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

BEFORE

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

\+ **CS(OS) 262/2020, I.A. 8109/2020, I.A. 4807/2023 and I.A. 21254/2023**

OPERATION MERCY INDIA FOUNDATION,
HAVING ITS REGISTERED ADDRESS AT
2-2-96, LOGOS BHAVAN,
JEEDIMETLA VILLAGE,
SECUNDERABAD,
TELANGANA – 500055

O.M. BOOKS FOUNDATION,
HAVING ITS REGISTERED ADDRESS AT
D NO 02 157 LOGOS BHAVAN JEEDIMETLA VILLAGE,
MEDCHAL ROAD, QUTHUBULLAPUR MANDAL,
TELANGANA – 50005

ALSO AT:
TOURIST HOSTEL BUILDING,
YMCA JAI SINGH ROAD,
NEW DELHI-110000

JOSEPH GREGORY DSOUZA
DIRECTOR OF PLAINTIFF NOS. 1 & 2
S/O MR. LAWRENCE D'SOUZA
R/O #34/35 FATHER BALLAIH OLD ALWAL
SECUNDERABAD – 500010

....PLAINTIFFS

(Through: Mr. Akhil Sibbal, Sr. Advocate with Mr. Varun Singh, Mr. Gaurav Nair, Ms. Vara Gaur, Ms. Veera Mathai, Ms. Bhairavi S. N., & Ms. Jahnavi, Advocates.)

Versus

META PLATFORMS INC
1601, MENLO PARK,
CALIFORNIA -94025,
UNITED STATES OF AMERICA

JEYPAULJESUDASAN
S/O MIHAVEL
R/O H. NO 301, VIJAYA LAXMI ARCADE,
SPRING FIELD COLONY, JEEDIMETLA VILLAGE,
SECUNDERABAD– 500067

PANIGRAHI
S/O KRANTHI
R/O FLAT NO 202, MEENAKSHI ESTATES,
SPRING FIELD COLONY, QUTHUBULLAPUR MANDAL,
RANGA REDDY – DISTRICT
TELANGANA – 500015
ALSO AT:
OPP. JERUSALEM CHURCH, BHUPATI RAO NAGAR,
OLD ALWAL, SECUNDERABAD – 500010

.....DEFENDANTS

(Through: Mr. Varun Pathak, Mr. Akhil Shandilya, & Mr. Debditya Saha, Advocates for D-1.
Mr. G. Arudhra Rao, Mr. Rohan A Nail and Mr. Kaustub Narendran, Advocates for D-2 and D-3.)

% Reserved on: 18.11.2025
Pronounced on: 07.02.2026

J U D G M E N T

I.A.13894/2022 (U/o VII Rule 10 & 11 of CPC- for rejection/return of the plaint

By way of the present application, defendant nos. 2 and 3 seek rejection and return of the plaint in terms of Order VII Rule 10 and Rule 11

of the Code of Civil Procedure, 1908 ('**CPC**').

I. FACTUAL MATRIX

2. The plaintiffs comprise Operation Mercy India Foundation and O.M. Books Foundation, both companies registered under Section 25 of the Companies Act, 1956, having their registered offices in Telangana. Plaintiff No. 3, Joseph Gregory Dsouza, is the director of both entities and has been instrumental in their functioning since their incorporation. The plaintiffs collectively form part of the O.M. Group, purportedly engaged in charitable and philanthropic activities across India, including the running of educational institutions and the sale of religious books. Defendant no. 1, Meta owns and operates the social media platform Facebook. Defendant nos. 2 and 3 are individuals who operate a Facebook page titled "OM Justice Seekers," created using the email address omjusticeseekers@gmail.com.

3. The present dispute arises from the creation of the aforenoted page, through which defendant no. 2 began disseminating posts alleging benami transactions, misappropriation of donations, exorbitant fees, and adverse conditions within the plaintiffs' institutions.

4. The plaintiffs contend that these posts are defamatory, false, and malicious, and were deliberately published with the intent to harm their reputation, goodwill, and charitable activities. It is stated that certain disputes involving former employees of the plaintiffs were pending before various legal forums in Telangana, including criminal complaints alleging financial irregularities and non-compliance with FEMA regulations. The

plaintiffs assert that defendant no. 3 has exploited these disputes to publish misleading content, including references to ongoing litigation, thereby attempting to prejudice the plaintiffs' legal position and public standing.

5. The impugned posts are stated to have been widely viewed, shared, and commented upon both within India and abroad, causing significant reputational and financial harm to the Plaintiffs. The plaintiffs state that the communications received from donor organisations in June 2020 indicate a substantial reduction in donations attributable to the negative publicity generated by the impugned webpage. Plaintiff No. 2's bookstore operations in Delhi have similarly suffered. Employees of the Plaintiffs have also received emails from members of the public, including residents of Delhi, expressing concern regarding the defamatory content being circulated.

6. The Plaintiffs assert that the ongoing publication of defamatory statements on the impugned webpage is causing irreparable injury to their reputation, goodwill, and charitable work. It is in these circumstances that the Plaintiffs have approached this Court by way of the present suit seeking, *inter alia*, a permanent mandatory injunction directing the removal of the impugned webpage and all defamatory content contained therein.

II. SUBMISSIONS MADE BY THE PARTIES

7. Mr. G. Arudhra Rao, learned counsel for defendant nos. 2 and 3, submitted that all the parties to the present proceedings are based in Hyderabad and no genuine part of the cause of action has arisen in Delhi. The Plaintiffs have deliberately chosen this forum with the intent to cause

inconvenience to the defendant nos. 2 and 3. Further, he argued that the documents relied upon by the Plaintiffs, namely, the letters from foreign donor organisations and the four emails purportedly sent by Delhi residents, are fabricated and self-generated. The identical language used in these emails, along with the fact that two of them bear the electronic signature of Plaintiff No. 3's son, is stated to clearly demonstrate that these materials were orchestrated solely to manufacture jurisdiction in Delhi.

8. Mr. Rao further submitted that there is no credible evidence to show that the Plaintiffs have suffered any reputational harm in Delhi. The reliance placed on Plaintiff No. 2's Delhi bookstore is asserted to be wholly mala fide, as the establishment has no conceivable connection with the impugned posts. It is submitted that the Plaintiffs' attempt to invoke the jurisdiction of this Court amounts to forum shopping, and that compelling the defendants to contest the suit in Delhi would cause undue hardship.

9. *Per contra*, Mr. Akhil Sibal, learned senior counsel, submits that it is a settled principle of law that an application under Order VII Rule 10 of CPC must be decided on a demurrer, taking the facts stated in the plaint as correct. He further submits that jurisdiction must be assessed as on the date of institution of the suit. Order VII Rule 10 of CPC expressly provides that the plaint may be returned at any stage of the suit, but the test for jurisdiction relates back to the date of filing.

10. Mr. Sibal further submits that in the present case, at the time of filing of the suit, the identity of the operators of the Facebook page was completely unknown to the plaintiffs, as the wrongdoers had deliberately

masked it. The plaintiff, therefore, correctly arrayed the wrongdoer as a John Doe entity.[1] Accordingly, the territorial jurisdiction must be examined based on the plaint as instituted, not based on subsequently revealed facts, and since the plaint specifically avers that loss, damage and wrongful consequences were suffered by the Plaintiffs in Delhi, thus as per Section 19 of the CPC, jurisdiction of Delhi Courts is made out.

11. As regards the reliance placed by the Mr. Rao on ***Escorts Ltd. v. Tejpal Singh Sisodia***[2] (hereinafter "***Tejpal***") learned counsel submits that, unlike in ***Tejpal***, the plaintiffs herein have clearly and specifically pleaded loss of reputation at Delhi, and access of defamatory content in Delhi. It is further submitted that ***Tejpal*** is *per incuriam* to the extent that it applied the doctrine of *forum non conveniens* in a civil suit, despite a binding Division Bench judgment in ***Horlicks Ltd v. Heinz India (P) Ltd.***[3] (hereinafter "***Horlicks***") expressly precluding the applicability of *forum non conveniens* in civil proceedings.

III. ANALYSIS

12. *Vide* order dated 19.03.2024, the Court, *inter alia*, recorded the statement of Mr. Rao to the effect that defendant nos. 2 and 3, are confining their prayers to the return of plaint under Order VII Rule 10 of CPC and not pressing their application under Order VII Rule 11 of CPC. The present adjudication, therefore, proceeds on the same footing.

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[1] A term used to denote an unknown defendant in law when the actual infringer is unknown and immediate preventive relief is warranted from the Court.
[2] 2019 SCC OnLine Del 7606.
[3] 2009 SCC OnLine Del 3342.

13. The present suit being instituted for defamation is governed by Section 19 of the CPC which deals with "*Suits for compensation for wrongs to person or movables*" and provides:

> "*Where a suit is for compensation for wrong done to the person or to movable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the suit may be instituted at the option of the plaintiff in either of the said Courts.*"

14. Under Section 19 of the CPC, the expression "*wrong done*" includes both the wrong/injury itself as also the effect or consequence of the wrong.[4] In this context, for the purposes of establishing "*wrong done*" within the jurisdiction of this Court, the plaintiff, in its plaint, has pleaded, *inter alia*, the following:

> "*26. The Plaintiff No. 1 had purchased land measuring 19 Bigha and 16 Biswas in Village Tatesar, Delhi – 110081 (hereinafter referred to as 'the said land') on 23.09.2015 i.e. much earlier then the creation of the impugned web-page. The said land was purchased for construction of a Vocational Training Centre. The Plaintiff No. 1 had also appointed an architect to make the plans of the Vocational Training Centre to be constructed on the said land. The concept drawings of the Vocational Training Centre were prepared by architects for the work to begin on location.*
>
> *27. The Plaintiff No. 1 was in the process of receiving donations for the construction of the said Vocational Training Centre at the said land.*
>
> *28. Due to the illegal activities of Defendant No. 3 on the impugned web-page of the said website, the donations which were supposed to come for the construction of Vocational Training Centre at the said land have reduced drastically. Therefore, the Plaintiff No. 1 is unable to construct the Vocational Training Centre for which the said land was purchased by it.*
>
> *29. The donations which were supposed to finance the construction and*

[4] *M/s Frank Finn Management Consultants v. M/s. Subhash Motwani & Anr.*, 2008 SCC OnLine Del 1049, para. 17.

development of the Vocational Training Centre at the said land have reduced drastically due to the said defamatory publications on the web-page of the Defendant No.3 of the said website.

30. The Plaintiff No. 1 has received various communications from the donor organisations situated abroad including letter dated 10.06.2020 from Dayspring International, USA, letter dated 12.06.2020 from Good Shepherd Foundation, UK, letter dated 15.06.2020 from Dignity Freedom Network, Switzerland and letter dated 16.06.2020 from Dignity Freedom Network, Australia and New Zealand stating, inter alia, that due to the negative publicity and defamatory posts, on the impugned web-page, against the Plaintiffs, the donations for the construction and development of the said Vocational Training Centre at the said land have reduced drastically. The halting of the construction and development of the Vocational Training Centre at the said land, due to the lack of donations, have not only caused loss to the Plaintiff No. 1 but also to the various students/trainees who could have benefitted from the construction of the said Vocational Training Centre.

31. Plaintiff No. 2 operates a book store in Delhi at the aforementioned address. The sales at the said store have been affected considerably. The donations received by the Plaintiff No. 1 in the year 2018-2019 were Rs. 40,65,66,710/- (Forty Crore, Sixty Five lakhs, Sixty Six Thousand, Seven Hundred and Ten Only) which have now reduced to Rs. 25,38,46,239/- (Twenty Five Crore, Thirty Eight Lakhs, Forty Six Thousand, Two Hundred and Thirty Nine Only). Thus great damage is caused to the Plaintiff No. 1 as the donations have considerably reduced due to the false and defamatory posts of Defendant No. 3. Since, the Plaintiff No. 1 does not charge regular fees from its students, therefore, the functions of Plaintiff No. 1 is dependent on the donations received.

32. The employees of the Plaintiffs have received emails dated 08.07.2020, 27.07.2020, and 28.07.2020 from the public at large, including the residents of Delhi, stating that the impugned web-page is actively involved in spreading not only false information about the Plaintiffs but also defamatory content against the Plaintiffs.

33. The goodwill and reputation of the Plaintiffs and the business thereof is gravely suffering due to the aforesaid illegal acts of Defendant No. 3. Furthermore, since the Plaintiffs are in the charitable business of providing education, the brazen attack on the goodwill and reputation of the Plaintiffs affects the functioning of the schools, institutions, stores run by the Plaintiffs.

34. It is apparent from aforesaid that due to lack of donations and finances for the construction of Vocational Training Centre at the said lands, the construction thereof could not take place. The same also

> *amounts to a loss of opportunity as well as revenue loss to Plaintiff No. 1. Furthermore, the drop in sales figures at the stores of Plaintiff No. 2 nationally have also caused loss of revenue to the Plaintiff No. 2. The aforesaid monetary loss is in addition to the huge damage caused to the goodwill and reputation to the Plaintiffs.*"

15. Thus, the plaintiffs' contention of wrong having been done within the jurisdiction of this Court rests on — *first*, a reduction in donations received by it owing to the loss of reputation caused by the defamatory content, which in turn resulted in it not being able to construct and develop a vocational training centre in Delhi; *second*, a reduction in the sales of its bookstore in Delhi; and *third*, publication of the defamatory content also having taken place in Delhi.

16. Learned counsel for defendant nos. 2 and 3 has questioned the veracity of the letters annexed with the plaint, purportedly reflecting a reduction in donation, and the consequential inability of the plaintiff to construct a vocational center in Delhi. Similarly, he has doubted the emails annexed with the plaint, meant to show the publication of the defamatory content in Delhi. After pointing out certain discrepancies in the letters and emails annexed by the plaintiffs, it is ultimately contended by the learned counsel that the letters and emails are, as argued in the "*note on submissions*" submitted by the learned counsel:

> "*self-manufactured, ingenuine and spurious; fabricated with the sole intention of manufacturing a cause of action for defamation that would not otherwise exist*"

17. It is, trite law, that an objection on maintainability, either under Order VII Rule 10 of the CPC or otherwise, is to be adjudicated upon by deeming

the averments made in the plaint, as true. A brief, illustrative reference, may be made to the decision in ***Exphar v. Eupharma Laboratories***,[5] wherein the Supreme Court observed as under:

> "*9. Besides, when an objection to jurisdiction is raised by way of demurrer and not at the trial, the objection must proceed on the basis that the facts as pleaded by the initiator of the impugned proceedings are true. The submission in order to succeed, must show that granted those facts the court does not have jurisdiction as a matter of law. In rejecting a plaint on the ground of jurisdiction, the Division Bench should have taken the allegations contained in the plaint to be correct.…*"

18. A determination of whether the letters and emails are self-manufactured, ingenuine, spurious or fabricated, would, in the opinion of this Court, require evidence to be led and parties to be questioned. At a threshold and nascent stage, where the plaint and its averments are to be considered on a demurer, such conclusions cannot be drawn.

19. Thus, on the basis of pleadings mentioned in para 16 of this judgement, and the law on the appreciation of the plaint during the adjudication on maintainability or jurisdiction is being made, the plaintiff has, for the purposes of Section 19 of the CPC, established that wrong was done within the jurisdiction of this Court.

20. Another aspect of the jurisdictional challenge pertains to the application of the law laid down in para 46 of ***Tejpal***, which reads as under:

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[5] (2004) 3 SCC 688. For the same principle also see *RSPL Ltd. v. Mukesh Sharma*, 2016 SCC OnLine Del 4285 (DB), para. 11: "*It must be stated that it is settled proposition of law that the objection to territorial jurisdiction in an application under Order 7 Rule 10 CPC is by way of a demurrer. This means that the objection to territorial jurisdiction has to be construed after taking all the averments in the plaint to be correct…*"; and *Allied Blenders v. RK Distillers*, 2017 SCC OnLine Del 7224, para. 17: "*It is, therefore, clear from the above discussion that the objection as to jurisdiction in order to succeed must demonstrate*

> "*46. There is another aspect. Section 19 vests a plaintiff in a suit for compensation for defamation with an option to sue in either of the Courts i.e. where the wrong is done or where the defendant resides/carries on business, only when the two are different. This is clear from use of the words "….if the wrong was done within the local limits of jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of jurisdiction of another Court ….". However this option would not be available to a plaintiff, wrong to whom by defamation is done within the jurisdiction of same Court within whose jurisdiction the defendant resides. It will not be open to such a plaintiff to contend that wrong has been done to him/it, also within the jurisdiction of another Court. I repeat, Section 19 vested option only in plaintiff for a situation where no wrong is done where defendant resides. If wrong is done where defendant resides, there is no option but to sue where defendant resides.*"

21. This dictum in para 46 of ***Tejpal*** has been challenged by Mr. Sibal on grounds that—*first*, it is in conflict with the earlier decisions of Court such as ***Frank Finn Management Consultants v. Subhash Motwani and Anr.***,[6] ***Indian Potash Ltd. v. Media Contents & Communication Services (India) Pvt. Ltd.***,[7] ***GMR Infrastructure Ltd. v. Associated Broadcasting Company Pvt. Ltd. & Ors.***[8]; *second*, the rule declared does not bear out from the text of Section 19, and *third*, the said rule, since it is based on the principle of *forum non conveniens*, is in conflict with the Division Bench judgement of this Court in ***Horlicks***.

22. The decision in ***Tejpal*** has been analysed in greater detail by this Court in its recent judgment in ***Sameer Dnyandev Wankhede v. Red Chillies Entertainments Pvt. Ltd. and Ors.*** (hereinafter "***Sameer***

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that, granted the averments made in the plaint, the court does not have territorial jurisdiction as a matter of law."

[6] 2008 SCC OnLine Del 1049.
[7] 2009 SCC OnLine Del 4410.
[8] 2018 SCC OnLine Del 6866.

Wankhede"). It has been noted in ***Sameer Wankhede*** that ***Tejpal*** addresses a situation where wrong has been done in the jurisdiction of more than one Court, and one of them also happens to be the place where the defendant resides. In such a case, ***Tejpal*** holds that the suit can be instituted only at the place of merger/the place of coincidence where the wrong is done and the defendant also resides. This rule has been referred to in ***Sameer Wankhede*** as the "*Merger Rule*". Importantly, the Court at paras 55-60 of ***Sameer Wankhede*** comprehensively deals with each of the previous authorities which have been claimed to be inconsistent with ***Tejpal***. The material distinguishing factors as also the true *ratios* of the said decisions have been noted and ultimately it has been concluded that there is no conflict between the decision in ***Tejpal*** and the earlier pronouncements of this Court. The material portion of ***Tejpal*** reads as under:

> *C. Whether Tejpal is in Conflict with Other Decisions*
>
> *55. Before analysing the plaint, the authorities cited by the plaintiff may also be considered. In Frank Finn, the plaintiff having its registered office in Delhi impugned an article which, besides publication in the magazine which had circulation in Delhi, was also put by the defendants on its website. The defendants being residents of Mumbai, claiming that the magazine was published in Mumbai, submitted that the courts in Delhi did not have jurisdiction to entertain the lis. The court, however, rejecting the defendants' contention held as under:*
>
> *17. The wrong within the meaning of Section 19 of the CPC in an action for defamation is done by the publication. The defendants are confusing publication in the sense of printing, with publication as in the case of libel. The publication in the sense of a libel is not the mechanical act of printing of the magazine but is of communication of the libelous article to at least one person other than the plaintiff or the defendant. In this regard also see Aley Ahmed Abdi v. Tribhuvan Nath Seth, 1979 All. LJ 542. If the magazine, as aforesaid, has a circulation at Delhi, then it cannot be said that the wrong would not be done to the plaintiff at Delhi and thus the courts at Delhi would have jurisdiction under Section 19 of the Act.*

56. There is no indication in the said decision of the plaintiff therein having a reputation in Mumbai, in relation to which it could have sought a relief in Mumbai. There is also no mention of the wrong having occurred at a place other than Delhi. The jurisdiction, therefore, was governed by conventional principles and the Merger Rule or the Maximum Wrong Rule had no application. The suit therein was filed in Delhi, which was the place where the plaintiff had its registered office. The presumption of the plaintiff having a reputation at that place, thus applied, and the suit was rightly held to be maintainable.

57. The decision of this Court in Indian Potash Ltd. v. Media Contents & Communication Services (India) Pvt. Ltd. and Anr., 24 concerned the plaintiff-company having its registered office in Chennai and filing before this Court, a suit for defamation against the defendants who were residents of Noida, Uttar Pradesh, in relation to a news program telecasted by the defendants. The said decision concerned itself with an application under Order VII Rule 11, while the ultimate suit was decided in Indian Potash Ltd. v. Media Contents and Communications Services (India) Pvt. Ltd. and Anr., 25 interestingly by the same learned judge who authored Tejpal and Frank Finn.

58. A perusal of the decision in the main suit, which contains the facts in a bit more detail, reveals that the defendants had imputed that the plaintiff's factory in Sikandrabad, Uttar Pradesh utilises certain substances to adulterate its milk. Since "the plaintiff was supplying milk to many organizations and institutions and marketing companies in Delhi…The business of the plaintiff was allegedly hit by broadcasting of such publication in Delhi." It also appears that an argument was also made, while relying on the pleadings of the plaintiff, that the sale of milk constitutes only a very small i.e., 0.15% of the business of the plaintiff.27 Thus, even though not explicitly recorded, from the decisions concerning the Order VII Rule 11 application and the main suit, it does not appear that wrong was done where the defendant resided. With the conditions for the application of the Merger Rule not being fulfilled, conflict with Tejpal does not arise. Also then, despite Indian Potash (supra) not relying on Tejpal, it appears that the ultimate conclusion rested on principles akin to the Maximum Wrong Rule.

59. In GMR Infrastructure Ltd. v. Associated Broadcasting Company Pvt. Ltd. and Ors., 29 the plaintiff-company, having its registered office in Delhi, brought a defamation action before this Court against the defendantcompany which though, had its registered office at Hyderabad, Telangana, also had a ―small branch office used only for liaison purposes‖ at Delhi. While the said decision is distinguishable, again, on grounds that there was no finding of the wrong being done in

> *the jurisdiction of more than one Court, and therefore, neither Merger or the Maximum Wrong Rules becoming applicable; but from a different perspective, it may also be seen that the defendants' office at Delhi may be considered as a place at which it worked for gain, within the meaning of Section 19 of the CPC. Thus, even if the wrong would have been done at more than one place, the Merger Rule would have applied, and the suit would be maintainable in Delhi. 60. The decision of this Court in Dr. Shama Mohamed v. Smt. Sanju Verma and Ors.30 also does not appear to be inconsistent with the discussion above. The said decision also, at para 27, notes, what is called in the present judgement as the Merger Rule, and its affirmation by Ajay Pal Sharma (supra). There was no finding of the wrong being done at the place where the defendant resided. 31 Per contra, in the instant case, the same can be concluded on the basis of the plaintiff's pleading itself.*

23. This Court in ***Sameer Wankhede*** has also found, at paras. 34 and 35 that the *Merger Rule* in ***Tejpal*** is a result of statutory interpretation, and is traceable to the text of Section 19 itself. Resultantly, the argument of it being based on *forum non conveniens* is found by this Court to be without merit. The decision in ***Horlicks***, also, does not then merit consideration. Ultimately, the decision in ***Tejpal***, therefore, has been found to be good law in ***Sameer Wankhede*** and there appears to be no reason to deviate from the said position in the instant case.

24. The material portion of the conclusion reached in ***Sameer Wankhede*** is relevant, which reads as under:

> "*66. From the discussion above, in relation to Section 19 of the CPC and the wrong of cyber/online defamation, the following conclusions may be drawn:*
>
> *66.1 Where the wrong has not been done within the jurisdiction of more than one Court:*
>
> *a. The plaintiff may sue at the place where he resides, or in the case of a company, the place where it has its registered office. When he/it sues at such a natural forum, there is no requirement to specifically plead in whose eyes the reputation of the plaintiff*

has been lowered; and

b. The plaintiff is also entitled to sue at the place where he is not resident, or in the case of company, a place where it is not registered, but in such a case, he/it is required to plead in whose eyes the reputation of the plaintiff has been lowered.

66.2 Where the wrong has been done within the jurisdiction of more than one Court:

c. If wrong has also been done within the jurisdiction of the Court in which the defendant resides, carries on business or works for gain, the plaintiff must sue at this place of merger and at no place else; and

d. If wrong has not been done within the jurisdiction of the Court in which the defendant resides, the plaintiff must sue at the place where maximum wrong has been done, which normally shall be where he is a resident or in case of a corporation, where it has its registered office. However, he/it can also sue at an unnatural forum, claiming maximum wrong to have been done there, if the wrong done at the natural forum, in comparison to the place in which the plaintiff seeks to sue, is miniscule."

25. Before analysing whether the *Merger Rule* could be applied at this stage to return the plaint under Order VII Rule 10, particularly when the suit initially proceeded as Jon Doe, it may first be seen whether, in principle, the facts attract the said rule. For the *Merger Rule* to apply, wrong must also have been done at the place where defendant nos. 2 and 3 reside *viz*. Telangana. In this connection, the following averments in the plaint may be considered:

*"2. Plaintiff No. 1 has established and operates about **103 schools across India**. The said schools impart quality education to poor and underprivileged children at highly subsidised rates to about 26,000 number. The Plaintiff No. 1 employs about 2,000 number of teachers and support staff and workers.*

...

*4. Plaintiff No. 2 operates 17 number of book stores **across India** wherefrom religious and educational books are being sold at subsidised rates.*

> *...*
>
> *9. Plaintiff No. 3 is the director of the Plaintiffs Nos. 1 and 2 companies.* ***Plaintiff No. 3 has been the director of the said Plaintiff companies since their incorporation and continues to be so till date. Plaintiff No. 3 has remained instrumental in the successful functioning of the said companies in achieving the objects of the said companies****.*
>
> *...*
>
> *16. The posts on the impugned web-page have been viewed and shared and commented upon on numerous occasions on the said website, by* ***the persons situated not only India but also from abroad, thereby causing immense harm, prejudice and injury to the image, reputation and goodwill and business of the Plaintiffs****. Since the contents of the aforesaid webpage are visible throughout the world,* ***the reputation and goodwill of the Plaintiffs are damaged globally****.*
>
> *...*
>
> *33.* ***The goodwill and reputation of the Plaintiffs and the business thereof is gravely suffering due to the aforesaid illegal acts of Defendant No. 3. Furthermore, since the Plaintiffs are in the charitable business of providing education, the brazen attack on the goodwill and reputation of the Plaintiffs affects the functioning of the schools, institutions, stores run by the Plaintiffs****.*
>
> *...*
>
> *36. Plaintiffs Nos. 1 & 2 are companies having business reputation and can sue for defamation in respect of a publication calculated to injure its reputation in way of its business. The impugned web-page is of such nature that it not only defames the Plaintiff No. 3 i.e. director of Plaintiff Nos. 1 & 2,* ***but also injures the business character of the commercial body of persons*** *i.e. Plaintiffs Nos. 1 & 2 by defaming the business activities of the said companies.*
>
> (Emphasis supplied)

26. It may be seen that the plaint unequivocally notes that the reputation and goodwill of the plaintiffs have been damaged globally, and naturally, that shall include Telangana. Further, plaintiff nos. 1 and 2 have their registered office at Telangana, and plaintiff no. 3, who is a director of the plaintiff-companies, is also a resident of Telangana. Plaintiff's document-7

attached with the plaint also reveals that plaintiff nos. 1 has various schools in Telangana and plaintiff no. 2 also has a bookshop in Telangana. It can, therefore, be safely concluded that wrong, for the purposes of Section 19 of the CPC has also happened at Telangana. There is, thus, a merger of the place where the wrong is done, and where the defendants reside. The plaintiffs, therefore, cannot escape from the rigour of Section 19 of the CPC, and the application, in principle, of the *Merger Rule*. However, as the discussion below shall reveal, the application of the *Merger Rule* in the instant case cannot be held to be the reason to reject/return the plaint.

27. The issue which now needs to be considered is whether in the facts of the instant case, this finding on merger can be used to adjudicate the application under Order VII Rule 10 of the CPC, the said provision reads as under:

> *"**10. Return of plaint.**—(1) Subject to the provisions of rule 10A, the plaint shall at any stage of the suit be returned to be presented to the Court in which the suit should have been instituted.*
>
> *Explanation.— For the removal of doubts, it is hereby declared that a Court of appeal or revision may direct after setting aside the decree passed in a suit, the return of the plaint under this sub-rule.*

28. A perusal of the aforenoted rule reveals that while an application under Order VII Rule 10 of the CPC, or generally the powers under the said rule, can be made or invoked at any stage during the life of the suit. The adjudication in the instant case is to be conducted, by analysing the situation as it existed, at the time of the filing of the suit. Meaning thereby, that while there is no time frame within which an inquiry under Order VII Rule 10 of the CPC is to be undertaken, for the purposes of analysing whether the plaint

is to be returned or not, the circumstances existing when the plaint was instituted are to be considered.

29. Evidently, in the instant case, the suit had proceeded against Jon Doe. This Court *vide* order dated 15.09.2020, found the plaintiff to be entitled to immediate relief and injuncted omjusticeseekers@gmail.com, the then Jon Doe defendant, who now are arrayed as defendant nos. 2 and 3. Evidently, the present defendant nos. 2 and 3 were arrayed later after the ascertainment of their identities. The correctness of the said order, as also the act of the plaintiffs, in originally proceeding Jon Doe has not been questioned in any Court. Resultantly, it could safely be observed that it was owing to the anonymity of defendant nos. 2 and 3 that the plaintiffs had to proceed against Jon Doe. With the defendants whereabouts being unknown, on the basis of wrong having happened at Delhi, the suit was filed in this Court.

30. Thus, in view of the fact that the defendants' residence was not known at the time of the institution of the suit, the same was correctly instituted at the place where wrong was done, in view of Section 19 of the CPC. It would, further, be unacceptable in law, to return a plaint, which was validly instituted at the relevant point of time, simply because the unknown defendant revealed themselves after the institution. Returning a plaint, in effect, is a declaration that the *lis* should never have been entertained in the Court, and the consequence of returning a plaint, is, further, a trial *de novo*.[9] All orders become *non est*, and interim injunctions, if any, get vacated.

31. Thus, accepting the proposition seeking the return of plaint in cases

[9] *Exl Careers and Anr. v. Frankfinn Aviation Services Pvt. Ltd.*, (2020) 12 SCC 667.

where the defendants' subsequently reveal their identity would also negatively impact genuine *bona fide* litigants who, owing to the harassment and loss caused by the words of anonymous individuals, seek protection from Courts by instituting a suit against unknown defendants. Importantly, the Court also finds it impermissible and unacceptable, as a matter of law, for the defendants, who themselves, posted the allegedly defamatory content, under the garb of anonymity, to come out of the shadows, and insist upon the plaint to be returned *de novo* institution at Telangana, where they reside. The plaintiffs, must not suffer, owing to the defendants' acts of hide and seek.

32. In any case, it may also be noted, that the question of jurisdiction, including territorial jurisdiction, can also be considered by the Court during the trial. The evidence which the parties may lead during trial could certainly have a bearing on the question of jurisdiction, if it is framed as an issue. Defendant nos. 2 and 3 are free to agitate this issue at an appropriate stage and attempt to persuade the Court to return a favourable finding on jurisdiction, on the basis of the evidence led by the parties. There is no reason as to why the Court would not consider the eventual objections raised by defendant nos. 2 and 3.

33. The instant suit was validly instituted at the place of "*wrong done*" at Delhi since the place of the defendants' residence was not known. No case as of now, therefore, is made out for the return of plaint to Telangana.

34. I.A. 13894/2022 is, hereby dismissed. Suit to proceed in accordance with the law. The observations made herein shall not be construed as

conclusive findings on issues which may be framed at a later stage.

CS(OS) 262/2020, I.A. 8109/2020, I.A. 4807/2023 and I.A. 21254/2023

List before the concerned Joint Registrar on 16.03.2026.

PURUSHAINDRA KUMAR KAURAV, J

FEBRUARY 7, 2026
Nc