

Assets 6087/2021
Sri Srinivasa S. Devathi

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF MARCH, 2021

BEFORE

THE HON'BLE MR. ABHAY S. OKA, CHIEF JUSTICE

MFA NO.3315 OF 2020 (IPR-SJ)

BETWEEN

SRINIVAS DEVATHI, INVENTOR
AGED ABOUT 43 YEARS
S/O LATE D. SATYANARAYANA
63, 11TH B CROSS, 3RD MAIN
PRASHANTH NAGAR
BENGALURU – 560 079
INDIA

...APPELLANT

(BY SHRI. SRINIVAS DEVATHI, PARTY-IN-PERSON)

AND

1. OFFICE OF GENERAL COUNCIL
UNITED STATES PATENT AND
TRADEMARK OFFICE
MADISON BUILDING EAST
ROOM 10B20
600, DULANY ST, ALEXANDRIA
VA 22314, USA
REPRESENTED BY
MR. ANDREI IANCU

2. HULSEY P.C
3300, NORTH I-35, SUITE 700
AUSTIN, TX – 78705, USA
REPRESENTED BY
MR. BILL HULSEY

...RESPONDENTS

THIS MFA IS FILED UNDER SECTION 104 READ WITH ORDER XLIII RULE 1(A) OF CPC, PRAYING THAT THIS HON'BLE COURT TO PASS ORDERS TO THE BENGALURU CITY CIVIL COURT TO ALLOW THE CASE



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O.S.NO.2613/2020, TAKE THE CASE IN AND INITIATE THE CASE PROCEEDINGS AND ETC.

THIS MFA IS COMING ON FOR ORDERS THIS DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

The appellant who is the original plaintiff is heard in person.

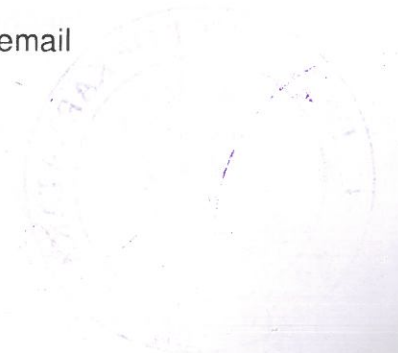
2. A suit for declaration was filed by the appellant in the City Civil Court at Bengaluru. By the impugned order, the learned Judge of the Trial Court held that the Court did not have territorial jurisdiction to entertain the suit and therefore, passed an order of return of the plaint.

3. The appellant appearing in person submits that clause (c) of Section 20 of the Code of Civil Procedure, 1908 (for short 'CPC') will apply as the cause of action arose at Bengaluru where he stays. He invited the attention of the Court to a document tendered across the bar under the title "PCT Contracting States" and certain provisions of the Patent Corporation Treaty. He also invited the attention of the Court to another document namely, the International Application filed by him. He also invited the attention of the Court to the agreement between the United States Patent and Trademark Office and the International Bureau of World Intellectual



Property Organization. He has also placed on record a copy of his Passport which shows that he is an Indian citizen and is a resident of Bengaluru. He would, therefore, submit that the City Civil Court had the territorial jurisdiction to entertain the suit.

4. I have considered the submissions. Perusal of the plaint shows that the defendants in the suit are the Office of the General Council, United States Patent and Trademark Office in USA and Hulsey P.C. having office in USA. So, both the defendants are in USA. The averments made in the plaint show that the appellant filed a patent application with the first defendant-United States Patent and Trademark Office (USPTO). The case made out in the plaint is that the appellant approached the second defendant - Law Firm in Texas in connection with the invention and the second defendant issued a report stating that his invention is still available for registration. The contention of the appellant is that on 5th August 2015, he received email from the second defendant in which, it is stated that the report showed Cobb Patent dated 4th April 2009 and the Price Patent dated 10th June 1997 which did not contain in the search result submitted by the second defendant on 25th February 2014. He has alleged that the email



disclosed that there was a global fraud committed. The prayers in the plaint read thus:

"The Inventor requests that the Honorable Court pass a declaratory judgment in favor of the Inventor against the defendants; and further order the defendant:

a) D1-USPTO to withdraw and delete the fabricated ISR issued on the PCT application # PCT/US2014/046619.

b) D1-USPTO to issue a correct, new, clean ISR, to the PCT application # PCT/US2014/046619; which is consistent with patent grant US 8,910,998. That would be the correct ISR.

c) D1-USPTO (the ISA on the PCT application # PCT/US2014/046619) to send out a new communication to WIPO and all 152 PCT contracting states in the world; to their respective PTO's issuing the corrected new ISR replacing the old fabricated ISR.

d) D1-USPTO to issue a grant on the Inventor's continuation application in USA, application # 14/535,867."

5. Even assuming that the contents of the plaint are correct, it is impossible to come to a conclusion that any part of the alleged cause of action for filing the suit arose at Bengaluru and for that matter, at any other place in India. Therefore, clause (c) of Section 20 of CPC will have no application. Merely because the appellant is a resident of Bengaluru, that is not sufficient to come to the conclusion that any part of the cause of action for filing the suit arose in Bengaluru. Therefore, there is absolutely no error in the view taken by the learned Judge that his Court lacked territorial jurisdiction to entertain the suit

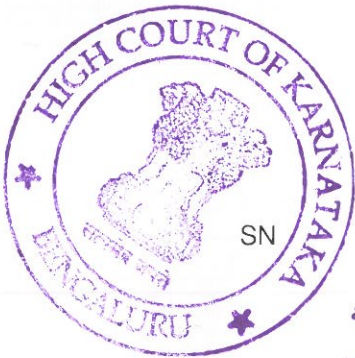


filed by the appellant and the order of return of the plaint was rightly passed.

6. The alleged original patent tendered across the bar is returned to the appellant.

7. At this stage, the appellant points out to the other prayer made in the appeal for establishing a Special Court. The said prayer cannot be considered in this appeal. Except for challenge to the order of the return of plaint by the City Civil Court, no other challenge can be considered in this appeal. If the appellant has any other remedy available, he can avail the same in accordance with law.

Sd/-
CHIEF JUSTICE



'TRUE COPY'
I/c K. Mahadevaiah
Section Officer, 25/3/21
High Court of Karnataka
Bangalore - 560 001

- a) The date on which the application was made 15/3/2021
- b) The date on which charges and additional Charges if any are called for 23/3/21
- c) The date on which charges and additional Charges if any are deposited/Paid 23/3/21
- d) The date on which the copy is ready 25/3/21
- e) The date of notifying that the copy is ready For delivery 25/3/21
- f) The date on which the applicant is required to appear on or before 27/3/21
- g) The date on which the copy is delivered to the Applicant 25/3/2021
- h) Examined by

25/3/2021
[Signature]