

GAHC040010882025

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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRP/73/2025

Facebook India Online Services Private Limited
registered office at 14th Floor, Skyview 10, The Skyview, Survey No.83/1 of Raidurg
(Panmaqtha) Village, Serilingampally Mandal, Ranga Reddy District, Cyberabad,
Hyderabad, Shaikpet, Telangana, India 500081, being represented by its power of
attorney holder Saanjh Purohit, Daughter of Ashoke Purohit.

VERSUS

Pema Khandu and 4 Ors
Son of Late Dorjee Khandu, resident of DDK Road, Near APSSB Officer, Upper C
Sector, Itanagar 791111, Papum Pare District, Arunachal Pradesh.

2:M/s Awadh TV Group
Age: 0
Occupation :
Awadh TV Group Building
Sector 22
Noida 201309
Uttar Pradesh
represented by its Chief Managing Director and Editor in Chief
Akash Rabindra Shukla.

3: Akash Rabindra Shukla
Age: 0
Occupation :
Chief Managing Director and Editor and Editor in Chief
M/s Awadh TV Group
Awadh TV Group Building
Sector 22
Noida 201309
Uttar Pradesh.

5:Facebook INC
Age: 0
Occupation :
having its registered office at 1 Hackerway
Menlo
Park
California 94025
United States of America.

8:WhatsApp LLC
Age: 0
Occupation :
1601 Willow Road
Menlo Park
California 94025
United States of America
and also at WhatsApp Attention
Grievance Officer
Post Box No.56 Road No.1
Banjara Hills
Hyderabad 500034
Telangana
India

Advocate for the Petitioner : Tejpal Singh Rathore, Kemo Lollen,Hiranya Kumar Nath

Advocate for the Respondent : Duge Soki, Sunandan Khound,Marnya Ete,1 S Agarwal,S
Ahmed,Dani Rieyang,Kiran Rinya,S D Loda,Kipa Yabi,Jumken Ete,Aruna Rai,Reken
Ingo,KeekeLoya,Vijay Jamoh

::BEFORE::

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

For the Petitioner : Mr. H.K. Nath, Adv.

: Mr. V. Pathak, Adv.

For the Respondent : Mr. D. Soki, Adv.
Mr. P. Moyong, Adv.

Mr. M. Ete, Adv.
Ms. S. Khaund, Adv

Date on which judgment is reserved : **16.06.2026**

Date of pronouncement of judgment : **02.09.2026**

Whether the pronouncement is of the
operative part of the judgment ? : **NA**

Whether the full judgment has been

Pronounced : **Yes**

JUDGMENT & ORDER (CAV)

1. This application is filed under Article 227 of the Constitution of India, challenging the Order dated 01.04.2025, passed by the learned Civil Judge (Senior Division) at Yupia, District-Papumpare. The respondents are Mr. Pema Khandu, M/s Awadh TV Group, Mr. Akash Rabindra Shukla, *Twitter International Company, Twitter Communications India Private Limited, Facebook-Inc, Facebook India Online Services Private Limited, Youtube, LLC, Google India Pvt. Ltd., and Whatsapp LLC* arrayed as respondent Nos. 1, 2, 3, 4, 5, 6, 7 and 8 respectively. Vide order of this Court dated 19.12.2025, the names of respondents Nos. 4, 6 and 7 being *Twitter, Youtube* and *Google* have been struck off.

2. A Title Suit being T.S. No. 26/2022, was brought up by Mr. Pema Khandu against M/s Awadh TV Group, Mr. Akash Rabindra Shukla, *Twitter, Facebook, Youtube, Google* and *whatsapp*. Through the title suit, the plaintiff/Respondent No.1 has prayed for a decree of declaration that the articles circulated by the M/S AwadhTV Group through the official pages of *Facebook, Twitter* handles

and websites against the plaintiff, as defamatory. A prayer has also been made for perpetual injunction restraining the M/S Awadh TV Group and their agents from directly or indirectly circulating any defamatory or derogatory contents and to remove all the circulated articles against the respondent No.1, published by the channel. A prayer for perpetual injunction has also been made against *Facebook* with a direction to remove and delete all the videos and defamatory posts against the plaintiff/respondent No.1 and to suspend and block the malicious articles. The plaintiff/respondent No.1 has also prayed for mandatory injunction to forthwith withdraw, recall or delete and take down all the defamatory contents published against the plaintiff/respondent No.1 by the defendants and also for a compensation of Rs. 20 crores for damages caused to the reputation of the plaintiff/ respondent No.1.

3. It is contended that during the course of the proceeding of T.S. No. 26/2022, an application was filed before the Court of the Civil Judge, Senior Division, Papumpare which was registered as I.A. No. 132/2023. Vide order dated 01.04.2025, this application was rejected and aggrieved by this order, the petitioners are before this court. The order is reflected hereinbelow verbatim

“Instant application is filed by the applicant under Order 1 Rule 10(2) R/W S. 151 CPC praying for deletion of defendant No. 6 from array of parties in the suit. It is averred therein that defendant No. 6/Facebook India does not operate or control the Facebook service and it is not responsible for hosting the contents that appears on Facebook service or any website including the contested content. That applicant cannot provide for the relief prayed for by the plaintiff since it has no control over the content posted in Facebook page, including the alleged defamatory post, and therefore, applicant is not a necessary party in the suit. Ld. Counsel for the applicant has relied

on the Annexure-A (page-17 onwards) and submitted that Facebook company is now Meta Platform Inc./Meta that has Its office in California, United States of America, which can only remove or restrict access to content, suspend or disable account in violation of provisions stated in the users terms of service available online.

Further Ld. Counsel for the applicant has submitted that he has not annexed any documents/contract executed between Meta Platform Inc. and applicant/ defendant No. 6 wherein it is stated that Meta Platform Inc, can only edit the content of Facebook post.

Ld. Counsel for the respondent has submitted that In the instant application no document has been annexed to show that the legal liability for Facebook post/content published by any Facebook user, Including alleged defamatory post, lies only with Meta Platform Inc. and that there is no legal liability for the content on Facebook, on Facebook India Online Services Private Limited/ defendant No.6. Further, Ld. Counsel for the respondent/plaintiff has submitted that applicant has also not annexed any documents to show exact nature of relationship between Meta Platform Inc. and Facebook India Online Services Private Limited/defendant No.6/applicant, in absence of which deleting applicant/ defendant No. 6 from array of parties may hamper proper adjudication of the case.

Heard both the Ld. Counsel. Seen the application and the annexure. On perusal of the application it appears that applicant/defendant No. 6 is engaged in online support services including marketing, technical and sale support in connection for Facebook In India and In absence of any document showing exact nature of relationship between applicant/Facebook India and Meta Platform Inc./Meta, USA and related document/agreement/contract showing the legal liability for facebook posts published in India being only that of Meta Platform Inc./Meta, USA and not of applicant, this court is of the

considered opinion that presence of applicant/ defendant No.6 before this Court may be necessary in order to enable the Court to effectually and completely adjudicate upon and settle all questions Involved in the suit. Accordingly prayer In the Instant IA is hereby rejected. IA No. 132/23 is disposed of on contest."

4. It is contended that the Trial Court rejected the petitioner's deletion application in the suit, speculating that Petitioner's presence may be necessary, even though the entity *Meta* platforms (*Meta* for short) that offers *Facebook* service is already a party to the suit. It is contended that the impugned order was passed without proper application of mind and suffers from material irregularity as the court failed to consider the undisputed evidence that the petitioner does not operate or control the *Facebook* service. The petitioner is incapable of taking action regarding content of service which includes *Meta's* publicly accessible terms of service. The terms make up the entire agreement between the users in India and *Meta*. There are multiple High Courts deleting petitioner from similar suits on the basis that *Facebook* India does not provide or have control over the *Facebook* service and this fact has been previously acknowledged by this Court. It is submitted that the petitioner's certificate of incorporation, Memorandum of Association, and Articles of Association clearly evinces the type of work that *Facebook* India performs.

5. It is further contended that the learned Trial Court failed to consider *Meta's* terms of service which clearly states that, *Meta* provides the *Facebook* service. Nothing in those terms suggests that petitioner has any control or liability with respect to the content on the *Facebook* service. Since *Meta* provides *Facebook* service, the logical sequitur is that *Meta* is the relevant entity in relation to any legal liability arising out of the content on the *Facebook* service. It is further

contended that, there is no allegation from the respondent No.1/Plaintiff that *Facebook* has any nexus to the contested content. It is submitted that the plaintiff/Respondent No.1's sole basis for claiming that the petitioner/*Facebook* should not be deleted is *Meta's* form 10K, which respondent No.1 claims does not differentiate between *Meta* and *Facebook* India. It is submitted that *Facebook India* is a subsidiary of *Meta*, which is a separate legal entity, and that nothing contained in the Form 10-K suggests that *Facebook India* has any responsibility for, or control over, the content available on the *Facebook* service. It is averred that the Trial Court has failed to appreciate the well-settled principles of law that subsidiaries are distinct legal entities from their parent companies.

6. It is further alleged that the Trial Court has surmised that the petitioner's presence may be necessary without effectively conceding that there is nothing on record to suggest that the petitioner's presence is in fact necessary and is thus a necessary party without any reasoning. It is therefore, prayed that this court may set aside the impugned erroneous order of Trial Court and allow the deletion application of the petitioner.

7. Per contra it is submitted on behalf of the respondent No.1, that a reasoned order was passed after carefully considering the submissions, and after considering the petition. It is submitted that the petition is not maintainable. As this application is filed under Article 227 of the Constitution of India and considering the limited supervisory power of this Court, the disputed facts of a civil suit cannot be adjudicated. The petitioner has to show where the Civil Judge has erred and not to present facts. The petitioner has failed to show, whether learned Civil Judge has exceeded jurisdiction. No error is apparent to interfere with the justified order passed by the learned Civil Judge in a petition

under Article 227 of the Constitution. The petitioner has ingeniously resorted to revision as appeal is not maintainable but, this petition is not maintainable and is liable to be dismissed.

8. Heard Mr. V. Pathak and Mr. H. K. Nath, learned counsel for the petitioner. Also heard Mr. D. Soki, learned counsel for the respondent No.1, Ms A. Rai, learned counsel for the respondent Nos.2 and 3 as well as Ms P. Moyong, learned counsel appearing on behalf of Mr. M. Ete, learned counsel for the respondent No.5 and Mr. S. Khaund, learned counsel for the respondent No.8.

9. It is submitted by the learned counsel for the petitioner that the petitioner does not operate or control the *Facebook* service and is thus not authorized to access *Facebook* user records or take action with respect to content on the *Facebook* service, despite the fact that the petitioner has been incorporated to carry on business in India. As per 'Terms of service' (Page 149), the *Facebook Inc* is now *Meta* and the terms of use, data policy and the cookies policy to reflect the new name has been updated on 04.01.2022. These terms (Formerly known as the statement of Rights and Responsibilities), make up the entire agreement between *Facebook* and *Meta* platforms, Inc. regarding use of *Meta* Products. They supersede any prior agreements.

10. The objects as per Memorandum of Association (MOA for short) of *Facebook* India Online Services Private Ltd. also reflects one of the main objects of *Facebook*, i.e., petitioner is to carry on business in India and abroad of online support service and also provide technical support services.

11. It is hereby submitted that, *Facebook* only provides technical support and services under *Meta* and is unable to remove any articles published by the Awadh Group, i.e., respondent Nos. 2 & 3 without the intervention of Meta. By

drawing the attention of this Court to the decision of the High Court of Judicature at Delhi in the case of ***Bhaichung Bhutia Vs. Soumik Dutta & Ors.***, it is submitted that the prayer of the Facebook India Private Limited under Order No.1, Rule 10, CPC, for deletion of his name was allowed by the Delhi High Court. It was held in 'Baichung Bhutia' (supra) that:- *"In view of the averments made in the application as well as for the reason that defendant No.5 (Facebook) does not own or operate any server and it is not responsible for hosting the contents that may appear on any website, the prayer made herein is allowed. Accordingly, the name of Defendant No.5 is deleted from the array of parties. Let the amended memo of parties be filed within two weeks."*

12. The learned counsel for the petitioner has also relied on the decision of the Delhi High Court in "***M/S Amira Pure Food Pvt. Ltd. Vs. Goyal Trading Company & Ors.***"Wherein, vide order dated 14.07.2016, it has been held that:

"Further even after admission/denial of plaintiff, defendant no.11 FACEBOOK INC. has not disputed that it is not a proper party to the original suit. It was for the plaintiff to specifically plead as to how the defendant no.10 is a necessary or proper party to the suit, which plaintiff has failed to do.

In the facts and circumstances and in view of aforesaid judgment cited on behalf of appellant, the applicant does not appear to be a necessary or proper party to the original suit. Accordingly, the captioned IA is allowed and name of defendant no.10 is deleted from the array of the defendants. Plaintiff is directed to file amended memo of parties within two days. IA is accordingly disposed of."

13. Relying on the decision of the High Court of Judicature at Delhi, the learned counsel for the petitioner has submitted that this revision petition is maintainable and in the light of the decisions mentioned above, this Court may

also allow the name of the petitioner to be deleted from the array of parties.

14. It is further contended that the Respondent No.1, has stated in his plaint at Para 37 that "Defendant Nos. 3 to 9 fall within definition of 'intermediary' as defined under Section 2(1)(w) of the Information Technology Act, 2000 (I.T. Act for short) and hence, these defendants are under an obligation to disable access to illegal and defamatory content that is being circulated/published through its service. It is submitted that at present the petitioner is not an adversarial entity in this case, but a subsidiary of the *Meta*. It is submitted that the petitioner is immune from liability for third party content on the Facebook Service in accordance with Section 79 of the I.T Act.

15. It is contended that the Trial Court did not even consider the materials which the petitioner placed on record and failed to appreciate a cardinal tenet of Indian law, consistently recognized by the Hon'ble Supreme Court that a suit can proceed only against necessary or proper parties. It is thus submitted that the petitioner is not a proper party to the suit. Learned counsel for the petitioner has also relied on the decision of the Supreme Court in "***Ramesh Hirachand Kundanmal vs. Municipal Corporation of Greater Bombay & Ors***" reported in **(1992) 2 SCC 524**, wherein it has been held that :

"i. A necessary party is one without whom no order can be made effectively. A proper party is one in whose absence and effective order can be made but whose presence is necessary for a complete and final decision on the question involved in the proceeding.

ii. The only reason which makes it necessary to make a person a party to an action is so that he should be bound by the result of the action and the question to be settled, therefore, must be a question in the action which cannot be effectually and completely settled unless he is a party"

16. The decision in the case of Kundanmal (*supra*) is clear that, a necessary party, must have a direct interest in the subject matter of the litigation. The petitioner in this case demonstrated to the Trial Court that it was not a necessary or proper party to the suit.

17. I have considered the petitioner's argument that while, seeking relief in respect of contested content on social media platforms, such as *Facebook* service, the respondent No.1 ought to have arrayed and sought relief against correct entity which is capable of complying with any orders that may be passed. *Meta*, which is the relevant data controller for the *Facebook* service, is already arrayed as a party to the suit. The Trial Court was apprised that if a direction in terms of the relief sought by the respondent No.1 is provided, by the Trial Court, petitioner would be incapable of complying with such a direction, since it does not operate or control the *facebook* service and therefore, lacks the ability to take action against any content from the *Facebook* service. It appears that due to its inherent incapability of complying with any directions which the Trial Court may order in the suit, its presence is not necessary either for passing of orders in the suit or for complete and final adjudication of the suit.

18. It is further contended that the Trial Court failed to distinguish the materials placed on record, including order from various High Courts, which categorically held that *Facebook* India is not relevant data controller for *Facebook* service. The petitioner has also relied on a decision of this court in "*Facebook of India Online Services Private Limited vs. Pramod Boro*" in connection with Criminal Petition No.1233/2022, wherein, vide order dated 06.12.2022, this court acknowledged *Facebook* India's, submission that

Facebook service is provided by *Meta* and not *Facebook* and on this basis, this Court stayed proceedings in a criminal complaint qua *Facebook* of India which was pending in the Court of the Chief Judicial Magistrate Kokrajhar, Assam, in which summonses were issued to *Facebook* India through its employee in connection with alleged derogatory remarks made against the complainant on the *Facebook*.

19. Au contraire, the learned counsel for the respondent No.1/plaintiff laid stress in his argument that the decisions of the High Court of Judicature at Delhi (NCT) relied upon by the petitioner cannot be relied in connection with this case. The High Court of Delhi on original jurisdiction, passed the orders which is not similar to supervisory jurisdiction under Article 227. So stating, the learned counsel for the petitioner has relied on the decision of the Hon'ble Supreme Court in the case of ***K. Valarmathi & Ors –vs- Kumaresan*** reported in 2025 SCC Online SC 985 wherein it has been held in paragraph nos. 8 and 9 as follows:

8. Power of the High Court under [Article 227](#) is supervisory and is exercised to ensure courts and tribunals under its supervision act within the limits of their jurisdiction conferred by law. This power is to be sparingly exercised in cases where errors are apparent on the face of record, occasioning grave injustice by the court or tribunal assuming jurisdiction which it does not have, failing to exercise jurisdiction which it does have, or exercising its jurisdiction in a perverse manner.

9. Essence of the power under [Article 227](#) being supervisory, it cannot be invoked to usurp the original jurisdiction of the court which it seeks to supervise, nor can it be invoked to supplant a statutory legal remedy under the Civil Procedure Code, 1908. For example, existence of appellate remedy under Section 96 of the Code operates as a near total bar to exercise of supervisory jurisdiction under Article 227.

20. Relying in the case of K. Valarmathi (supra), it is submitted that while exercising jurisdiction under Article 227 of the Constitution of India, this Court cannot also take the reins of Section 96 of the CPC. A High Court cannot delve into the merits of the case like a mini trial. The learned counsel for the plaintiff/respondent No.1 has also relied on the decision of the Supreme Court in the case of **Venkatlal G. Pittie & anr. –vs- Bright Bros.(Pvt) Ltd.** reported in (1987) S SCC 558 wherein it has been observed in paragraphs nos. 28, 29, 30 and 31 as quoted hereunder:

“28. In [India Pipe Fitting Co. v. Fakruddin M.A. Bakar and Anr.](#), [1978] 1 SCR 797, this Court reiterated that the limitation of the Court while exercising power under [Article 227](#) of the Constitution is well settled. Power under [Article 227](#) is one of judicial superintendence and cannot be exercised to upset the conclusions of facts, however, erroneous these may be. It is possible that another Court may be able to take a different view of the matter by appreciating the evidence in a different manner, if it determinedly chooses to do so. That will not be justice administered according to law to which Courts are committed notwithstanding dissertation in season and out of season, about philosophies. In that case, the Court found that the High Court had arrogated to itself the powers of the appellate court.

29. As early in 1959, in [Satyanarayan Laxminarayan Hegde and Others v. Millikarjun Bhavanappa Tirumale](#), [1960] 1 SCR 890, this Court found that [in that case](#) on the materials available before it that the High Court was wrong in thinking that the alleged error in the judgment of the Bombay Revenue Tribunal was one apparent on the face of the record so as to be capable of being corrected by a writ of certiorari and an error which had to be established by a long drawn process of reasoning on points where there may conceivably be two opinions cannot be said to be an error apparent on the face of the record. There might have been error in the judgment of the appellate bench of the Court of Small Causes but it is not an error palpable and apparent, right or wrong they had come to that

conclusion. That was possible or plausible conclusion.

30. In Mrs. Labhkuwar Bhagwani Shah and Others v. Janardhan Mahadeo Kalan and Another, [1982] 3 SCC 5 14, this Court reiterated that concurrent finding of facts whether relating to jurisdictional issue or otherwise were not open to interference by the High Court under Article 227 of the Constitution.

31. This Court in Chandavarkar Sita Ratna Rao v. Ashalata S. Guram, [1986] 4 SCC p. 447 held that in exercise of jurisdiction under Article 227 of the Constitution, the High Court can go into the questions of facts or look into the evidence if justice so requires it. But the High Court should decline to exercise its jurisdiction under Article 226 and 227 of the Constitution to look into the facts in the absence of clear cut-down reasons where the question depends upon the appreciation of evidence. The High Court should not interfere with a finding within the jurisdiction of the inferior tribunal or court except where the finding is perverse in law in the sense that no reasonable person properly instructed in law could have come to such a finding or there is misdirection in law or view of fact has been taken in the teeth of preponderance of evidence or the finding is not based on any material evidence or it resulted in manifest injustice. Except to the limited extent indicated above, the High Court has no jurisdiction.”

21. Relying in the case of **Venkatlal G. Pittie & anr.(supra)**, it is submitted by the learned counsel for the Plaintiff / respondent No.1 that this petition under Article 227 of the Constitution of India is not maintainable. The learned counsel for the Plaintiff / respondent No.1 has also relied on the decision of the Supreme Court in the case of **Rajkumar Bhatia –vs- Subhash Chander Bhatia** reported in (2018) 2 SCC 87 wherein it has been observed in paragraph 12 as follows:

“12. This being the position, the case which was sought to be set up in the proposed amendment was an elaboration of what was stated in the written statement. The High Court has in the exercise of its

jurisdiction under [Article 227](#) of the Constitution entered upon the merits of the case which was sought to be set up by the appellant in the amendment. This is impermissible. Whether an amendment should be allowed is not dependent on whether the case which is proposed to be set up will eventually succeed at the trial. In enquiring into merits, the High Court transgressed the limitations on its jurisdiction under [Article 227](#). In [Sadhna Lodh v National Insurance Company](#)³, this Court has held that the (2003) 3 SCC 524 supervisory jurisdiction conferred on the High Court under [Article 227](#) is confined only to see whether an inferior court or tribunal has proceeded within the parameters of its jurisdiction. In the exercise of its jurisdiction under [Article 227](#), the High Court does not act as an appellate court or tribunal and it is not open to it to review or reassess the evidence upon which the inferior court or tribunal has passed an order. The Trial Court had in the considered exercise of its jurisdiction allowed the amendment of the written statement under [Order 6 Rule 17 of the CPC](#). There was no reason for the High Court to interfere under [Article 227](#). Allowing the amendment would not amount to the withdrawal of an admission contained in the written statement (as submitted by the respondent) since the amendment sought to elaborate upon an existing defence. It would also be necessary to note that it was on 21 September 2013 that an amendment of the plaint was allowed by the Trial Court, following which the appellant had filed a written statement to the amended plaint incorporating its defence. The amendment would cause no prejudice to the Plaintiff.”

22. Relying on the decision of ***Rajkumar Bhatia (supra)***, it is submitted by the learned Counsel for the plaintiff/ respondent No.1 that the trial court was apprehensive that in the event of any order being passed against Facebook, deletion of Facebook as a party may affect the execution of the order. Thus, after considering the entire facts and circumstances of the case, the trial court after recording cogent reasons declined to delete Facebook from the array of parties.

22.1. However, this court is of the opinion that if intermediary to *Meta*, 'Facebook' has no control over the server nor the petitioner operates the server or plays host to the contents on the website. It is also apt to mention at this juncture that these facts are not disputed by the respondent company.

23. Moreover, it is also not disputed that *Meta* has been arrayed as a party.

In T.S. 26/2022, Facebook Inc. has been arrayed as respondent No. 5. It is not disputed that Facebook Inc. has now been renamed as Meta. The *Meta* Office is in the United States of America and operating from USA, *Meta* controls all the activities of the Facebook. Thus, Facebook may not be a necessary party to the suit. The petitioner No. 6 does not own or operate any server and it is not responsible for hosting the contents that may appear on any website.

24. In ***Ramesh Hirachand Kundanmal (Supra)***, it has been held by the Supreme Court that the reason which makes it necessary to make a person, a party to an action is so that he should be bound by the result of the action and the question to be settled. It is argued that in this case, one must have a direct interest in the subject matter of the litigation, which is not so in this case. The Court has been apprised and so was the Trial Court that *Meta* is the relevant data controller for Facebook service and the Trial Court has already held that

Meta has already been arrayed as a party to the suit.

25. The decisions relied on by the petitioner in the case of ***Baichung Bhutia (Supra)*** and in the case of ***M/s Amira Pure Food Private Limited (Supra)*** is not similar to this case.

Applications under Order 1, Rule 10 of the CPC were disposed of in connection with the aforementioned cases by the High Court of Judicature at Delhi, whereas in the instant case, the petitioner has filed this application under Article 227 of the Constitution of India on being aggrieved by the order of dismissal of the petition under Order 1, Rule 10 of the CPC by the Learned Trial Court in connection with I.A. No. 132/2023, analogous to TS No. 26/2022.

26. The Supreme Court has held in ***K. Valarmathi (Supra)***, that the power under Article 227 being supervisory, it cannot be invoked to usurp the original jurisdiction of the Court which it seeks to supervise, nor can it be invoked to supplant a statutory legal remedy under the CPC. Indeed, existence of appellate remedy under Section 96 of the Code operates as a near-total bar to exercise supervisory jurisdiction under Article 227.

27. At this juncture, the Court may not look into the objects of the M.O.A., Facebook India Online Services Pvt. Ltd. or the Articles of Association, which clearly reflects the type of work that Facebook India performs. Nevertheless, this Court can pass an order by taking into consideration the error apparent or any perversity and even *prima facie* evidence within the Court's jurisdiction, without arrogating to itself the powers of the appellate Court. Apart from the Form 10-K being disputed by the respondent No. 1, it is palpably clear that META has taken over the control of Facebook service. Thus, the submission of the learned counsel for the respondent that this petition is not maintainable as

the issue depends on the appreciation of evidence, can be safely brushed aside.

28. In the wake of the foregoing discussions, it is held that even without entering into the merits of the case, this petition under Article 227 of the Constitution of India can be considered without transgressing the jurisdiction of this Court. The respondent No. 5, Facebook Inc., now renamed as *Meta*, is the relevant data controller for the Facebook service and has indeed been arrayed as a party to the suit. The petitioner has stressed on the Meta's publicly accessible terms of service which clearly reflects that Meta operates and hosts the Facebook service for users in India.

The decisions relied upon by both the parties, is also relevant to the instant case. I have also relied on the decisions of the Supreme Court referred to by the parties.

29. In the wake of the foregoing discussions and relying on the decisions cited by both the parties, this Court deems it fit to set aside the impugned order dated 01.04.2025 in connection with I.A. No. 132/2023 in Title suit No. 26/2022 and remand the matter back with a direction that the petition under Order 1, Rule 10 (2) read with Section 151 of the CPC, is to be considered afresh by the Trial Court and the Court may pass any order in accordance with law.

30. In terms of the above observation, this petition stands disposed of.

JUDGE

Comparing Assistant