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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 14th July, 2021

Pronounced on: 26th October, 2021

+ CS(COMM) 316/2021 & I.A.8000/2021

TATA SONS PRIVATE LIMITED Plaintiff
Through: Mr. Pravin Anand and Mr.
Achuthan Sreekumar, Advs.

versus

HAKUNAMATATA TATA FOUNDERS & ORS.. Defendants
Through: Mr. Mrinal Ojha, Mr. Trinath
Tadakamalla, Mr. Debarshi Dutta and Mr.
Aayush Kevlani, Advs. for Defendant No.
3- GoDaddy.com LLC

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

JUDGMENT

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26.10.2021

1. A seminal issue arises for consideration in the present case.
2. The plaintiff is a company incorporated in India. Though the plaintiff avers that documents showing involvement of the plaintiff, its subsidiaries and group companies in financial services including crypto currency, have been filed with the plaintiff, the documents with the plaintiff do not indicate that the plaintiff is itself dealing in crypto currency under any brand name or trade mark. They do indicate, however, that the plaintiff is, under its well-known brand

name/trademark “TATA”, providing a platform for trading in crypto currency.

3. Defendants 1 and 2 are situated in the U.K. and the U.S. respectively. They deal in crypto **currency, under the name “TATA coin/\$TATA”**. **None of the defendants** has any outlets in India, and it is not the case of the plaintiff that the defendants are carrying out any overt manufacturing or marketing activities within India.

4. The plaintiff seeks a permanent injunction, restraining the **defendants from using the trademark “TATA”, as part of the name** under which their crypto currency is made available to the public, or as part of their corporate name or domain name.

5. Admittedly, the defendants’ **mark “TATA coin/\$TATA” is not** registered in India. The first question that arises for consideration is, therefore, whether the plaintiff can seek an injunction against the defendants’ mark, the defendants being located outside the sovereign borders of India and, therefore, statutorily outside the reach of the Trademarks Act, 1999, as well as the Code of Civil Procedure, 1908 (CPC).

6. Mr. Pravin Anand, learned counsel for the plaintiff, asserts the existence of territorial jurisdiction of this Court, over the defendants, on the following grounds:

- (a) The **defendants’** crypto currency can be purchased by any person in India, from the defendants’ website.

- (b) There is an admission, in the **“White Paper” of Defendant 1**, that it was involved in financial activities relating to India.
- (c) Various persons from India had posted queries on the Twitter page of Defendant 1, regarding the modality for **purchase of its “TATA coin/\$ TATA” currency**.
- (d) Defendant 1’s website www.hakunamatata.finance had 50 visitors from India each day.
- (e) India was second in the list of countries with highest internet traffic to the www.hakunamatata.finance website.
- (f) The Telegram page of Defendant 1 indicated that it had several Indian followers/members.
- (g) **These facts indicated that, there was “purposeful availment” by the defendants, of the jurisdiction of this Court**, and they had made their crypto currency, under the infringing mark, available for purchase to customers in India and specifically in Delhi. Reliance was particularly placed on the webpage of Defendant 1 which contained a QR Code and instructions on how to purchase the crypto currency of Defendant 1 under the name **“TATA coin/\$TATA”**.
- (h) **The requisite “connection” between the activities of the defendants and prejudice caused to the plaintiff and customers in India undoubtedly existed.**

(i) **The “effect” of the defendants** infringing activity was also felt within the jurisdiction of this Court, as the defendants’ crypto currency could be purchased online by anyone located within such jurisdiction. Additionally, the availability of the defendants’ crypto currency, under the allegedly infringing marks **“TATA coin/\$TATA”** had adversely affected the **plaintiff’s business and had resulted in dilution of its goodwill. This, too, contributed to the “effect”, felt within the jurisdiction** of this Court, of the defendants’ activities.

(j) **The “whois” link on the defendants’ website did not** reveal any data on the basis of which the defendants could be identified. They had, therefore, completely masked their identity. In this connection, paras 35 and 36 of the plaint aver thus:

“35. Any person, including persons located within the territorial jurisdiction of this Hon’ble Court can visit the website of the Defendants at www.tatabonus.com to sell and purchase the crypto currency by the name of TATA Coin by scanning the QR Code given on the said website and following the instructions stipulated therein. Interestingly, the domain www.tatabonus.com was created/registered on 11th June, 2021.

36. Further investigations conducted on the internet revealed that the Defendant No. 1 i.e. M/ HakunaMatata \$TATA Founders is the entity that is the source of the TATA Coin cryptocurrency. The said entity has a website located at www.hakunamatata.finance, which domain was created and registered on 1st **May, 2021.”**

(k) The three conditions requiring fulfilment for this Court to exercise territorial jurisdiction in the present matter are (a) purposeful availment, by the defendants, of the jurisdiction of this Court, (b) arising of the cause of action, from the activities of the defendants, within the jurisdiction of this Court and (c) substantial connection between the acts of the defendants or their consequences and the jurisdiction of this Court. All these criteria stood satisfied in the present case.

(l) The principle of private international law, which requires a foreign defendant to be either residing or carrying on business in India, for courts in India to exercise jurisdiction over the defendant, was subject to municipal law constraints, which includes Section 20 of the CPC. Reliance has been placed, for this purpose, on the judgment of the Supreme Court in **Gramphone Company of India Ltd. v. Birendra Bahadur Pandey¹** and of the High Court of Karnataka in **Air Bus Industries v. Laura Howell Linton²**.

(m) Defendant 1 is also selling apparel such as T-shirts, bearing the “TATA” logo on its website www.hakunamatata.finance.

(n) There was, therefore, a clear intent, on the part of the defendants, to target India as a customer base.

¹ (1984) 2 SCC 534
² ILR 1994 KAR 1370

(o) Any order of injunction, passed by this Court in terms of the prayers in the suit, was capable of being implemented, as all domain name registrars are before this Court.

(p) In these circumstances, this Court is the most convenient and appropriate forum, for the plaintiff to ventilate its grievances and agitate its cause of action.

(q) Indeed, if this Court were to decline to exercise jurisdiction, the plaintiff would not have any forum before which it could agitate its cause of action.

In support of his submissions, Mr. Pravin Anand relied, further, on **(India TV) Independent News Services Pvt. Ltd. v. India Broadcast Live LLC³**, **World Wrestling Entertainment v. Reshma Collections⁴**, **Juggernaut Books Pvt. Ltd. v. Ink Mango Inc⁵**, **Banyan Tree Holdings (P) Ltd. v. A Murali Krishna Reddy⁶**, **Millennium & Copthorne International Ltd. v. Aryans Plaza Services Pvt. Ltd.⁷** and **Exxon Mobil Corporation v. Exxon Corp Pvt. Ltd.⁸**

Analysis

7. Sub-section (1) of Section 134 of the Trademarks Act, 1999 reads thus:

³ (2007) 35 PTC 177 (Del)

⁴ (2014) 60 PTC 452 (Del-DB)

⁵ Order dated 9th August, 2019 in CS(COMM) 421/2019

⁶ (2010) 42 PTC 361

⁷ 2018 SCC Online Del 8260

⁸ (2019) 79 PTC 335

“134. Suit for infringement, etc., to be instituted before District Court. –

- (1) No suit –
 - (a) for the infringement of a registered trade mark; or
 - (b) relating to any right in a registered trade mark; or
 - (c) for passing off arising out of the use by the defendant of any trade mark which is identical with or deceptively similar to the **plaintiff’s trade mark, whether registered or unregistered,**

shall be instituted in any court inferior to a District Court having jurisdiction to try the suit.”

8. A suit for infringement of a registered trademark, or for passing off, by any person, of its goods or services as the goods or services of the plaintiff, can be instituted only in a district court, or a court **superior thereto, “having jurisdiction to try the suit”**. The issue of whether the court has jurisdiction to try the suit, or not, would have to be reckoned on the anvil of Section 20 of the CPC.

9. Sub-section (2) of Section 134 expands the provinces of the jurisdiction otherwise available under Section 20 of the CPC read with Section 13(1) of the Trademarks Act, 1999 by also conferring jurisdiction, to try the suit, by a court, within whose territorial limits the plaintiff resides or carries on business or personally works for gain.

10. Section 20 of the CPC reads as under:

“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.

Explanation. – A corporation shall be deemed to carry on business at its sole or principal office in India or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.”

11. The Supreme Court, in **Indian Performing Rights Society Ltd. v. Sanjay Dalia**⁹ has clarified that a plaintiff is entitled to institute a suit for infringement of its trademark, or for passing off, within any court which would be competent to adjudicate on the suit, as envisaged by Section 134 of the Trademarks Act, 1999 or Section 20 of the CPC. In addition, therefore, to a court within whose jurisdiction the plaintiff resides or voluntarily works for gain, a suit

⁹ (2015) 10 SCC 161

may also be instituted, by virtue of Section 20, CPC, in a court within whose jurisdiction the defendant resides or carries on business or personally works for gain, or where the cause of action arose, wholly or in part.

12. In substance, therefore, a suit can be instituted where either (i) the plaintiff resides or voluntarily works for gain or (ii) the defendant resides or voluntarily works for gain or (iii) the cause of action arose wholly or in part.

13. That is not, however, the issue in controversy.

14. The plaintiff has provided its business address in Delhi. That the plaintiff is entitled to institute the present suit in Delhi, cannot, therefore, be gainsaid, in view of Section 134(2) of the Trademarks Act, 1999. The moot question is whether this court has the territorial jurisdiction to issue any injunctive direction to the defendants, who are both located outside India with, admittedly, no physical Indian presence, or **injunct the use, by them, of their “Tata Coin/\$TATA”** mark.

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15. In my considered opinion, it does not.

16. **India TV³:**

16.1 Mr. Pravin Anand placed reliance on the judgment of a Single Bench of this Court, authored by **Hon'ble Mr. Justice Sanjay Kishan Kaul** (as he then was) in **India TV³**. The issue, therein, was similar.

The plaintiff, **India TV (“ITV”, in short)** claimed to have been using the mark “**India TV**” continuously and extensively since 1st December, 2002. ITV claimed to be aggrieved by the “**www.indiatvlive.com**” domain name of the website of Defendants 1 and 2 in the said case (who would be also be collectively referred to, hereinafter, in the context of this decision, as “**the defendants**”). The defendants, in their **written statement, claimed to have been “in business since the year 2006 and have a global presence including in India”**¹⁰. This Court granted an *ex parte ad interim* injunction, restraining the defendants from using any domain name containing combination of the words ‘India’ and ‘TV’.

16.2 The defendants filed an application, under Order XXXIX Rule 4 CPC, for vacation of the injunction. One of the contentions advanced by the defendants was that they were companies in the US and the UK with no Indian presence. As such, the authority of this Court to issue any interlocutory injunction against the defendants was contested.

16.3 This Court examined the position of law, as it emanated from decisions passed in other overseas jurisdictions. Thereafter, it went on to hold thus, in paras 49, 50, 51 and 52 of the report:

“49. As regards the exercise of personal jurisdiction in cases involving Internet activities, the position appears to be that mere ‘passive’ posting of a website does not give jurisdiction to the Court within whose jurisdiction, the complainant company is present. Thus, personal jurisdiction cannot be exercised over non-residents merely because their website is accessible within the jurisdiction of the Court.”

¹⁰Refer para 11 of the report

There has to be something more to indicate purposeful direction of activity to the forum state in a substantial way.

In **Cybersell Inc. case**¹¹ (supra) limited interactivity of the website **restricted to received browser's** name and expression of interest but not signing up for the services provided was not considered to be sufficient for the exercise of jurisdiction.

50. *Insofar as the position in this country is concerned, there is no long arm' statute as such which deals with jurisdiction as regards non-resident defendants. Thus, it would have to be seen whether the defendant's activities have a sufficient connection with the forum state (India); whether the cause of action arises out of the defendant's activities within the forum and whether the exercise of jurisdiction would be reasonable.*

51. I am in agreement with the proposition that *the mere fact that a website is accessible in a particular place may not itself be sufficient for the Courts of that place to exercise personal jurisdiction over the owners of the website. However, where the website is not merely 'passive' but is interactive permitting the browsers to not only access the contents thereof but also subscribe to the services provided by the owners/operators, the position would be different. However, as noticed in the judgment in CyberSell Inc. Case*¹¹ (supra), *even where a website is interactive, the level of interactivity would be relevant and limited interactivity may also not be sufficient for a Court to exercise jurisdiction.*

In **Panavision International LP case**¹² (supra), it was found that the **registration of the plaintiff's** mark as a domain name by the defendant had the effect of injuring the plaintiff in California and therefore the Court had jurisdiction. In **CompuServe case**¹³ (supra) again it was found that the defendant had contacted Ohio to sell his computer softwares on the plaintiffs Ohio based systems and sent his goods to Ohio further for their ultimate sale and thus those Courts had jurisdiction.

52. *In the present case, the website 'indiatvlive.com' of defendant No. 1 is not wholly of a 'passive' character. It has a specific Section for subscription to its services and the*

¹¹ Case No. 96-17087 D.C. No. CV-96-0089-EHC

¹² D.C. Case No CV-96-03284-DDP; Appeal No. 97-55467

¹³ 89 F. 3d 1257 (6th Cir. 1996)

options (provided on the website itself) for the countries whose residents can subscribe to the services include India. The services provided by defendant No. 1 can thus be subscribed to and availed of in Delhi (India) i.e. within the jurisdiction of this Court. It may also be noticed that an **article entitled ‘Archer Entertainment Joins India Minister for Overseas Affairs in Launching IndiaTvLive.com’** (<http://in-sys-con.com/read/243792.htm>; [http://us.indiatelevision.com/headlines/y2k6/july/july45.htm](http://www.archeremc.com/Media-Center/Company-News/sp : 2 0060705 quotes IBL CEO Abhesh Verma as saying that ‘The platform provides us the extremely lucrative opportunity to reach both inside and outside of India. Overseas Indians represent the most affluent ethnic consumers of any expatriate group. Within India, we will target a whopping 500 million consumer class with a steadily rising broadband connectivity.’ Another article ‘Archer launches IPTV Platform for Indian content in the US’ (<a href=)) again filed by defendant No. 1 contains a similar statement. This indicates that defendant No. 1 intended to target expatriate Indians as well as Indians within the country. Further the stand taken by defendant No. 1 in its written statement is that defendant No. 1 company has a global presence including in India. Defendant No. 1 also claims to be the first IPTV delivery system of Indian content from India. The website of defendant No. 1 was launched in India as well as in Los Angeles. Thus, defendant No. 1 company has sufficient connection with India.”

(Emphasis supplied)

16.4 The position that emerges from the aforesaid decision is, therefore, that

- (i) the accessibility of the website of the defendant to persons within the jurisdiction of this Court would not, by itself, empower this Court to exercise jurisdiction over the defendant,
- (ii) something more substantial, indicating purposefully directed activity, by the defendants to persons located within the territorial jurisdiction of this Court, is necessary,

- (iii) Indian Courts do not possess long arm jurisdiction, to act against non-resident defendants,
- (iv) orders which would operate to the prejudice of non-resident defendants (i.e. defendants located outside India) can, therefore, be passed by Indian Courts only if
 - (a) the defendants' activities have a sufficient connection with India,
 - (b) the cause of action, for the plaintiff, arises out of such activities and
 - (c) the exercise of jurisdiction would be reasonable,
- (v) the fact that the defendants' website is interactive and is accessible to persons located within the jurisdiction of this Court, is undoubtedly a relevant factor, and
- (vi) mere interactivity or accessibility, however, is insufficient; the *level* of interactivity is also relevant.

16.5 Para 52 of the report in **India TV³** highlights the circumstances which influenced this Court to hold that it could exercise jurisdiction over the defendants. Firstly, the website of the defendants contained a specific section for subscription to its services, and *India was expressly mentioned as one of the countries whose residents could subscribe to the services provided by the defendants*. Secondly, the CEO of IBL made a public statement, asserting the opportunity provided by the **defendants'** platform *to reach both inside and outside of India* and further acknowledging that, *within India*, the defendants **would target “a whopping 500 million consumer class”**. This statement, it was found, clearly indicated the intent of the defendants

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to target expatriate Indians as well as Indians within India. Thirdly, Defendant 1 (in that case) had, in its written statement, acknowledged that it had a global presence *including in India*. Fourthly, the defendants claimed to be the first IPTV delivery system *of Indian content from India*. Fifthly, *the website of the defendants was launched in India* as well as Los Angeles. These factors, it was found, intended the existence of sufficient connection between the defendants and India, for courts in India to be empowered to exercise injunctive jurisdiction over the defendants and their activities.

17. Mr. Pravin Anand has also relied on an interlocutory order passed by a Coordinate Single Bench in **Juggernaut Books**⁵. As an interlocutory order, the precedential value of the said decision is limited; nonetheless, in the interests of maintaining consistency of approach, I have perused the said order. In para 19 of the order, this Court has noted the fact that the articles published by the defendants in that case had a connection with India, Indian authors, Indian movies and Indian actors. Additionally, the Court relied on an e-mail addressed by the defendants to Mr. William Dalrymple, a famous historian, as indicating that the defendants were targeting customers based in India. It is in these circumstances that the defendants were, *prima facie*, found to be amenable to the injunctive jurisdiction of this Court.

18. Such indicators, of a conscious attempt by the defendants to target the Indian market are, in my view, absent in the present case.

Juggernaut⁵ does not, therefore, live up to its name, so far as buttressing the case canvassed by Mr. Pravin Anand is concerned.

19. The position that emerges: The resultant legal position is that, where the defendants are located outside India, this Court can issue directions against such defendants, if the defendants are carrying out their infringing activities within the jurisdiction of this Court. Where the activity is physically carried out, the question of whether this requirement is, or is not, met, is easily answered. A somewhat more incisive approach is, however, required where the activity is carried out over the internet, as in the present case. A discernable line does exist, in such cases, between activities which would expose the defendants to the jurisdiction of this Court, and those which would not. Mere accessibility of the website of the overseas defendants, by persons located within the jurisdiction of this Court, is not sufficient to clothe this Court with jurisdiction to act against the defendants. Interactivity of the website is, in such a case, essential. The extent to which the website would be interactive is also, however, relevant;

mere interactivity would not suffice. The decision in **India TV**³ dovetails, in this context, the considerations of website interactivity and of “**purposeful targeting**” of Indian customers, by the defendants located abroad. The interactivity should, therefore, be coupled with an overt intent, of the defendants, to target customers in India. (In **India TV**³, it was found that India was expressly mentioned on IBL’s website as one of the countries from where customers could access the services provided by IBL.) It would also be relevant to examine whether any collateral evidence of purposeful targeting of the Indian

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market, by the foreign defendants, is, or is not, available. Where such evidence exists – as in the case of **India TV³** – that would support the inference of amenability of the defendants to the jurisdiction of Indian Courts. At the end of the day, the two considerations which would pre-eminently decide the issue would be whether the website of the defendants is interactive and whether it discloses an overt intent to **target the Indian market. “Intent to target” appears, at any rate, to be a** mandatory governing consideration, the satisfaction of which is a *sine qua non* for this Court to exercise jurisdiction.

20. What remains is for the Court to examine whether the factors, on which Mr. Pravin Anand has placed reliance, are sufficient to satisfy these requirements, so as to enable this Court to grant injunction as sought in the plaint. One may proceed to deal with these aspects seriatim.

21. Mr. Pravin Anand has relied on the following recitals, contained in the “White Paper” issued by the defendant:

“5.3 Charities Targeted

Given that HakunaMatata is a community-based token in terms of decision making, charities targeted will incorporate a community collective efforts to ensure that a diverse group of charities can and are targeted away from prejudice and unconscious charity exclusions that are part of the human nature. Only in that way can HakunaMatata become a real leader in the crypto currency charity mandate through standing by the motto is will **always hold “No Worries”**, and this applies to the token transparency, token dynamics, community trust, and charitable objectives. To mention a few of the charities already contacted and that are to be contacted, below is a list of the nature or charitable focus that will be adopted initially. **With a special focus on disaster relief, our**

Charity Pool is keep to act as a first responder to aid relief groups and alleviate disaster impact.

- United Nations World Food Programme
- Action Against Hunger
- Global Health and Development Fund
- GiveWell (Maximum Impact Fund)
- India Development and Relief Fund
- Charity Water
- Wild Animal Initiative
- **Clean Air Task Force”**

22. This paragraph, in my view, cannot indicate that the defendants are, in any manner, targeting the Indian market. All it refers to are the programmes included in the charity pool of the defendants. One of **the programmes happens to be “India Development and Relief Fund”**.

The paragraph does not even indicate that the said fund is located in India. The mere fact that the “India Development and Relief Fund” happens to be one of the charities which the defendants intended to contact, to aid relief groups and alleviate disaster impact, can hardly constitute a basis to indicate targeting of India, by the defendants, as a customer base for its crypto currency market.

23. Mr. Anand has also pointed out that, on the Twitter Page of Defendant 1, various persons from India posted queries regarding the process to be followed, to purchase the defendants’ crypto currency. It is not the case of the plaintiff that the defendants responded to these queries and invited customers from India to purchase its product. The website of the defendants is accessible across the world and, therefore, interested persons across the world could post queries on the website. The mere fact that some queries happen to be posted by persons in

India, again, cannot indicate, any intent on the part of the defendants to target the Indian market.

24. For the same reason, the fact that the defendants' website has 50 visitors from India every day (which, incidentally, is a remarkably small number) and that there was considerable internet traffic from India to the website of Defendant 1 can also not constitute a basis to indicate that Defendant 1 was selling its crypto currency in India or was intentionally targeting India.

25. Again, the reference, to the Telegram Page of Defendant 1, is neither here nor there. The defendants have merely annexed a screenshot of one page from the Telegram account of Defendant 1 which indicates that certain persons, who appear by name to be Indian, had accessed the webpage. In view of the principles enunciated in **India TV³**, on which Mr. Anand himself placed reliance, mere accessing of the webpage of Defendant 1 cannot constitute a ground for this Court to exercise jurisdiction over the defendants. Besides, there is nothing to indicate that these persons had accessed the webpage from India.

26. Mr. Anand has also sought to press into service the **“harmful effect” principle**. It is contended that, as consumers in India could purchase the defendants' crypto currency online from India, and that, **as a consequence, the plaintiff's market had been affected and diluted, the effect of the defendants' activities** were being felt in India, thereby clothing this Court with jurisdiction to act in the matter. With respect, I am unable to agree. One may take a much simpler example, to

examine the correctness of this submission. ‘Raymond’ happens to be a well-known brand of apparel in India. An entity X, located in the US commences marketing and manufacturing of apparel under the name ‘Raymond’. X has no presence in India. The website of X does not target customers in India. There is nothing to indicate that X had any overt or covert intention to market its product in India. At the **same time, as X’s products are available online, customers in India are in a position to purchase X’s ‘Raymond’ line of apparel while sitting in India.** As a result of the activities of X, the brand value of the Indian ‘Raymonds’ brand gets diluted. Can it be said, in such a situation, that an Indian Court could pass injunctive orders against the ‘Raymond’ mark of X, located in the US? The answer, in my view, has unequivocally to be in the negative. The mere fact that the defendants’ crypto currency can be purchased by customers located in **India and that, as a result, the plaintiff’s brand value may be diluted, even seeing cumulatively, cannot, therefore, in my view, justify this Court interfering with the defendants’ activities, or with its brand or mark.** **In fact, the very applicability of the “effect” doctrine across sovereign boundaries may itself be a matter for debate; I do not, however, propose to tread that path in the present case.**

27. Mr. Anand has also relied on the defendants’ website which contains a QR Code with instructions on how to purchase the defendants’ “TATA Coin/\$TATA” crypto currency. Unlike the position, which is obtained in **India TV**³, there is no specific reference to India, on the website of the defendants, as one of the preferred markets from where the **defendants’** crypto currency could be

purchased. No conscious targeting of India, therefore, exists. Apparently, the **defendants'** crypto currency could be purchased, using the QR Code and the methodology indicated on the defendants' website, by a customer located anywhere in the world. This factor, therefore, too, cannot indicate any conscious targeting of the Indian customer base by the defendants.

28. Mr. Pravin Anand also took me through the www.hakunamatata.finance and www.tatabonus.com web-pages of Defendants 1 and 2, as well as the Facebook, Twitter, Instagram, YouTube, Telegram, Reddit and Discord accounts of Defendant 1. It is sought to be submitted that, from these pages, the intent of Defendant 1 to target customers across the globe and in particular customers located in Delhi, is apparent. I am unable to agree. I do not find, in the aforesaid pages on the various social media accounts of Defendant 1, any intent, covert or overt, to target customers in Delhi. If at all they target customers, they target customers across the world. **There is no "purposeful availment"** by the defendants, of their activities, of the jurisdiction of this Court.

29. Mr. Anand has also sought to submit that, as **the** "whois" details on the defendants' website are masked, India is the most appropriate country to sue Defendant 1. Having itself adopted a stand that Defendants 1 and 2 are operating the websites www.hakunamatata.finance and www.tatabonus.com over which the defendants' products are being sold, this argument may not be available to the plaintiff at all. Even otherwise, the mere fact that the defendants' identity may not be readily available from its website

cannot empower this Court to exercise jurisdiction over the defendants, who are admittedly located outside India.

30. The operation of the Trademarks Act and the CPC statutorily extend only to the boundaries of India. In the case of internet infringements, no doubt, the decision of the Court may, at times, operate against entities located outside India. That, too, however, would be subject to existence of the necessary connection between the activity of the foreign-seated defendants and India. More specifically, intent, of the defendants, to target India, must be established.

31. The submissions of Mr. Pravin Anand do not, in my considered view, make out the existence of the requisite “connection” between the defendants’ activities and India.

Conclusion

32. As a result, I am of the *prima facie* opinion that this Court cannot issue directions, as sought, to the defendants as they are outside the territorial reach of this Court.

33. As this is a *prima facie* view, let the plaint be registered as a suit and summons to be issued thereon, returnable before the Joint Registrar on 21st December, 2021. Pleadings be completed before the Joint Registrar, and admission and denial of documents carried out, in accordance with the provisions of the CPC read with the Delhi High Court (Original Side) Rules, 2018 and the Commercial Courts Act, 2015.

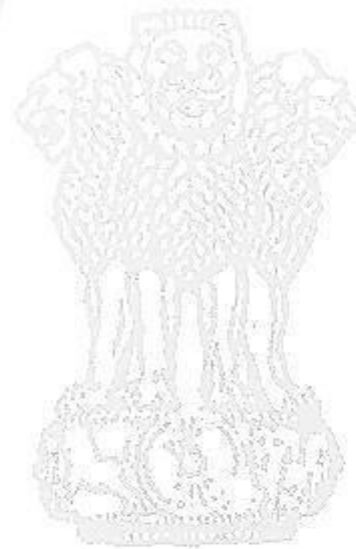
34. The prayer for interim relief is declined. IA 8000/2021 is dismissed.

C. HARI SHANKAR, J.

OCTOBER 26, 2021

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HIGH COURT OF DELHI



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