

(1979) 07 P&H CK 0027
In the Punjab And Haryana At Chandigarh
Case No : Civil Original No. 1 of 1979

Shri Jai Pal Dhiman

APPELLANT

Vs

M/s Bharaj Manufacturing Co. (Regd) Jullundur

RESPONDENT

Date of Decision : 24-07-1979

Acts Referred:

Trade and Merchandise Marks Act, 1958 — Section 3(b)

Citation : (1979) 07 P&H CK 0027

Hon'ble Judges : S.P. Goyal, J

Bench : Single Bench

Advocate : I.K. Mehta, for the Appellant; P. Jain for Mr. S.C. Chada and Mr. Mohan Vidhani, for the Respondent

Final Decision : Dismissed

Judgement

S.P. Goyal, J.—This is an application u/s 07 of the Trade and Merchandise Marks Act, 1958 (hereinafter called the act). White(sic) opposing(sic) this application, the Respondent raised a preliminary objection that this Court has no territorial jurisdiction to entertain this application As this matter did not require(sic) the leading-of any evidence, a preliminary issue covering this objection was framed After hearing the learned Counsel for the parties, I find that this objection has to be sustained.

2. It is not disputed that this case falls u/s 3 (b) of the Act and according to its provisions the High Court within the limits of whose appellate jurisdiction the office of the Trade Marks Registry within whose territorial limits the principle place of business in India of the Appellant is situated, would have the jurisdiction to entertain this petition.

3. In exercise of the powers conferred by Section 5 of the Act, the Central Government has established Trade Marks Registry with its head office at Bombay and branch offices at each of the places, namely, Calcutta, Delhi and Madras. In that very notification it is further stated that Registry's office at Delhi

would have jurisdiction over the states of Haryana, Himachal Pradesh, Jammu and Kashmir, Punjab Rajasthan and Uttar Pradesh and the Union Territories of Chandigarh and Delhi. Section 3 read with Section 5 of the Act, Therefore, leave-no room for doubt that it is only the Delhi High Court which has the jurisdiction to entertain this application.

4. A similar view was taken by D A. Desai(sic) J in M/s New Pra-bhat Tiles Works v. M/s Parjapati Tiles Company, Motvi¹,(sic) wherein it was held that it is very clear from Section 3 of the Act that the High Court within whose appellate jurisdiction the office of the Trade Marks Registry referred to in Clause (b) is shatute(sic), would have the jurisdiction to entertain such applications. The issue is consequently answered in the negative and it is held that this Court has no jurisdiction to entertain this application. The office is directed to return the application for presentation to the Court of competent jurisdiction. No costs.

R.M.S. Petition dismissed.