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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.08.2026
PRONOUNCED ON : 07.09.2026

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

A. No. 3544 of 2026

1.Blossom Global Trust
No. 27, Ganesh Nagar,120 Feet Road,
Mattuthavani,Madurai – 625007.
Represented by its Trustee,Mr M Muthukumar.

2.Preethi Hospitals Private Limited
No. 50, Melur Main Road,Uthangudi,
Madurai – 625107.
Represented by its Admin Manager
Mr. M Muthukumar.

..Applicant(s)

Vs

Augustine Educational and Charitable Trust
Campus of S.Preethi Group of Colleges, Sivagangai
Highway, Arasanoor, Thirumansolai Post,
Sivagangai District 630 562.

..Respondent(s)

PRAYER: To grant leave to sue the Respondent before this Honble Court

For Applicant(s): M/s.Arun C Mohan
Arun C.Mohan
Brinda Mohan
K.Venkatesan
Swabhhi Tyagi
Shruthi Srinivasan
R.Srihari
Rupikaa Srinivasan

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R.Adithya Shri
Udhithaa Kota
Samyukthaa B.S.

For Respondent(s): --

ORDER

This application is filed under Clause 12 of the Letters Patent. The applicants seek leave to institute a commercial suit against the respondent for infringement of the registered trademark PREETHI HOSPITALS, passing off and consequential reliefs.

2. The first applicant, Blossom Global Trust, is a charitable trust having its office at No.27, Ganesh Nagar, 120 Feet Road, Mattuthavani, Madurai. The second applicant, Preethi Hospitals Private Limited, has its principal place of business at No.50, Melur Main Road, Uthangudi, Madurai. The applicants state that they function under common management. The first applicant runs Preethi College of Nursing with the permission of the second applicant and as part of the Preethi group of institutions.

3. The second applicant states that it has used the mark PREETHI HOSPITALS continuously since 2001 in relation to hospital and healthcare

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services. It is the registered proprietor of the word mark PREETHI HOSPITALS under Trade Mark No.5466102 in Class 44 and Trade Mark No.5466103 in Class 41. The registrations cover hospital, healthcare, educational and training services. It is also stated that Preethi Institute of Health Sciences has been functioning since the academic year 2018-2019 and that Preethi College of Nursing has been functioning under the first applicant since the academic year 2023-2024. On the strength of long use, registration, turnover, advertisement and institutional activities, the applicants claim goodwill and reputation in the word PREETHI in the fields of healthcare, nursing education and allied services. Paragraph 8 of the plaint pleads that the marks serve as a source identifier of their educational and healthcare services in the same location, No. 50 Melur Main Road, Uthangudi, Madurai 625107.

4. The respondent, Augustine Educational and Charitable Trust, is situated at the campus of S. Preethi Group of Colleges, Sivagangai Highway, Arasanoor, Thirumansolai Post, Sivagangai District. According to the applicants, they came to know in the year 2026 that the respondent was using the name S. PREETHI GROUP OF COLLEGES for its educational institutions. The respondent is said to offer B.Ed., M.Ed. and D.El.Ed. courses. The applicants also state that the respondent proposes to commence a nursing college under the name

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S. PREETHI NURSING COLLEGE during the current academic year. Paragraph 3 of the plaint states that service of summons on the respondent may be effected through the Sivagangai District Court.

5. The applicants allege that PREETHI is the essential feature of their registered marks and institutional names. According to them, the addition of the letter S. and the words GROUP OF COLLEGES or NURSING COLLEGE does not remove the similarity. They allege that use of the impugned names is dishonest, is likely to cause confusion among students and the public, and gives a false impression of association with the applicants. They therefore propose to seek permanent injunctions against infringement and passing off, rendition of accounts, delivery up, and removal of the impugned material from physical and digital platforms, damages of Rs. 10,00,000/-, and costs.

6. The applicants further state that the respondent advertises its institutions and courses through the websites https://www.aeact.org/contactus.html and https://spreethinursingcollege.com/. These websites are said to be interactive, accessible across India and capable of receiving online applications and enquiries from prospective students.

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7. For territorial jurisdiction, the applicants rely on four circumstances. First, the second applicant obtained registration of its trademarks through the Trade Marks Registry at Chennai. Second, the applicants have statutory and regulatory dealings with authorities situated in Chennai. Third, their institutions are said to draw students from Chennai and their hospital treats patients from Chennai. They also refer to connections with hospitals and institutions in Chennai for student employment and recruitment. Fourth, the respondent's websites can be accessed from Chennai and are said to invite applications and enquiries from Chennai. On these averments, the applicants state that a substantial and material part of the cause of action has arisen within this Court's jurisdiction.

8. Learned counsel submitted that Clause 12 of the Letters Patent is the governing provision on the Original Side. According to him, Section 20 of the Code of Civil Procedure cannot be applied in a manner that undermines the jurisdiction conferred by Clause 12. If a real part of the cause of action has arisen within the ordinary original jurisdiction of this Court, the Court may grant leave even though the entire cause of action has not arisen here and the respondent is situated outside Chennai.

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9. Learned counsel placed the registration of the trademarks at Chennai as the first connecting factor. He fairly submitted that registration at Chennai, standing alone, may not be sufficient. His submission was that registration must be considered alongside the applicants' other connections with Chennai, including regulatory dealings, students, patients, and recruitment opportunities. Taken together, these facts were said to establish a genuine and continuing connection with Chennai.

10. The main submission of the learned counsel related to the web access. He submitted that both sides provide educational services in the field of nursing and promote their services through websites. Students now obtain information and seek admission mainly through the internet. The respondent's websites are accessible in Chennai and invite online applications and enquiries. Therefore, according to him, the respondent has deliberately availed itself of this jurisdiction, and its activities cannot be confined to the physical locations of its institutions.

11. Learned counsel relied upon the principles of purposeful availment, minimum contacts and the effects test. He submitted that, when the effect of an

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online act is felt within the jurisdiction, such effect may form part of the cause of action. Students in Chennai who search for the applicants' nursing and educational services may also find the respondent's institutions under the impugned names. As both sides operate in the same field, the possibility of confusion is real and not merely theoretical. The applicants claim to be the prior users and the second applicant is the registered proprietor. Therefore, the injury caused by the respondent's adoption was said to extend to Chennai.

12. Learned counsel also submitted that this is not a case where a party having no connection with Chennai has selected this Court only for convenience. He submitted that the trademark registrations, regulatory connections, Chennai student base, recruitment connections and the respondent's online activity together constitute more than an insignificant or artificial part of the cause of action.

13. On *forum conveniens,* learned counsel submitted that convenience is a relevant factor under Clause 12. He, however, submitted that the Court is not required to identify the most convenient among all competent Courts before granting leave. If a real part of the cause of action is shown in Chennai, the

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existence of another competent forum at Madurai or Sivagangai should not by itself defeat the application.

14. Further learned counsel submitted that grant of leave would not finally decide the issue of territorial jurisdiction. The respondent would remain free to apply for revocation of leave and place its facts before the Court. Therefore, according to him, no irreversible prejudice would be caused to the respondent by granting leave. On these grounds, he prayed that leave be granted.

15. This Court has the duty to satisfy itself that it has the power to try the suit. The very purpose of requiring leave under Clause 12 is that the Court should apply its own mind, before the defendant is put on notice, to whether a part of the cause of action has arisen within its local limits. This Court has therefore taken the applicants' pleadings and their own documents and considered whether, even then, the condition in Clause 12 is satisfied.

16. Clause 12 permits this Court to receive a non-land suit when the cause of action has arisen wholly within its local limits; when, with leave first obtained, a

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part of the cause of action has arisen within those limits; or when the defendant dwells, carries on business or personally works for gain within those limits. In the present case, the respondent is outside Chennai. Therefore, the applicants must show that a part of the cause of action has arisen within Chennai and must also satisfy the Court that discretion should be exercised in their favour.

17. Thus there are two questions that are connected but distinct. The first is whether a part of the cause of action is shown within the jurisdiction. The second is whether leave should be granted on the facts of the case. Even when some part of the cause of action is shown, leave does not follow automatically. The Court may consider whether the connection with Chennai is real and substantial, where the parties and witnesses are situated, where the material acts occurred, where the records are available and whether another Court is the natural forum. The order of the two questions matters. The power to grant leave arises only where a part of the cause of action has arisen within the local limits. If no part has arisen there, the condition is unfulfilled, and the power does not exist, and no question of discretion arises at all. Discretion follows from the jurisdictional fact; it is not a substitute for it.

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18. Before the four circumstances as narrated in para 7 supra are examined, the meaning of "cause of action" must be stated. In ***Church of Christ Charitable Trust and Educational Charitable Society v. Ponniamman Educational Trust*, (2012) 8 SCC 706**, the Supreme Court held at paragraph 13 that "every fact which is necessary for the plaintiff to prove to enable him to get a decree should be set out in clear terms", and that "a cause of action must include some act done by the defendant since in the absence of such an act no cause of action can possibly accrue." Two rules follow. The cause of action consists only of those facts the plaintiff must prove to obtain a decree; and it must include some act done by the defendant. The enquiry under Clause 12 is therefore narrow. It is not a question of whether the suit has some connection with Chennai. It is the act of the respondent pleaded to have been done within these local limits that the applicants must prove in order to obtain their decree.

19. It should be added that a registered trade mark gives its proprietor, under Section 28 of the Trade Marks Act, an exclusive right over the whole of India. But how far a right extends is not the same as where a wrong was done. The right is everywhere; the infringement is somewhere. Section 29 defines infringement by reference to a use in the course of trade, that is to say, an act done by a person at a place.

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20. Applying that test to the plaint, paragraph 19, under the applicants' own heading "CAUSE OF ACTION", sets out eight limbs. Limbs (i), (iii) and (iv) are the applicants' own acts of adopting the mark in 2001 and running their institutions, all pleaded to have occurred at Madurai. Limb (ii) is the application for and grant of registration, which is an act partly of the applicants and partly of a statutory authority, and paragraph 19 does not even say where it occurred. Limb (v) is the only limb which pleads an act of the respondent together with a place, and the place pleaded is "Arasanoor, Thirumansolai Post, Sivagangai District – 630562". The applicants have themselves stated, with a postal index number, where the act complained of was done. Limbs (vi) and (vii) are not acts of the respondent at all: they are the applicants' own acts of accessing a website and coming to know a fact. Limb (viii) is the plea that the cause of action arises afresh each day, *de die in diem*.

21. The word "Chennai" does not occur anywhere in paragraph 19. The applicants, setting out their own cause of action, placed no part of it within the local limits of this Court.

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22. The applicants' own act of finding the website cannot supply the missing link. A plaintiff's knowledge is not an ingredient of a cause of action for infringement or passing off; under Section 29 the wrong is complete upon the defendant's use, whether or not the proprietor hears of it, and knowledge goes only to limitation, delay and acquiescence. Were discovery part of the cause of action, its place would be wherever the plaintiff happened to be sitting, and the leave required by Clause 12 could be obtained by the simple device of opening a web page within these limits. In any event, the plaint does not say where the applicants opened the website, and every indication on the papers points to Madurai: the plaint is dated there, the verification is made there, the affidavit was sworn before a Notary Public there, and the deponent resides at Nagamalai, Madurai.

23. Nor does the plea that the cause of action arises *de die in diem* assist on the question of place. A wrong of this kind is indeed a continuing wrong, but such a plea is to meet a defence of limitation, a fresh period beginning to run at every moment during which the wrong continues. That is a rule about time. A wrong repeated every day is repeated every day at the place where it is being committed; repetition in time is not spread in space. Were the plea read so as to

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mean that the wrong is committed afresh wherever the website can be opened, the cause of action would arise daily in every district in India, and every civil court in the country would have jurisdiction over this suit.

24. Further, Paragraph 14 pleads that the respondent's websites are readily accessible across India. Being accessible everywhere is the opposite of being aimed at one place. The applicants cannot plead universal accessibility in paragraph 14 and convert the identical fact in paragraph 21 into a deliberate targeting of one city.

25. Section 134(2) of the Trade Marks Act gives an additional forum to the registered proprietor for an infringement action. In ***Wipro Ltd. v. Oushadha Chandrika Ayurvedic India (P) Ltd.*, 2008 SCC OnLine Mad 172 : (2008) 3 CTC 724**, the Division Bench held that leave under Clause 12 is not required when the plaintiff actually resides or carries on business within the jurisdiction of this Court. This principle does not directly help the applicants. Both applicants are based in Madurai. They do not plead any office, branch or business establishment in Chennai. The address of their counsel, dealings with

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State-level authorities, treatment of some patients from Chennai and admission of some students from Chennai do not, without more, establish that they carry on business in Chennai.

26. ***Indian Performing Rights Society Ltd. v. Sanjay Dalia*, (2015) 10 SCC 161**, explains that the additional forum under Section 134(2) was created for the plaintiff's convenience. It was not intended to enable the plaintiff to select a distant forum having no real connection with the dispute. The Supreme Court further held that where the cause of action arises, wholly or in part, at the plaintiff's principal or ordinary place of business, the suit can be filed only at such place. That judgment was applied by a Division Bench of this Court in the judgment reported in **Hindustan Unilever Limited Ponds House Vs. S.Shanthi, through her power holder, D.Suyaraj, and another, 2021 SCC OnLine Mad 5428**, at paragraph 113. Here, the second applicant carries on its hospital and educational activities in Madurai. The first applicant and its nursing college are also in Madurai. Section 134(2) therefore points to the place where the applicants actually carry on business and does not by itself bring the proposed suit to Chennai.

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27. The registration of the trademarks through the Trade Marks Registry at Chennai is relevant to the statutory rights claimed by the second applicant. However, the cause of action in an infringement or passing-off suit must also include an act complained of against the respondent. The respondent did not adopt or use the impugned names at the Trade Marks Registry in Chennai. Its institutions and alleged use of the names are at Sivagangai. On the test in *Church of Christ*, the grant of registration is not an act of the respondent at all: it is an act of the applicants in applying and of the Registrar in granting. It goes to the applicants' title to sue and not to the respondent's wrong. A simple test is that, to obtain the decree they seek, must the applicants prove that these registrations were granted through the Chennai office rather than through some other office? Plainly they need not. They must prove that the registrations exist and subsist, and propose to do so by Documents 12 and 13. A fact which need never be proved is not part of the cause of action. If it were otherwise, every registered proprietor in this State could come to the Original Side of this Court against any infringer anywhere in the State, and Clause 12 would be satisfied in every trade mark suit filed in Tamil Nadu by a fact having nothing to do with the defendant.

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28. It was contended that Internet publication may also form part of a cause of action. But mere website accessibility in Chennai cannot be considered sufficient in every case. Otherwise, every Court in the country would have jurisdiction over every person who maintains a nationally accessible website. There must be some material showing that the respondent specifically targeted persons in Chennai or entered into a real transaction, enquiry or admission process with a person in Chennai and that the applicants suffered injury here as a result.

29. The plaint states in general terms that the respondent's websites invite and accept applications and enquiries from prospective students, including residents of Chennai. However, the applicants have not identified any application, enquiry, admission, payment or other transaction from Chennai. No student or prospective student from Chennai is shown to have dealt with the respondent through the websites. No instance of actual confusion in Chennai is stated.

30. The position is not merely that the plea is general. The applicants' own Document 19, being the printouts of the respondent's websites filed in the typed

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set of 12.08.2026, does not bear out the plea. First, the page at www.aeact.org/contactus.html carries only a general box headed “For Enquiry?” with the fields Name, Email, Phone, Subject and Enter Message, and the buttons “SEND YOUR MESSAGE” and “RESET”. That is a contact form. There is no application form, no admissions portal, no option to choose a course or a seat, and no way to pay a fee. Nothing on that page accepts anything. Secondly, the website spreethinursingcollege.com is, on the face of the applicants' own printouts, unfinished: its “What's New” and “Events” panels are filled with the dummy words “Lorem ipsum dolor sit” repeated down the page, and its heading carries “Affiliation Number: 0123456678 | College Code: 123456”, which are plainly filler and not real identifiers. The respondent's own page describes that college as “COMING SOON….”. A website in that condition cannot accept an application from anyone, at Chennai or elsewhere. Thirdly, the word “Chennai” does not appear on any page of either printout. The only place either website claims for itself is “a spacious seven-acre campus in Arasanoor, Sivagangai District”, “located off the Madurai-Sivagangai highway near Thirumansolai”.

31. The concluding words of paragraph 21 of the plaint, that the respondent is thereby purposefully availing itself of and targeting this jurisdiction, are a

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conclusion of law drawn from facts which do not support it. Order VII Rule 1(e) of the Code requires a plaint to state the facts constituting the cause of action, not the label placed upon them, and a court reading a plaint on the footing that it is true takes the facts as true and not the pleader's characterisation of them. This Court has weighed no evidence, and there is no rival version. It has read the applicants' own document and found that it does not bear out the applicants' own averment.

32. The applicants' regulatory dealings in Chennai arise because State-level authorities are situated here. The Trade Marks Registry at Chennai also exercises jurisdiction over a wider region. These administrative connections do not show that the respondent committed the alleged infringement in Chennai. Similarly, the fact that students or patients may travel from Chennai to the applicants' institutions in Madurai does not show that the respondent targeted Chennai or that a substantial part of the present dispute arose here. The same answer meets the plea of recruitment and employment links with hospitals and institutions in Chennai. All of these describe what the applicants do. None of them describes anything done by the respondent, and on the test in *Church of Christ* a cause of action must include some act done by the defendant. The

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submission on purposeful availment fails for the same reason. Targeting is an attribute of the defendant's conduct.

33. A further gap must be noticed. No injury at Chennai is pleaded anywhere. Not one student at Chennai is said to have been misled, not one parent confused, not one patient turned away, and not one enquiry made to the respondent by a person at Chennai in the belief that he was approaching the applicants. That gap is fatal on the applicants' own chosen ground, because the effects test they invoke requires precisely that.

34. The applicant relied on the following authorities:

In ***Banyan Tree Holding (P) Ltd. v. A. Murali Krishna Reddy*, 2009 SCC OnLine Del 3780 : (2010) 42 PTC 361 (Del) (DB)**, neither party was situated in Delhi. It was held that mere accessibility of a website was not sufficient. The plaintiff had to show purposeful availment, specific targeting, a commercial transaction and injury within the forum. In the present case, no Chennai-based application, enquiry, admission, payment or other transaction is shown. The principle in ***Banyan Tree*** therefore does not assist the applicants. It supports the

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conclusion that mere access to a website is insufficient.

35. The requirement is stated in paragraph 45 of that judgment in these words:

> *"... in order to show that some part of the cause of action has arisen in the forum state by the use of the internet by the defendant, the Plaintiff will have to show prima facie that the said website, whether euphemistically termed as 'passive plus' or 'interactive' was specifically targeted at viewers in the forum state for commercial transactions. The Plaintiff would have to plead this and produce material to prima facie show that some commercial transaction using the website was entered into by the defendant with a user of its website within the forum state and that the specific targeting of the forum state by the defendant resulted in an injury or harm to the Plaintiff within the forum state."*

36. The same paragraph adds that "a mere posting of an advertisement by the defendant depicting its mark on a passive website which does not enable the defendant to enter into any commercial transaction with the viewer in the forum state cannot satisfy the requirement of giving rise to a cause of action in the forum state." Measured against that standard, the applicants have pleaded no targeting of Chennai, produced no material showing any dealings with any person in Chennai, and pleaded no injury in Chennai.

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37. In ***World Wrestling Entertainment, Inc. v. Reshma Collection*, 2014 SCC OnLine Del 2031 : (2014) 60 PTC 452 (Del) (DB)**, the plaintiff's goods and services were actually sold to customers in Delhi through its website. Offers and payments were made from Delhi, and acceptance was communicated there. On those pleaded transactions, the plaintiff was held to be carrying on business in Delhi. Here, no similar transaction involving the applicants or the respondent is shown in Chennai. The applicants carry on their institutional activities in Madurai. The decision is therefore distinguishable; the decision concerns Section 134(2) and the place where a *plaintiff* carries on business. It says nothing about a defendant's website.

38. In ***Burger King Corporation v. Techchand Shewakramani*, 2018 SCC OnLine Del 10881 : (2018) 253 DLT 93**, the defendants had promoted their mark in Delhi, received franchise requests from several identified places in Delhi and openly proposed to expand their business to Delhi. The documents showed that Delhi was specifically targeted. No comparable material is available here. A general invitation on a website accessible across India is not the same as the specific targeting proved in *Burger King*. The decision is therefore not applicable to the facts. The contrast is worth stating precisely.

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There, the website carried an actual franchise application form; Delhi was named on the website under the headings "Coming Soon" and "Street Cart Locations"; and franchise applications had in fact been received from named localities in Delhi, namely Madangiri, Okhla Industrial Area, Naraina, Hauz Khas, Adarsh Nagar, South Extension, Punjabi Bagh and Dwarka. Here, there is no application form, Chennai is nowhere mentioned, and no communication from any person in Chennai is produced.

39. In the batch of appeals reported in **2021 SCC OnLine Mad 5428**, the Division Bench observed that a plaintiff who has chosen a competent forum should not be sent away merely on vague grounds of inconvenience. However, the same Division Bench upheld the return of a trademark plaint in which Chennai was not the natural forum. The observations protecting the plaintiff's chosen forum were made in matters where jurisdictional connections with Chennai already existed. Here, neither side is situated in Chennai, and the material acts are outside Chennai.

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40. That judgment is in fact the nearest case to the present one. In the trade mark suit there considered, four of the five plaintiffs resided at Mallur in Namakkal District and the fifth had its registered office there; the defendants were at Salem; the goods of both sides were manufactured outside the local limits of this Court; and jurisdiction was sought to be founded on a branch office within those limits, which was found to be a residential house, and on some sales within them. The plaint was returned and the Division Bench refused to interfere, holding at paragraph 109 that the "sporadic presence of the goods within the jurisdiction of this Court...not sufficient to confer jurisdiction upon this court if the 'connecting factor principle' is applied.", and concluding at paragraph 114 that "on a reading of the plaint, it does not appear that the subject-matter of the suit has any real connection with Chennai." In the supra case at least some of the plaintiffs claimed a branch office and some sales within these limits, whereas the applicants in this case claim no office and no dealings of any kind.

41. The observation in that judgment that a plaintiff is *dominus litis* and that his choice of forum ought ordinarily to be respected is qualified in its own terms by the words "as long as the forum has the authority to receive the action". A

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plaintiff may choose only among courts competent to receive the suit. Where the court has no such authority, there is no choice to be protected.

42. In ***Reckitt Benckiser (India) (P) Ltd. v. Advertising Standards Council of India***, **2024 SCC OnLine Mad 2133**, leave under Clause 12 had already been granted. The defendants did not challenge the grant of leave by filing an application for revocation. The question of jurisdiction was later reopened while deciding the plaintiff's applications for interim injunction. The Division Bench held that the Court ought not to have reopened the matter in that manner. The present case stands at an earlier stage. This Court is deciding whether to grant leave in the first place. There is no earlier grant of leave, no delay in seeking revocation and no acquiescence or submission to jurisdiction. ***Reckitt Benckiser*** is therefore distinguishable on that procedural ground.

43. The judgment in ***Reckitt Benckiser*** is distinguishable both on principle and on facts. The tests of minimum contacts, purposeful availment and effects, as noticed by the Division Bench, look to the conduct of the defendant and require sufficient and substantial connection with the forum, arising from

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activities purposefully directed towards or availed of within that forum, and not from random or fortuitous contacts. Nothing of that kind is pleaded against the respondent in the present case. Further, the right involved in ***Reckitt Benckiser*** was the fundamental right to advertise under Article 19(1)(a) of the Constitution, described as an incorporeal right existing throughout India, whereas the present complaint is of infringement of a statutory right under Section 28 of the Trade Marks Act by adoption of a similar name, and no right to advertise is in issue. The targeting found in that case arose from the deliberate creation and broadcast of a Tamil version of the advertisement across Tamil Nadu; here there is no Chennai advertisement, Chennai centre, Chennai-specific content or other comparable act. More importantly, the question there was whether a part of the cause of action arose within the State of Tamil Nadu, whereas under Clause 12 the question is whether a part arose within the local limits of the Ordinary Original Civil Jurisdiction of this Court. On the applicants' own averments, the acts relied upon occurred at Madurai and Arasanoor, Sivagangai. Thus, even if a part of the cause of action arose within Tamil Nadu, that would point to Madurai and Sivagangai and not to Chennai, and would furnish a reason for the parties to approach the Court having jurisdiction over those places rather than for this Court to retain the suit.

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44. A word may finally be said about the tests themselves, since the argument was built almost entirely upon them. "Minimum contacts", "purposeful availment", the *Zippo* sliding scale and the "effects" test come from decisions of the courts of the United States of America, each decided under the Due Process Clause of the Fourteenth Amendment to the Constitution of that country. Each answers a constitutional question about power, namely whether the courts of one State of that Union may compel a person resident in another State of that Union to answer before them. No such question arises here. The respondent at Arasanoor is governed by the same Trade Marks Act, the same Code and the same law of passing off as a person carrying on business at Chennai, and is subject to the courts below this Court and to this Court sitting at Madurai. Indian courts have found these tests useful, but for a narrow purpose: as an aid in reading Section 20 of the Code and Clause 12 where the statute yields no ready answer because the only act attributed to the defendant is an act on the internet with no ascertainable place. That was the peculiar feature recorded in ***Banyan Tree***, that neither party was located within the jurisdiction of that Court. These tests are not a separate source of jurisdiction; a rule borrowed to help read a statute cannot widen what the statute has narrowed, nor supply a cause of action the plaint does not disclose. They also operate as a restraint rather than an enlargement, having evolved to prevent a court from

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assuming jurisdiction merely because a website could be opened in its area. Paragraph 19 of the plaint states where the respondent is and what it is said to have done, and Section 20 of the Code and Clause 12 answer the question directly.

45. In conclusion, this Court finds that no part of the cause of action has arisen within the local limits of the Ordinary Original Civil Jurisdiction of this Court, and the condition upon which the power to grant leave under Clause 12 depends is not satisfied.

46. Learned counsel invoked *forum conveniens* and argued that if a real part of the cause of action is shown in Chennai, the existence of another competent forum at Madurai or Sivagangai should not by itself defeat the application, and that the Court is not required to identify the most convenient among all competent Courts before granting leave.

47. A word is needed on the expression *forum conveniens* itself. The expression itself is borrowed from private international law, where it answers a

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different question altogether: which country's courts should hear a dispute, the competing courts belonging to different legal systems, neither able to bind the other. That question does not arise between courts within India. Every court here applies the same Code, the same Trade Marks Act and the same law of passing off, and the Code has its own machinery for the purpose, Sections 15 to 20 fixing the court in which a suit is to be instituted and Sections 22 to 24 providing for transfer. It should also be remembered that the learning usually invoked under that name in this country, beginning with ***Kusum Ingots & Alloys Ltd. v. Union of India*, (2004) 6 SCC 254**, grew up around the discretionary jurisdiction under Article 226 of the Constitution. What Clause 12 confers is not that doctrine but a discretion of its own. It is that discretion, and not the doctrine of *forum conveniens*, which is taken up below.

48. The submission based on *forum conveniens* proceeds on the premise that a part of the cause of action has arisen within Chennai; but this Court has already held that no part of it has arisen within these local limits and, therefore, no question of discretion arises, since the power to grant leave itself does not come into existence. As explained in **Sanjos Jewellers v. Syndicate Bank, 2007 SCC OnLine Mad 751**, the doctrine of *forum conveniens* operates only

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where a Court, though possessing jurisdiction, declines to exercise it in its discretion; a Court which has no jurisdiction cannot decline to exercise a jurisdiction which it does not possess, and the Division Bench in ***Reckitt Benckiser*** has similarly observed that findings of want of jurisdiction and forum shopping would be mutually destructive. Even assuming, however, that a part of the cause of action arose within these limits and the grant of leave became discretionary, this Court would still decline leave. The principles in **Madanlal Jalan vs. Madanlal & Ors., 1945 SCC OnLine Cal 145**, adopted in **Sulphur Mills Ltd., v. Dayal Fertilisers (P) Ltd., 2020 SCC OnLine Mad 28444** and reiterated in ***Reckitt Benckiser***, permit the Court to consider the balance of convenience and refuse leave where it is definitely in favour of the defendant even without bad faith or abuse of process. Here, both applicants are at Madurai, the respondent and its educational institutions are at Sivagangai, the alleged use of the impugned names is at Sivagangai, and the applicants' hospital, trust, educational institutions, records and personnel are primarily at Madurai; the natural and substantial centre of the dispute is therefore outside Chennai. The applicants have also shown no prejudice that would result from instituting the suit before the competent Court where they carry on business, where the respondent is situated or where the material events occurred, whereas granting leave merely because the websites are accessible in Chennai may enable

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selection of a distant forum and cause practical hardship relating to distance, witnesses, language and records. The expression *forum conveniens*, properly understood, belongs to private international law and concerns competing courts of different legal systems; within India, territorial institution and transfer of suits are governed by Sections 15 to 24 of the Code, while Clause 12 confers its own discretion. It is that discretion which, even if attracted in the alternative, would be exercised against the grant of leave in the present case.

49. Accordingly, A.No.3544 of 2026 is dismissed. No costs. The registry is directed to return the plaint.

07-09-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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DR.A.D.MARIA CLETE, J.

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PRE-DELIVERY ORDER MADE IN
A No. 3544 of 2026

07-09-2026

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