

Nitin Dave and ors. Vs. Union of India (Uoi) and ors.

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Court : Delhi

Decided On : Apr-06-2004

Reported in : 2004(29)PTC71(Del)

Judge : B.C. Patel, C.J. and; Badar Durrez Ahmad, J.

Acts : [Patents Act, 1970](#) - Sections 24A to 24F

Appeal No. : CM No. 209/2004 in CW Nos. 9081-82/2003 Patents Act, 1970 as unconstitutional and to quash and set aside the order made by the Respondent No. 2, Controller of Patents, Trade Marks and Designs, Kolkata.

2. The petition has also prayed for issuance of an appropriate writ restraining the respondents, their servants and agents from acting upon the Exclusive Marketing Rights granted by the Respondent No. 2 in favor of Respondent No. 3.

3. The Ld. Counsel for the petitioner argued the matter in detail. However, on behalf of the Respondents the question of jurisdiction was raised, inter alias pointing out that the cause of action falls wholly within the territorial limits of the High Court of Kolkata and this Court will have no jurisdiction to entertain this petition. But, the Ld. Counsel for the petitioner submitted that in view of Article 226(1) of the Constitution of India, this Court will have jurisdiction. However, a Division Bench of this Court WP (C) No. 4445/2003 and 3942/2003 decided on 19.09.2003 considered the matter of jurisdiction arising a similar situation where the virus of the Securitisation of Re-construction of Financial Assets and Enforcement of Security Interest Act, 2002, was challenged. The said Division

Bench held that even where the virus of an Act is challenged, the Court will have no jurisdiction, unless the cause of action or part of cause of action has arisen within the territorial limits of this Court. It is in view of this, that we are not entertaining this petition on the ground of want of territorial jurisdiction. We have not expressed any thing on the merits of the case. The petition stands disposed of accordingly.

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