*’ and thus, could not be tried by the learned Trial Court, being a commercial Court.

4. After hearing the learned counsel for parties on the aforesaid application, the learned Trial Court passed the impugned order, relevant extract whereof is as under:-

“... ..The plaintiff has filed this suit for permanent injunction for infringement of trademark, passing off, rendition of accounts and damages against the defendants. The plaintiff has valued the suit for each of the reliefs and had also paid the appropriate court fees. There is no dispute that the dispute in the case is commercial dispute... ..

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As the plaintiff has valued the suit property and has paid the court fees, no issue regarding the jurisdiction arises from the pleadings of the parties.....”

5. Aggrieved thereby, the petitioners have preferred the present petition.

Submissions on behalf of the petitioners:

6. Based on the pleadings, the sole argument advanced before this Court by Mr. Mohan Vidhani, learned counsel for petitioners, is that the suit instituted by the respondent, though pertaining to infringement of registered trademark ‘KRANTI’, is not maintainable in the present form before the

⁴ Hereinafter referred as “*CC Act*”



learned Trial Court since the pleadings do not contain a categorical line to the effect that the same is for a ‘*specific value*’ above *Rupees Three Lakh Only* (Rs. 3,00,000/-). Therefore, as per learned counsel for petitioners, the said suit being in non-compliance of *Section(s) 6 and 12* of the CC Act, is not maintainable.

7. For this, learned counsel for petitioners has taken me through the provisions of *Section(s) 2(1)(i), 6 and 12* of the CC Act. Thereafter, relying upon *Pankaj Ravjibhai Patel v. SSS Pharmachem (P) Ltd.*⁵, wherein the Hon’ble Division Bench of this Court has held that the twin requirements of ‘*commercial dispute*’ and ‘*specified value*’ must be satisfied for a suit to be treated as a ‘*commercial suit*’ triable by a Commercial Court, he further submitted that the present suit is not a ‘*commercial suit*’ since it does not comply with the said twin requirements and cannot be tried as such by the learned Trial Court.

8. Learned counsel for petitioners concluded his arguments by submitting that it is trite law that any order passed by a Court having no jurisdiction is a nullity.

9. In view thereof, learned counsel for petitioners prayed for the setting aside of the impugned order.

Submissions on behalf of the respondent:

10. *Per contra*, Mr. J. Sai Deepak, learned senior counsel for respondent submitted that since the suit instituted by the respondent before the learned

⁵ 2023 SCC OnLine Del 7013.



Trial Court is pertaining to ‘*intellectual property rights*’, the same is governed by *Section 12(1)(d)* of the CC Act, which reads as under:

“*12. Determination of Specified Value.—(1) The Specified Value of the subject-matter of the commercial dispute in a suit, appeal or application shall be determined in the following manner:—*
(d) where the relief sought in a suit, appeal or application relates to any other intangible right, the market value of the said rights as estimated by the plaintiff shall be taken into account for determining Specified Value;”

The above, as per learned senior counsel for respondent, is unlike the provisions contained in *Section(s) 12(1)(a), 12(1)(b) and 12(1)(c)* of the CC Act relating to ‘*recovery of money*’ for ‘*movable property or to a right therein*’ and ‘*immovable property or to a right therein*’ respectively, which all are based on ‘*the market value*’.

11. In view thereof, as per learned senior counsel for respondent, *Section 12* of the CC Act has three distinct components: ‘*relief*’, ‘*market value*’ and ‘*specified value*’ and in cases pertaining to ‘*intellectual property rights*’ like the one instituted by the respondent before the learned Trial Court, the ‘*market value*’ should be the exact parameter to determine the ‘*specified value*’.

12. Learned senior counsel for respondent then submitted that since the respondent has complied with the statutory mandate of *Section 12* of the CC Act and valued the suit in strict compliance with the provisions of the Court Fees Act, 1870, and the Suits Valuation Act, 1887, which is a substantive law, the valuation of the said suit by the respondent at Rs. 95,03,500/- (*Rupees Ninety Five Lakhs Three Thousand Five Hundred Only*) is sufficient. Further, since the same involves a ‘*commercial dispute*’ as per the CC Act, the suit



instituted by the respondent is *per se* maintainable under the CC Act, leaving no room for doubt with regards to classifying the same as a ‘*commercial dispute*’ under the Act.

13. For this, learned senior counsel for respondent has also relied upon ***Pankaj Ravjibhai Patel (supra)***, wherein it has been held that the valuation of a suit must be determined by the nature of the reliefs claimed in the plaint, which is dependent upon the ‘*market value*’ assessed. Further, the learned counsel has also relied upon ***Bharat Bhushan Gupta v. Pratap Narain Verma and Ors.***⁶, wherein the Hon’ble Supreme Court has held that the valuation of any particular suit has to be decided primarily with reference to the relief(s) claimed. In view thereof, as per learned senior counsel for respondent, the respondent has satisfied the twin requirements under the CC Act, especially those under *Section(s) 6 and 12* thereof by providing the ‘*specified value*’ in accordance with the Court Fees Act.

Analysis and Reasoning:

14. I have heard Mr. Mohan Vidhani, learned counsel appearing for petitioners as also Mr. J. Sai Deepak, learned senior counsel appearing for respondent and have also gone through the relevant documents on record along with the relevant judgments cited by the parties during the course of arguments.

15. Before adjudicating on the merits involved, it is to borne in mind that the proposition involved here relates to framing of an (additional) issue falling

⁶ (2022) 8 SCC 333.



within *Order XIV Rule 5* of the CPC. *Order XIV* of the CPC is with respect to settlement of issues and the determination of the suit on the said issues framed by the Court. Depending upon the pleadings⁷ involved, such issue(s) is *qua* a material proposition of fact or law, i.e. it can be an ‘*issue of fact*’ and/ or an ‘*issue of law*’. Based on the plaint and the written statement(s), after examining and ascertaining the material proposition(s) of fact and/ or law involved *qua* which the parties are at variance, and after hearing the parties involved, the Court proceeds to frame such issue(s) “... ..*on which the right decision of the case appears to depend.*”. As per above, the Court employs a clinical process for framing an issue, for which pleadings and/ or arguments *qua* those are essential factors to be taken into consideration, but they are not the only factors while framing an issue. More so, since framing of an issue is directly proportional to the determination of the suit itself.

16. In the present case, it is not in dispute that the respondent has instituted a suit for infringement of registered trademark ‘KRANTI’ against the petitioners, wherein it has pleaded *qua* the market value involved, as also *qua* the annual turnover over the years in the pleadings, before valuing the suit at Rs.95,03,500/- (*Rupees Ninety Five Lakhs Three Thousand Five Hundred Only*). The same is thus unequivocally satisfying, rather surpassing the statutory threshold of more than *Rupees Three lakh Only* (Rs. 3,00,000/-) as

⁷ As per the cardinal principle of pleadings enshrined in *Order VI rule 2* of the CPC, “*Pleading to state material facts and not evidence*” i.e. every pleading shall only contain a statement in a concise form of the material facts on which the party pleading relies for his claim, but not the evidence by which they are to be proved. Similarly, as per *Order VI rule 4* of the CPC the only particulars necessary in pleadings are those relating to particulars (with dates and items if necessary).



per *Section 2(1)(i)* of the CC Act, more so, whence the present suit is pertaining to *'intellectual property rights'*.

17. Having said that, though the petitioners in their written statement, have pleaded *qua* the maintainability of the suit before a *'commercial Court'*, however, the same is not by itself sufficient for framing of an issue. Further, as evident from the earlier order dated 09.12.2024, followed by the impugned order dated 11.02.2025 passed by the learned Trial Court, only such issue(s) *"... ..on which the right decision of the case appears to depend"* have been framed on the basis of the pleadings of the parties, and that too after examining and ascertaining the material propositions and after hearing the parties. Therefore, it would be appropriate to say that the learned Trial Court, while dealing with the suit filed before it by the respondent, has indeed followed a clinical process for framing all the issues for determining the suit before it, once while framing the issues on 09.12.2024 and thence while passing the impugned order on 11.02.2025.

18. Interestingly, the gravamen of the dispute raised by learned counsel for petitioners before this Court is not *qua* the suit before the learned Trial Court not being a *'commercial suit'* before a *'Commercial Court'* *per se* but *qua* the factum that the pleadings do not contain a categorical line to the effect that the same is for a *'specific value'* of above *Rupees Three Lakh Only* (Rs.3,00,000/-). This, in the opinion of this Court, is an extremely narrow and hyper technical interpretation sought to be given to *Section(s) 6* and *12* by the learned counsel for petitioners, especially whence there are requisite pleadings referring to the *'commercial Court'* and *'market value'* in the plaint, which has



to be read as a whole, as also whence the learned Trial Court has passed a well-reasoned order, i.e., the impugned order dated 11.02.2025, as well as the earlier order dated 09.12.2024 while framing the issues. The said contention of learned counsel for petitioners is liable to fall flat in view of the afore-going.

19. Even otherwise, the provisions of the CC Act are not in derogation and/or abrogation of, and have no bearing(s) on any of the provisions of the prior Act(s) like the Court Fees Act, 1870 and the Suits Valuation Act, 1887, and hence, they are to be read in consonance with the said prior Act(s). This Court find able support in ***Pankaj Ravjibhai Patel (supra)*** wherein a Hon'ble Division Bench of this Court has held as under:-

“23. The CCA would inarguably be attracted to any action which relates to a commercial dispute falling within the ambit of section 2(1)(c) and where the specified value of the subject matter goes beyond the minimum Rs. 3 lakhs pecuniary limit as notified. Undisputedly if the declared specified value be Rs. 3 lakhs or above and the suit relate to a commercial dispute, it would necessarily have to be placed before the notified commercial court.

24. However, in our considered opinion, it would be wholly incorrect to proceed on the premise that the dispute forming the subject matter of IPR suits would necessarily and invariably be liable to be valued at Rs. 3 lakhs or above... ..

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30. We further note that Section 12 and which sets out the basis for determination of specified value is essentially placed in the statute in order to subserve the provisions of the CCA and which are intended to require suits and applications relating to commercial disputes of a specified value being placed either before the notified commercial court or the Commercial Division of a High Court. However, Section 12 cannot possibly be construed as seeking to override the principles enshrined in the Court Fees and Suits Valuation Acts. This is evident when one bears in mind the intent of Section 12 and which clearly appears to be restricted to the determination of the value of the subject



matter of the commercial dispute alone. Sections 2(1)(c) and 12 essentially constitute the two gateways which when crossed would lead to a particular matter being placed before a commercial court. That is the only purpose which those two provisions serve. They, however, clearly do not appear to be imbued with any legislative intent to override the provisions of the Court Fees and Suits Valuation enactments and which entitles a plaintiff to ascribe a value to the reliefs as claimed in the suit. The provisions contained in the Court Fees and Suits Valuation statutes are principally concerned with the imposition of court fee and other related matters. Insofar as the subject of court fee is concerned, it would be the amount as claimed by the plaintiff bearing in mind the nature of reliefs which are sought which would be determinative. We thus find ourselves unable to discern or read any provision of the CCA which may be said to mandate a contrary view being taken or the provisions of the Court Fee and Suits Valuation statutes being ignored.

31. *We also cannot ignore the contingency alluded to by Ms. Sukumar and who had urged us to consider a situation where even though the subject matter of the commercial dispute be more than Rs. 3 lakhs, the amount as claimed in terms of the reliefs as framed may be less than the aforesaid threshold limit. If the directions as framed in Vishal Pipes were to be accepted, the plaintiff in such a situation would be compelled to pay court fee on the basis of specified value as opposed to the amount claimed in terms of the reliefs as sought. It was in order to avoid the said conflict that Soni Dave correctly harmonized the provisions contained in the CCA and the Court Fees and Suits Valuation Acts. Soni Dave also rightly negated the argument based on Section 21 of the CCA. As we read the provisions of the said enactment, we come to the firm conclusion that the CCA did not intend to either override the provisions of the Court Fees and Suits Valuation Acts nor was it intended to regulate the subject of court fees.*

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33. *We thus come to conclude that while it would be open for the competent court to examine the declared specified value and the value ascribed to the reliefs claimed in an IPR suit if it be pegged at below Rs. 3 lakhs, the issue of undervaluation would have to be evaluated based on the facts of each case. The aforesaid exercise can be legally undertaken by the competent court itself and such matters need not be transferred to commercial courts for the aforesaid purpose.”*



20. In fact, the Hon'ble Supreme Court in ***Bharat Bhushan Gupta (supra)***, although not dealing with CC Act, has also held that:-

“23. *The nature of the present suit, as noticed hereinabove, makes it evident on the face of record that the appellant-plaintiff has sought the reliefs of mandatory injunction against the defendants for removing themselves and their belongings from the plot in question, while alleging that the defendants were in occupation thereof only as licensees; and were obliged to remove themselves after termination of respective licences. The plaintiff has also prayed for the relief of perpetual prohibitory injunction that the defendants may not create any third-party rights in the suit property or raise any construction thereon. The plaintiff has valued the suit for the purpose of court fees and jurisdiction at Rs.250 for each of the reliefs for injunction and at Rs 1 lakh for damages; and has paid the court fees accordingly.*

24. *It remains trite that it is the nature of relief claimed in the plaint which is decisive of the question of suit valuation. As a necessary corollary, the market value does not become decisive of suit valuation merely because an immovable property is the subject-matter of litigation. The market value of the immovable property involved in the litigation might have its relevance depending on the nature of relief claimed but, ultimately, the valuation of any particular suit has to be decided primarily with reference to the relief/reliefs claimed.”*

21. Lastly, it is trite law that the scope of interference under *Article 227* of the Constitution of India is extremely limited and, not being appellate in nature, is to be exercised sparingly and only if and when strictly necessary. This view is fortified by ratio laid down in ***Rajendra Diwan v. Pradeep Kumar Ranibala***⁸, wherein a five-judge Bench of the Hon'ble Supreme Court has held as under:-

“85. *The power of superintendence conferred by Article 227 is, however, supervisory and not appellate. It is settled law that this power*

⁸ (2019) 20 SCC 143.



of judicial superintendence must be exercised sparingly, to keep subordinate courts and tribunals within the limits of their authority. When a Tribunal has acted within its jurisdiction, the High Court does not interfere in exercise of its extraordinary writ jurisdiction unless there is grave miscarriage of justice or flagrant violation of law. Jurisdiction under Article 227 cannot be exercised “in the cloak of an appeal in disguise”.

Conclusion:

22. In light of the afore-going analysis and reasonings, no interference by this Court is required in the impugned order passed by the learned Trial Court.

23. Accordingly, the present petition under *Article 227* of the Constitution of India, along with the accompanying application(s) therein, is dismissed, leaving the parties to bear their respective costs.

SAURABH BANERJEE, J.

APRIL 25, 2025/bh