

been directed to be returned for its presentation before the court having jurisdiction.

2. The bare minimum facts as are necessary for the determination of the instant lis is that the father of the Director of the appellant company started a small flour mill in the premises of his home in the year 1970 under the name and style of “*Grihasti Atta Chakki*”. As the appellant business grew, the appellant company got incorporated in the year 1999 as started production of wheat flour in the year 2001 after obtaining the necessary permissions and licenses. Thereafter, the company adopted the trademark “*Grihasti Bhog*” and on account of its long and continuous use created goodwill, quality salesmanship and the trademark “*Grihasti Bhog*” became distinctive with the appellant. The appellants thereafter in the year 2005, 2012 and 2014 made application for Trademark Registration for brand name “*Grihasti Bhog*” but were unable to pursue the same due to unavoidable circumstances and the application stood abandoned.

3. It is the further the case of the appellant that it was shocked to know that the respondents were selling wheat flour under the name and style of “*Grihasti Bhog*” which is completely identical to that of the appellant. This fact came to its notice in February, 2023 and immediately thereafter it sent a cease and desist notice to the respondents on 10.03.2023. This notice was duly replied by the respondents vide reply dated 06.04.2024. The appellant thereafter in the month of April, 2023 filed an application under section 12A of the Commercial Courts Act, 2015 before the DLSA, Jamshedpur, but, the respondents refused to mediate and accordingly non-starter report was

issued by the Secretary, DLSA, Jamshedpur. Thereafter, on 14.08.2023, the appellant filed the aforesaid suit for infringement of Trademark and passing off under section 134 of the Trademarks Act, 1999 (for Short the Act, 1999) before the learned Civil Judge, Senior Division-I-cum Commercial Court at Jamshedpur.

4. On 06.03.2024 the respondents appeared and filed their written statement to the plaint filed by the appellant stating therein that they had been using the name “Grihasti Bhog” since 2022 and therefore could not be said to have infringed the trademark. According to the appellant there was, however, no whisper of any jurisdictional error as regards the trial of the suit was concerned.

5. On 15.06.2024, the respondent filed an application under Order VII Rule 10 read with section 151 of CPC wherein it was submitted that since the suit has been filed under section 134 of the Trademarks Act, 1999, the court of learned Civil Judge, Senior Division-I cum Commercial court lacked jurisdiction and therefore, the plaint is liable to be returned.

6. The appellant filed reply to the application dated 15.06.2024 filed by the respondents. This application came up for consideration on 29.07.2024 and was allowed as prayed for.

7. Aggrieved by the order dated 29.07.2024, the appellant has filed the instant appeal. It is vehemently contended by Mr. Indrajit Sinha, learned counsel for the appellant that the learned Court below has failed to appreciate the suit being a commercial dispute as defined under section 2(1)(c)(xvii) is governed by the Commercial Courts Act, 2015 (CC Act) and therefore, the suit had rightly been filed before the Ld.

Commercial Court, Jamshedpur. The learned Commercial Court failed to consider that in view of section 21 of the CC Act, the provisions of this Act also have overriding effect and would, therefore, override the provisions of section 134 of Trademarks Act, 1999. It is further contended that the learned Commercial Court has failed to appreciate the provisions as contained under section 134 of the Act, 1999 and cannot be read in isolation as the same is required to be read along with the provisions of the CC Act more particularly section 2(1)(c)(xvii) and sections 6 & 7. Lastly, it is contended that since the suit was valued at Rs. 5,05,000/- then as per notification no. 206/J dated 08.02.2021 issued by the State of Jharkhand in consultation with the High Court it was the learned Civil Judge, Sr. Division –I who alone has original jurisdiction to try the commercial dispute where the value of the suit is not less than Rs. 3 lakhs and upto Rs. 1 crore.

8. On the other hand, Mr. Yogesh Modi, AC to AAG-IA, for the State have argued that no fault can be found with the judgment passed by the Court below as the same has been passed after taking into consideration the provisions of the Code of Civil Procedure, 1908 Commercial Courts Act, 2015, Trademarks Act 1999 and even the provisions of *Bengal Agra and Assam Civil Court Act, 1887* and the court has rightly come to the conclusion that it has no jurisdiction and it was only the court of Additional District & Sessions Judge/ Judicial Commissioner which alone has the jurisdiction to try the suit.

9. We have heard the learned counsel for the parties and gone through the records of the case.

10. It is not in dispute that the Government of Chhattisgarh in consultation with the High Court of Chhattishgarh has conferred jurisdiction and power of Commercial Courts on the court of Civil Judge, Sr. Division in different districts. Similar notifications have also been issued by the State Government designating the District & Sessions judges of different districts as Commercial Appellate Courts for the purpose of exercising jurisdictions and powers on those Commercial Courts with effect from the date those Commercial Courts became functional. Not only this, the cases falling within the pecuniary and territorial jurisdiction pertaining to commercial disputes under the CC Act have also been transferred to the Commercial Court for smooth functioning.

11. The CC Act brought about radical changes and came into effect from 31.12.2015. The Statement of Objects and Reasons (SOR) of the CC Act assumes significance. One stated object was that there was “a need to provide for an independent mechanism” for the early resolution of “high value commercial disputes”. Such early resolution, it was expected, “shall create a positive image to the investor world above the independent and responsive Indian legal system”. The SOR referred to the 188th Report as well as the 253rd Report of the Law Commission of India.

12. The CC Act underwent certain significant changes in 2018 by the Amendment Act 28 of 2018 with effect from 03.05.2018, while the CC Act as it was enacted in 2015 was meant to deal with high value commercial disputes but the 2018 amendment acknowledged that there was a need for early resolution of commercial disputes “of even lesser

value”. The specific objectives enumerated in the SOR to the 2018 Amendment Bill reads as under:

"(i) to reduce the specified value of commercial disputes from the existing one crore rupees to three lakh rupees, and to enable the parties to approach the lowest level of subordinate courts for speedy resolution of commercial disputes;

(ii) to enable the State Governments, with respect to the High Courts having ordinary original civil jurisdiction, to constitute commercial courts at District Judge level and to specify such pecuniary value of commercial disputes which shall not be less than three lakh rupees and not more than the pecuniary jurisdiction of the district courts;

(iii) to enable the State Governments, except the territories over which the High Courts have ordinary original civil jurisdiction, to designate such number of Commercial Appellate Courts at district judge level to exercise the appellate jurisdiction over the commercial courts below the district judge level;

(iv) to enable the State Governments to specify such pecuniary value of a commercial dispute which shall not be less than three lakh rupees or such higher value, for the whole or part of the State; and

(v) to provide for compulsory mediation before institution of a suit, where no urgent interim relief is contemplated and for this purpose, to introduce the Pre-Institution Mediation and Settlement Mechanism and to enable the Central Government to authorise the authorities constituted under the Legal Services Authorities Act, 1987 for this purpose."

13. It is here that certain other provisions of the CC Act, 2015 came into play. Section 2(1)(b) defines a Commercial Court to be the ‘Commercial Court’ constituted under section 3(1) of the CC Act which reads as under:

“3. Constitution of Commercial Courts:-

(1) The State Government may after consultation with the concerned High Court, by notification, constitute such number of Commercial Courts at District level, as it may deem necessary for the purpose of exercising the jurisdiction and powers conferred on those Courts under this Act:

Provided that with respect to the High Courts having ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, constitute Commercial Courts at the District Judge level:

Provided further that with respect to a territory over which the High Courts have ordinary original civil jurisdiction, the State Government may, by notification, specify such pecuniary value which shall not be less than three lakh rupees and not more than the pecuniary jurisdiction exercisable by the District Courts, as it may consider necessary.

(1A) Notwithstanding anything contained in this Act, the State Government may, after consultation with the concerned High Court, by notification, specify such pecuniary value which shall not be less than three lakh rupees or such higher value, for whole or part of the State, as it may consider necessary.

(2) The State Government shall, after consultation with the concerned High Court specify, by notification, the local limits of the area to which the jurisdiction of a Commercial Court shall extend and may, from time to time, increase, reduce or alter such limits.

(3) The State Government may, with the concurrence of the Chief Justice of the High Court appoint one or more persons having experience in dealing with commercial disputes to be the Judge or Judges, of a Commercial Court either at the level of District Judge or a court below the level of a District Judge."

14. Section 3A of the Act CC Act speaks of the constitution of Commercial Appellate Courts reads as under:-

"3A. Designation of Commercial Appellate Courts:-

Except the territories over which the High Courts have ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, designate such number of Commercial Appellate Courts at District Judge level, as it may deem necessary, for the purposes of exercising the jurisdiction and powers conferred on those Courts under this Act."

15. It is, thus, clear that Commercial Appellate Courts can also be established at the District Judge level meaning thereby that the original authority entertaining the commercial dispute has to be subordinate to the District Judge which essentially would be the Civil Judge-Sr. Division. This is clearly evident not only from the aforesaid discussions, but, would be further clear from the decision taken by the Parliament when it decided to expand the scope of commercial disputes beyond those which were of *high value* and three aspects that were mentioned on behalf of the Government defending the bill in Parliament reads as under:-

"Now, what really has transpired in December 2017? As has already been mentioned by the hon. Minister, in December, 2017, the Government had established a total of 247 commercial courts across the country. But, the non-exhausted list of 22 disputes, termed as commercial disputes, has also been brought in. To increase the efficiency of the system, there are still many enactments and many things which we need to correct and this is just one part of the correction to improve the ease of doing business. By bringing the jurisdiction to three lakhs, we will actually be bringing judicial accessibility to a wider audience and to a larger number of people. By making it available to a larger number of people, we will be resolving a larger number of disputes. It is in this context that the jurisdiction has been reduced after studying the data in detail.

This particular amendment has been brought in with the specific value which was determined under Section 2 (1) (i), where the minimum pecuniary jurisdiction is

mentioned, which was one crore earlier before the Ordinance, now it has been brought to three lakhs. This jurisdiction will initiate more such disputes to have a faster disposal.

As I have mentioned earlier, under the Charter, there are Chartered High Courts and non-Chartered High Courts. So, certain original jurisdictions are vested with certain High Courts and not with every High Court. This was one impediment in establishing commercial divisions. So, there was a bar of some sort. To do away with the bar, this particular enactment has been brought in and this is another major change which has been brought in through this particular Bill.

The third aspect of the commercial appellate court is that normally at the District Level, either a District Judge or a Judge below the level of District Judge, will be notified as the Commercial Court Judge. Then the appeal need not go to the High Court. The appeal can go to the District Judge. That is also a part of this particular enactment."

16. Thus, what can be seen from the aforesaid decisions is that the legislature appears to have left it open to the High Courts and the State Governments either to appoint a Civil Judge (Sr.Div.) or an Additional District Judge as Commercial Court at first instance to expedite the adjudication of commercial disputes. As regards the State of Jharkhand, it has constituted Commercial Courts both at the District Judge level as well as below of the District Judge level.

17. The intent of the Parliament was clearly to expand the powers and to bring in more Courts under the rubric of 'Commercial Courts'. Considering that the specified value was being lowered, it was but natural to allow Courts below the rank of District Judge to be designated as Commercial Courts.

18. The learned court below has gravely erred in construing the expression '*District Court*' as '*District Judge*' without caring to go

through the provisions of the section 134 of the Trademarks Act which clearly provides that dispute of infringement can be instituted in a '*District Court*' having jurisdiction to try the suit as against the expression '*District Judge*' having jurisdiction to try the suit. The court would have been well advised and should have shown due deference to the notifications issued by this Court notifying the Civil judge-Sr. Division to be a Commercial Court and the District Judge to be a Commercial Appellate Court apart from being a Commercial Court depending upon the pecuniary jurisdiction. After all these notifications had been issued after going through the provisions of the CC Act.

19. In view of the aforesaid observations and for the reasons stated above, we find merit in this appeal and the same is, accordingly, allowed. The order passed by the Civil Judge (Sr. Division-I) Jamshedpur in Commercial Suit No. 11 of 2023 dated 29.07.2024 is squarely quashed and set aside. Consequently, the suit is restored to its original number. The trial court shall now proceed to adjudicate the suit in accordance with law.

20. The parties are directed to appear before the Court below on 18.08.2025.

(Tarlok Singh Chauhan, C.J.)

(Sujit Narayan Prasad, J.)

A.F.R.

MM/-

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