

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF NOVEMBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE H.P. SANDESH

MISCELLANEOUS FIRST APPEAL NO.6128 OF 2024 (CPC)

R

BETWEEN:

- 1 . MRS. SHUMITA DEB
W/O MR. JNAN RANJAN DEB
D/O LATE MR. MANNA DEY
AGED ABOUT 65 YEARS,
RESIDING AT NO.402,
4TH CROSS, 5TH MAIN,
HRBR LAYOUT, 2ND BLOCK,
KALYAN NAGAR,
BENGALURU-560 043.
- 2 . MR. JNAN RANJAN DEB
S/O K.R. DEB,
HUSBAND OF MRS.SHUMITA DEB,
AGED ABOUT 70 YEARS,
RESIDING AT NO.402,
4TH CROSS, 5TH MAIN,
HRBR LAYOUT, 2ND BLOCK,
KALYAN NAGAR,
BENGALURU-560 043.

... APPELLANTS

(BY SRI MANU PRABHAKAR KULKARNI AND
SRI DHARMENDRA CHATUR, ADVOCATES)

AND:

- 1 . MR. GAUTAM BHATTACHARYA
AGED ABOUT 58 YEARS,

RESIDING AT FLAT 3A, EE 23,
SECTOR-II, SALT LAKE,
KOLKATA-760 091.

- 2 . MS. LAHAMA BHATTACHARYA
AGED ABOUT 28 YEARS,
RESIDING AT FLAT 3A, EE 23,
SECTOR-II, SALT LAKE,
KOLKATA-760 091.
- 3 . M/S. DEEP PRAKASHAN
209-A, BIDHAN SARANI,
KOLKATA-700 006,
REPRESENTED BY
MR. SHANKAR MANDAL.
- 4 . KALPANA OFFSET PRIVATE LTD.,
HAVING ITS OFFICE AT 123,
TARICK PRAMANICK ROAD,
KOLKATA-790 015,
REPRESENTED BY ITS
MANAGING DIRECTOR.
- 5 . ABP PRIVATE LIMITED
HAVING ITS OFFICE AT 6,
PRAFULLA SARKAR STREET
KOLKATA-790 001,
REPRESENTED BY ITS
MANAGING DIRECTOR.
- 6 . ENTERTAINMENT NETWORK INDIA PVT. LTD.,
HAVING ITS OFFICE AT 4TH FLOOR,
A WING, MATULYA CENTRE,
SENAPATI BAPAT MARG,
LOWER PAREL (WEST),
MUMBAI-400 013,
REPRESENTED BY ITS
MANAGING DIRECTOR .

HAVING OFFICE AT KOLKOTA
SHANTINIKETAN BUILDING,
8 CAMAC STREET, 13TH FLOOR,
KOLKATA-700 017,
TEL: (033) 44098300,
REPRESENTED BY ITS
MANAGING DIRECTOR.

... RESPONDENTS

(BY SRI SUMAN K.S., AND
SRI UMESHA R., ADVOCATES FOR R1;
SMT. B.V.NIDHISHREE, ADVOCATE FOR R6)

THIS M.F.A. IS FILED UNDER ORDER 43 RULE 1(a) OF
CPC, PRAYING TO SET ASIDE THE ORDER DATED 31.08.2024
(ANNEXURE-A) PASSED IN O.S.NO.985/2017 ON THE FILE OF
THE Ld. LX ADDITIONAL CITY CIVIL AND SESSIONS JUDGE
(CCH-61), BENGALURU AND ETC.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR
JUDGMENT ON 15.11.2024 THIS DAY, THE COURT
PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

CAV JUDGMENT

This miscellaneous first appeal is filed challenging the order dated 31.08.2024 passed on Issue No.5 as affirmative in coming to the conclusion that the Court has no territorial jurisdiction to try the suit and returned the plaint to present the same before the competent Court of law within sixty days in O.S.No.985/2017 by the LX Additional City Civil and Sessions Judge, Bengaluru.

2. Heard the learned counsel appearing for the respective parties.

3. The factual matrix of the case of the plaintiffs/appellants is that the suit is filed against the defendants for the relief of permanent injunction restraining defendant Nos.1 to 5 from reprinting, circulating or modifying and publishing in any manner whatsoever the defamatory, false and man-aligning content contained in introductory page 54 and chapter even (7th) of the book page 145 to 154 about late Manna Dey and published in the book "Tarader Sesh Chitthi" (Star's last

letter) and also sought permanent injunction against defendant No.6 to air or communicate in any manner any content specified in infringing book and also mandatory injunction against defendant Nos.1 to 5 and also direction to furnish true and fair accounts of the sale and circulation of the infringing Book in physical and virtual form and anybody acting from making, publishing, circulating and also direct the defendants to jointly and severally pay a sum of Rs.1,10,00,000/- to the plaintiffs as compensation and directing defendant No.1 to individually pay a sum of Rs.25,00,000/- to the plaintiffs towards damages.

4. It is the contention of the plaintiffs that defendant No.1 has engaged in a vilifying campaign against the plaintiffs by publishing an article in Anand Bazar Patrika dated 28.10.2013 and subsequently publishing a chapter in book called "Taradar Shesh Chitthi". It is also contended that the article written by defendant No.1 about Manna Dey is false and malicious, more particularly regarding the private relationship of plaintiffs' and Manna Dey and the said article has been published to expose

plaintiffs to public hatred and ridicule and the articles which are published are defamatory in nature.

5. The defendants appeared and filed the written statement contending that the suit is bad for non-joinder of necessary parties and also the suit is barred by limitation and also contended that the publication which are made out of right of freedom of press.

6. The Trial Court having considering the pleadings of the plaintiffs and the defendants, framed several Issues, Additional Issues and considered Issue No.5 as preliminary issue that is with regard to the territorial jurisdiction to try the suit. The counsel for defendant No.1 contended that the Court has no territorial jurisdiction to entertain the present suit and for the convenience of the plaintiffs, twisted the cause of action. It is contended that books are published and circulated at West Bengal and both the book and article are launched in the book fair at Kolkata, West Bengal in the month of January 2016 and the same is also in the Bengali language and book was offered by the readers within the State of West Bengal and any

purported damage suffered by the plaintiffs due to the said publication, the same is confined to Kolkata, West Bengal, thus, ought to have filed the suit at West Bengal not in Bengaluru. Hence, the Court has no territorial jurisdiction to try the suit. On the other hand, the appellants contend that the book has been circulated in all parts of India and also in Bengaluru. Therefore, damage to the plaintiffs' reputation has been caused within the territorial jurisdiction of this Court and the plaintiffs right to privacy has been infringed within the jurisdiction of this Court. It is also contended that the plaintiffs have been residents of Bengaluru since 1994 and infringing book was circulated in Bengaluru. It is also contended that the right to privacy has been infringed within the jurisdiction of this Court because the said book contained personal and private details of Sri Manna Dey who was legendary singer which has been read by the people within the jurisdiction of this Court. No doubt, defamatory contents has been printed and published in Kolkata, West Bengal, but circulation of the said contents is not only in Kolkata, but also in the rest of the States of India and moreover, the said defamatory contents published in the book and newspaper sold

in other places of those Courts in that places can be entertained the cases of defamatory.

7. The Trial Court taking into note of the pleadings of respective parties, analysed the material available on record and comes to the conclusion that it is not in dispute that publication contents have been published in Bengali language. The defamatory contents have been published in 'Anand Bazaar Patrika' and in 'Tarader Shesh Chitthi' book in Kolkata, West Bengal. The same is also an admitted fact. It is also not in dispute that the defendants are the permanent residents of Kolkata and carrying their respective business in the Kolkata, West Bengal. The Trial Court also taken note of Section 19 of CPC and extracting the same made an observation that if any person affected by the wrong done by another person can file the suit for compensation within the local limits of the jurisdiction of one Court and comes to the conclusion that the plaintiffs allege that the cause of action has arisen within the local jurisdiction of this Court since infringing books were sold in Bengaluru at the Bengali book stall set up during Durga pooja in 2016 and the said circulation has also been widely in social

media. But the Trial Court comes to the conclusion that the language published in the newspaper and book is in Bengali and the plaintiffs are residing within the jurisdiction of this Court and the said books have been sold in Bengaluru does not mean that this Court has got the territorial jurisdiction.

8. The Trial Court also considered the judgment relied upon by the defendants and also taken note of recent judgment of the Delhi High Court in the case of **ESCORTS LIMITED vs TEJPAL SINGH SISODIA** decided on 08.03.2019 and comes to the conclusion that the said judgment will come to the aid of the defendants and answered preliminary issue as affirmative in coming to the conclusion that Court has no jurisdiction. Hence, the present appeal is filed before this Court.

9. The main contention of the learned counsel appearing for the appellants that the appellants are husband and wife. The counsel also would vehemently contend that though the books are published in Bengali language in Kolkata, the same were sold in Bengaluru and the said fact is not in dispute. The counsel also would vehemently contend that the Trial Court

committed an error in coming to the conclusion that this Court has no territorial jurisdiction. The counsel also would vehemently contend that when the temporary injunction was sought and the same was granted and the same was challenged before this Court and this Court confirmed the same during the course of trial considering the preliminary issue. The impugned order suffers from an error apparent on the face of record, is non-speaking, considers extraneous reasons. The suit is filed seeking injunctive, declaratory and compensatory relief. The impugned order was passed without considering Section 19 of CPC wherein it is held that where a suit is for compensation for a wrong done to a person if the wrong was done within the local limits of the jurisdiction of one Court and the defendants resides and carry on business in another Court, the suit may instituted at the option of the plaintiff in either of said Courts. The reason given by the Trial Court is contrary to Section 19 of CPC. The respondents specifically admitted that for the purpose of hearing on preliminary issue that the defamatory book is being in circulation in Bengaluru within the jurisdiction of this Court and the same was recorded by the Trial Court in its order dated

29.07.2024. The counsel also brought to notice of this Court that the language of the defamatory book is immaterial for the purposes of determining whether harm to the reputation of the appellants were done within the territorial jurisdiction of the Trial Court. Once it is admitted that the defamatory book was circulated within the territorial jurisdiction of the Trial Court, language is immaterial since in Bengaluru also Bengalis resides and read the said book. The counsel also would vehemently contend that the Court has to read both Section 20 and 20(c) of CPC and Trial Court has not referred Section 20(c) of CPC while passing the said order. The counsel would vehemently contend that when the books are sold and circulated in Bengaluru, the plaintiffs have received the phone call in Bengaluru and the same is a matter of right of privacy. Even also the defamatory statements were found in face book and also interview was made at Bengaluru. Hence, Sections 19 and 20 of CPC has to be conjointly read and it is not in dispute that the conversation was made in Bengaluru.

10. The counsel of the appellants in support of his arguments relies upon the judgment of this Court passed in **CRP No.89/2011** decided on **22.09.2011** in **MANU/KA/1228/2011** in the case of **S N MANJUNATH vs H B HONNAMAKKI RAMESH HEGDE AND OTHERS** and brought to notice of this Court paragraph 12 wherein discussion was made with regard to Section 19 of CPC which deals with the territorial jurisdiction and held that where a suit 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 limit of the jurisdiction of another Court, the suit may be instituted at the option of the plaintiff in either of the said Courts.

11. The counsel also relied upon the judgment of this Court reported in **ILR 1994 KAR 2410** in the case of **P LANKESH vs H SHIVAPPA** and brought to notice of this Court paragraphs 9 and 10 wherein discussion was made that where a defamatory imputation in any newspaper can be said to have

been published. One of the essential ingredients of the offence is publication of the defamatory imputation.

12. The learned counsel also relied upon the judgment of this Court passed in **M.F.A.No.4019/2022** decided on **14.07.2023** and this Court while dealing with the jurisdiction made an observation in paragraphs 32 and 34 holding that under Section 19 of the CPC such a suit could be instituted either within the local limits of the jurisdiction of a Court where the defendant resides or carries on business or personally works for gain. Such a suit could also be instituted within the local limits of the jurisdiction of a Court where the wrong was done and though there is no dispute with regard to the fact that suit could be instituted in a Court where the wrong was done. Referring this judgment, the counsel would vehemently contend that this Court already comes to the conclusion that where the wrong is done, the Court is having jurisdiction.

13. The counsel also relied upon the judgment of this Court reported in **1961 SCC ONLINE KAR 1** in the case of **GOKALDAS MELARAM vs BALDEV DAS T CHABRIA** and

brought to notice of this Court paragraph 8 wherein discussion was made that Section 19 is only an extension of Section 20 and Section 20 of CPC is a residuary section, every suit referred to in that section has to be instituted either in the Court within whose jurisdiction the defendant resides or carries on business or personally works for gain, or the cause of action wholly or in part arises. The counsel also brought to notice of this Court paragraph 10 wherein it is held that where the wrong is done to the person is undoubtedly also a place where the cause of action arises and detail discussion was made about Section 19 and 20 of CPC in paragraph 14.

14. The counsel also relied upon the judgment reported in **(2017) 10 SCC 1** in the case of **JUSTICE K S PUTTASWAMY (RETD) AND ANOTHER vs UNION OF INDIA AND OTHERS** with regard to the privacy is concerned and also relied upon the judgment reported in **(2023) 4 SCC 1** in the case of **KAUSHAL KISHOR vs STATE OF UTTAR PRADESH AND OTHERS** and brought to notice of this Court paragraphs 82 and 83 with regard to fundamental right under Articles 19 and

21 can be enforced even against persons other than the State or its instrumentalities. In order to decide the issue of territorial jurisdiction, these two judgments will not come to the aid of the appellants since issue is restricted with regard to the territorial jurisdiction not in respect of privacy or fundamental right.

15. The counsel for the respondents would vehemently contend that in Section 19 and 20 of CPC there is a distinction. Under Section 19, option not available to file the case in Bengaluru and the Trial Court rightly taken note of Section 19 of CPC. The counsel also would vehemently contend that interview cannot be a ground to invoke jurisdiction even if any such interview was made in Bengaluru. The counsel also would vehemently contend that no such wrong was done within the jurisdiction of this Court since articles and books are published in Kolkata. The counsel also would vehemently contend that same is in Bengali language and the appellants ought to have file the suit where the defendants resides or work for gain. The counsel also would vehemently contend that theory of maximum injury is not recognised and also brought to notice of this Court the

averments made in paragraphs 29, 30 and 33 of the plaint. The counsel would vehemently contend that publication was made in public domain in West Bengal and both the articles are in Bengali language and respondent No.5 is also the resident of within the jurisdiction of this Court.

16. The counsel for the respondents in support of is arguments relied upon the judgment of the Gujarat High Court reported in **CRIMINAL MISC. APPLICATION No.8120/2020** decided on **06.10.2020** in **MANU/GJ/1263/2020** in the case of **SUO MOTU vs YATIN NARENDRA OZA** and referring this judgment, the counsel brought to notice of this Court paragraph 28 wherein discussion was made with regard to the original utterances, allegations, insinuations and the spoken words in that regard in the press conference in question were in Gujarati language. Each language has its own fervour and conveying intensity about the meaning and intent of the spoken words.

17. The counsel also relied upon the judgment of the Delhi High Court reported in **CS (OS) 139/2020 (MANU/DE/1482/2020)** decided on **28.07.2020** in the case

of **AJAY PAL SHARMA vs UDAIVEER SINGH** and brought to notice of this Court discussion made in paragraph 13 over the internet or over a public media platform, where the jurisdiction of a Court, within whose jurisdiction neither the plaintiff nor the defendant resides, is being sought to be invoked, 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 and also discussion was made in paragraph 14. The counsel referring this judgment would vehemently contend that it is not open to the plaintiffs to contend that as the wrong was also done within the jurisdiction of another Court, they could sue within such jurisdiction.

18. The counsel also relied upon the judgment of the Delhi High Court reported in **MANU/DE/0928/2019** decided on **08.03.2019** in the case of **ESCORTS LIMITED vs TEJPAL SINGH SISODIA** and brought to notice of this Court paragraph 9 wherein discussion was made with regard to territorial jurisdiction of the Court and IN paragraph 10, referred the judgment in the case of **FRANK FINN MANAGEMENT**

CONSULTANTS vs SUBHASH MOTWANI

MANU/DE/1307/2008 and brought to notice of this Court paragraph 17 wherein it is held that the plaintiff therein had its registered office at Delhi, it was held that the Courts at Delhi had jurisdiction and also discussed Section 19 of CPC. The counsel also brought to notice of this Court paragraph 29 wherein also discussed Section 19 and in paragraphs 33 and 34 so also paragraph 42 and 45, elaborate discussion was made with regard to Section 19 of CPC.

19. In reply to the arguments of the counsel for the respondents, the counsel for the appellants would vehemently contend that the judgments referred by the respondents' counsel is in respect of internet communication and that judgments are not applicable to the facts of the case on hand since wrong was done in Bengaluru by selling the books and circulating the same in Bengaluru where the plaintiffs' resides and books are published and it is not an internet publication. The counsel would vehemently contend that our own judgment which has been referred at Sl.No.1 and 2 is very clear that whether it is a civil or

criminal in nature, both have the same yardstick in the case of defamation. The counsel would vehemently contend that maximum or minor injury is irrelevant while filing the suit and the Court has to see whether the Court has territorial jurisdiction. The counsel would vehemently contend that Section 19 and 20 to be read conjointly.

20. Having heard the learned counsel appearing for the respective parties and considering the material available on record, the points that would arise for consideration of this Court are:

1. Whether the Trial Court committed an error while answering Issue No.5 as affirmative holding that the Court has no territorial jurisdiction to try the suit and whether it requires interference?
2. What order?

Point No.1:

21. Heard the learned counsel appearing for the respective parties and also perused the material available on record and considered the principles laid down in the judgments

referred supra and also considered the relief's sought in the suit that is both injunctive and declaration as well as for compensation. It is specifically pleaded that cause of action was arose in Bengaluru. Having perused the plaint itself it is specifically stated that when the plaintiff received a copy of book in Bengaluru by post, defamatory remarks arose when the infringing books were sold in Bengaluru at Bengali Book Stall set up during Durga Pooja in the year 2016 and cause of action continues as infringing book is available for sale through online e-commerce website in India including Bengaluru and all the book stores in West Bengal. It is not in dispute that books are sold in Bengaluru. Respondent also not disputes the same. No doubt, the books are released in Kolkata, West Bengal but the fact that when the books are sold in Bengaluru and no doubt, the same are in Bengali language.

22. It is also important to note that this Court has to take note of the reason given by the Trial Court while answering Issue No.5 that the plaintiffs are residing within the jurisdiction of this Court and the said books have been sold in Bengaluru

does not mean that this Court has got the territorial jurisdiction. The fact that the Trial Court observed that books have been sold in Bengaluru but made an observation that no territorial jurisdiction arises here. The only reason assigned by the Trial Court in order to come to such a conclusion that selling of books in Bengaluru not gives any territorial jurisdiction and also an observation is made that book was published in the newspaper and book is in Bengali language. But the fact that Bengali people also residing in Bengaluru is not in dispute. It is also the case of the appellants that books are circulating all over the country but the fact that book is sold in Bengaluru is not in dispute.

23. This Court would like to refer Sections 19 and 20 of CPC which reads as follows:

“Section 19. Suits for compensation for wrongs to person or movables.- 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.

Section 20. Other suits to be instituted where defendants reside or cause of action arises. - Subject to the limitations

aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction –

- (a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or
- (b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally works for gain, as aforesaid, acquiesce in such institution; or
- (c) The cause of action, wholly or in part, arises.”

24. Having considered Sections 19 and 20 of CPC as contended by the appellant’s counsel and the proviso is very clear in Section 19 that where a suit is filed for compensation for wrong done to the person and if it is 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, it is an option of the plaintiff to institute a suit either of the said Courts. In the case on hand, it has to be noted that there is no dispute that books

and articles are released at Kolkata, West Bengal. It is specific case of the appellants that the books were sold in Bengaluru also during the Durga Pooja in the year 2016. No doubt, it is the contention of the respondents' counsel that said books are in Bengali language. When books were sold in Bengaluru that too during Durga pooja season, people including Bengalis will attend who are residing in Bengaluru and having contact with the appellants since the appellants are residing in Bengaluru since 1994. All these aspects have not been disputed by the respondents. It is specific case of the appellants that immediately after selling those books, the people who are residing in Bengaluru contacted the appellants and brought to notice of defamatory statements made in the said books and discussed the issue. Hence, it is clear that wrong was done within the local jurisdiction of the Trial Court. Section 19 is very clear in this regard and the suit is filed for the relief of wrong done to persons. It is the specific case of the appellants that the articles which have been released and sold in Bengaluru affect the privacy of the appellants but the Trial Court committed an error in coming to the conclusion that mere selling of book in

Bengaluru will not cause any injury to the appellants. The counsel for the appellants also brought to notice of this Court Section 20 of CPC wherein also the provision says that the suits to be instituted where defendants resides, cause of action arises and Section 20(c) of CPC is very clear that if cause of action wholly or part arises, suit can be instituted where the cause of action arose.

25. I have already pointed out that in the suit, it is specifically stated by the appellants that books are sold in Bengaluru, hence, the cause of action arose in Bengaluru also as pleaded. The very contention of the respondents that Delhi High Court distinguished the same. The counsel also submits that both Sections 19 and 20 of CPC are distinct. But it is an admitted fact that Section 20 of CPC is the addition to Section 19 of CPC and both Sections have to be read conjointly. This Court also in the judgment referred supra by the appellants in **CRP No.89/2011** taken note of similar set of facts and in paragraph 12, it is discussed that Section 19 of CPC which deals with the territorial jurisdiction and also held that where a suit for

compensation for wrong done to a person 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, it is an option of the plaintiff to institute a suit either of the said Courts. The counsel for the appellants also relied upon other judgment of this Court in the case of **P LANKESH** referred supra and brought to notice of this Court paragraphs 9 and 10 wherein also a discussion was made with regard to publishing and making defamatory imputation said to have been published. In the case on hand also it is held that first offence may be committed where it is printed and published and it gets repeated whenever the newspaper circulated in other places. It is also very clear that books are sold in Bengaluru and circulated in Bengaluru wherein Bengali people also residing. No doubt, the respondents relied upon the judgment of the Delhi High Court which has been relied upon by the Trial Court also wherein it is a case of internet material. But, herein it is a case of publication of book and selling of book and books are sold in Bengaluru.

26. This Court also in M.F.A.No.4019/2022 referred supra categorically held that suit could be instituted either within the local limits of the jurisdiction of a Court where the defendant resides or carries on business or personally works for gain. Such a suit could also be instituted within the local limits of the jurisdiction of a Court where the wrong was done and through there is no dispute with regard to the fact that suit could be instituted in a Court where the wrong was done, but nothing is discussed by the Trial Court. The fact that book was sold in Bengaluru is not in dispute and the same is circulated within the jurisdiction of the Trial Court. The counsel for the respondents also mainly relies upon the judgment of Delhi High Court in case of **ESCORTS LIMITED** referred supra and brought to notice of this Court paragraph 9 with regard to the jurisdiction of the Court. In paragraph 17 also taken note of cause of action arising in Delhi and publication and damage is at Delhi. Herein, it has been taken note of the fact that in whose eyes, the appellants have been defamed and the appellants are entitled to file a suit. It is not in dispute that the appellants are allegedly defamed in selling the book in Bengaluru. Hence, the said judgment also

comes to the aid of the appellants that they have got an option under Section 19 of CPC and the same has been discussed in paragraph 32 of the said judgment also. Having perused all these materials, this Court is of the opinion that the Trial Court committed an error coming to a conclusion that merely because book is sold in Bengaluru, jurisdiction does not arise within this Court and the same is an erroneous approach when the wrong was done in Bengaluru by selling the books and by circulating the same in Bengaluru and restricted meaning of Section 19 of CPC with regard to the jurisdiction to file the suit and fails to take note of the fact that wrong was done in Bengaluru and also made an error in making an observation that book was published in Bengali language.

27. This Court already pointed out that in Bengaluru, the Bengalis were also living and selling of the books at Bengaluru as contended by the appellants also disrepute the appellants and the very contention of the respondents that no wrong was done in Bengaluru cannot be accepted since books are sold in Bengaluru that too during Durga Pooja. Having perused the material on record and also considering the principles laid down

in the judgments referred supra, this Court is of the opinion that the very reasoning given by the Trial Court is erroneous when the suit is filed for the injunctive relief as well as damages, defamation and for compensation, ought to have taken note of both Sections 19 and 20 of CPC as contended by the counsel for the appellants. The contention that where the defendants resides, the appellants ought to have filed the suit therein cannot be accepted. The other contention of the respondents that the Court has to take note of the maximum injury and the same is not the question to decide in the present case that whether it is a maximum injury or minimum injury and the same is not a ground to invoke the jurisdiction of the Court and the Court has to take note of public domain in which the book was sold and also articles were circulated in Bengaluru but the said fact has not been taken note of by the Trial Court. In the judgment of Delhi High Court referred supra which is relied by the respondents' counsel, taken note of internet article and same can be viewed. But here is a case of books sold in Bengaluru and the same is not the circulation only on internet and whether it is a maximum injury or minor injury is immaterial for consideration

of territorial jurisdiction. Hence, there is a force in the contention of the appellants' counsel that this Court can interfere with the findings of the Trial Court since the Trial Court proceeded in an erroneous approach in coming to the conclusion that it is only in a Bengali language and mere selling of books in Bengaluru does not create any jurisdiction. Thus, it requires interference of this Court. Hence, I answer the above point as affirmative.

Point No.2:

28. In view of the discussions made above, I pass the following:

ORDER

The miscellaneous first appeal is allowed.

The order dated 31.08.2024 passed on Issue No.5 by the LX Additional City Civil and Sessions Judge, Bengaluru is set aside. The Trial Court is directed to proceed to consider the matter on merits by trying the case in accordance with law.

**Sd/-
(H.P. SANDESH)
JUDGE**

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