
FORUM SHOPPING AND TERRITORIAL JURISDICTION: A COMPARATIVE ANALYSIS OF JUDICIAL INTEGRITY IN INDIA AND THE UNITED STATES

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ABSTRACT

The Code of Civil Procedure, 1908, has exhaustive and comprehensive provisions related to the territorial jurisdiction of courts. It takes into account the geographical location of the parties concerned to determine jurisdiction. There are different legislations and court Acts as well that determine the pecuniary jurisdiction. The jurisdiction of a court in the United States is established by the requirements of the Federal Rules of Civil Procedure and the regulations of different states. The regulations require suits to be filed in the court where the defendant lives or where the cause of action began. The US courts have been increasingly lenient in interpreting the regulations, leading to an increase in the demand for forum shopping. The notions of forum shopping and territorial jurisdiction are closely connected and have a substantial influence on access to justice. Forum Shopping is a process in which litigants register their legal action in a court that they feel would provide a favourable decision. Forum shopping is practiced both in India and the United States, but it might be considered unethical if done expressly to acquire an unfair edge in a litigation. It is critical for parties to choose a forum that reflects the merits of their case rather than the perceived benefit of a certain jurisdiction or court. The territorial jurisdiction is a crucial part of the judicial system, forum shopping may lead to forum abuse and impair the fairness of the legal process. This paper examines the impact of territorial jurisdiction and forum shopping on the judicial systems of India and the United States. The paper further seeks to understand the legal framework revolving around the territorial jurisdiction and forum shopping, to assess the influence of these on the deliverance of justice, and to investigate possible changes that might be undertaken to solve issues related to forum shopping.

Keywords: Territorial Jurisdiction, Forum Shopping, Judicial Efficiency, Comparative Law, Access to Justice

1. INTRODUCTION

Forum shopping refers to a plaintiff's strategy of choosing a specific court or jurisdiction where they anticipate a more favourable judgment or outcome for their lawsuit.¹ This tactic is commonly employed to bypass the traditional venue for legal disputes, with motivations ranging from advantageous legislation to jury biases. Domestic forum shopping can occur within a single country, such as in marital cases between different regions or states. In the United States, domestic forum shopping has become a prevalent practice, particularly in intellectual property lawsuits, where plaintiffs file cases in jurisdictions that offer home-field advantage, favourable trial attorneys, or expedited dispute resolution.

Domestic forum shopping has been criticized by judges in various jurisdictions, describing it as "villainous," "inappropriate," and a practice that should be discouraged. When litigants choose a specific location for their case despite a nation's largely uniform laws due to perceived biases of judges and juries, domestic forum shopping becomes particularly problematic. Local forum shopping not only undermines rational interpretations of the law but also burdens specific courts, imposes unnecessary costs on defendants, and erodes public confidence in the fairness of the judicial system.² Forum shopping often relies on anecdotal evidence rather than rigorous scientific research, leading to a herd mentality among attorneys. In the context of India, the Hon'ble Supreme Court has strongly denounced forum shopping, asserting that every attempt by a plaintiff to engage in such practices should be sternly rejected. The court emphasized that plaintiffs should not have the freedom to choose their preferred forum, and any attempt to engage in forum shopping should be firmly discouraged.

2. IMPACT OF FORUM SHOPPING

The doctrine of forum non convenient enables a court to dismiss a case, despite having jurisdiction, due to the inconvenience or unsuitability of the chosen forum.

2.1. Unfairness of Forum Selection

2.1.1. *Unfairness as Far as the Applicable Laws are Concerned*

In both India and the USA, forum selection can lead to unfairness in terms of applicable laws.

¹ Black's Law Dictionary 590 (5th ed. 1979).

² Christopher A. Whytock, The Evolving Forum Shopping System, 96 Cornell L. Rev. 481 (2011), <https://core.ac.uk/download/pdf/216736124.pdf>.

Different jurisdictions may have varying substantive and procedural laws, which can result in differences in how a case is interpreted and decided. This can create a situation where one party may benefit from more favourable laws, while the other party may face a disadvantage. The fairness of the proceedings can be compromised if one party strategically selects a forum with laws more advantageous to their position.

2.2. Different Laws in different Jurisdiction

Both India and the USA have diverse legal systems, with multiple jurisdictions that can differ in their laws and regulations. This variance in laws across jurisdictions can have implications for fairness when it comes to forum selection.

2.2.1. Substantive Laws:

Different jurisdictions within a country may have varying substantive laws, which define the rights, obligations, and legal principles governing a particular subject matter. For example, in the USA, each state has the authority to enact its own laws in areas such as contract, tort, property, and family law. Similarly, in India, different states may have their own laws on subjects like property, inheritance, and personal status. This variation in substantive laws can create opportunities for parties to select a forum where the laws are more favorable to their case, providing them with an unfair advantage.

2.2.2. Procedural Laws:

Procedural laws govern the conduct of legal proceedings, including rules related to evidence, discovery, and court procedures. These laws can also differ across jurisdictions. For instance, in the USA, each state may have its own rules of civil procedure, determining how cases are litigated and resolved. Similarly, in India, procedural laws can vary between different states. Parties may strategically choose a forum with procedural rules that provide them with tactical advantages, such as more lenient rules on discovery or evidence admission. This can result in unfairness if one party gains an edge due to the chosen forum's procedural laws.

2.3. Strategic Advantage

The ability to select a favourable forum can provide one party with a strategic advantage by enabling them to leverage the specific laws of the chosen jurisdiction. For example, a party

may opt for a jurisdiction that has more plaintiff-friendly laws with higher damage awards, a lower burden of proof, or a longer statute of limitations. By strategically selecting a forum with laws that align with their interests, a party can increase their chances of obtaining a favourable outcome. This can result in an unfair advantage, as the other party may be subjected to laws that are less advantageous to their case.

2.4. Complexity and Inequality

The complexity of navigating varying laws across jurisdictions can create an inequality between parties. Parties with greater resources or legal expertise may have an advantage in identifying the most favourable forum and understanding the nuances of the laws in that jurisdiction. Conversely, parties with limited resources may struggle to comprehend and effectively navigate the differences in laws. This can lead to an imbalance of power and an unfair disadvantage for the party with fewer resources.

2.5. Potential for Bias and Prejudice in Forum Shopping in India and US

Forum selection can also raise concerns about bias and prejudice. Certain jurisdictions may have reputations for being more sympathetic towards specific types of cases or parties. Parties may exploit this by selecting a forum that is known for its predisposition towards their interests. This can create a perception of bias, where the chosen forum may be inclined to favour one party over the other, based on preconceived notions or local biases. Such bias undermines the objectivity and fairness of the judicial process. The potential for bias and prejudice in forum shopping exists in both India and the United States.³

2.5.1. India:

In India, forum shopping can raise concerns about bias and prejudice due to various factors:

- a. *Local Influences:* Different jurisdictions in India may have cultural, regional, or political influences that can impact the local legal landscape. This can result in biases or predispositions towards certain types of cases or parties. Parties may strategically select a forum based on the perceived sympathy of the court towards their interests. This can create

³ Sharadindu Shekhari, Forum Shopping: An Analysis of the Deprecated Practice of Manipulating Jurisdiction, 5 Int'l J.L. Mgmt. & Human. 1910 (2022).

a perception of bias, where the chosen forum may be more inclined to favor one party over the other.⁴

- b. *Judicial Discretion*: India has a discretionary system, where judges have greater flexibility in interpreting and applying the law. This discretion can lead to variations in judgments, and different judges may have personal preferences or biases that can influence their decision-making process. Forum shopping can be employed to exploit these variations and seek a favorable judge who may align with a party's interests.⁵

2.5.2. United States:

In the United States, the potential for bias and prejudice in forum shopping can manifest through the following:

- a. *Local Legal Climate*: Different jurisdictions in the U.S. may have varying legal climates, influenced by factors such as political leanings, public opinion, or historical precedents. Some jurisdictions may have reputations for being more sympathetic or hostile towards certain types of cases or parties. Parties may select a forum that aligns with their interests, taking advantage of the perceived predispositions of the court.
- b. *Jury Pool Considerations*: In cases involving jury trials, parties may consider forum shopping to select a jurisdiction known for having a more favourable jury pool. Certain jurisdictions may be perceived as more sympathetic or receptive to certain types of claims or parties, potentially influencing the outcome of a case. This can raise concerns about the fairness and impartiality of the jury selection process.

3. TERRITORIAL JURISDICTION

3.1. USA

When federal courts establish personal jurisdiction over a defendant, they are exercising the authority of the United States. As part of the national sovereign, federal courts' extent of

⁴ Animesh Nagvanshi, Forum Shopping: An Unethical Way to Justice in Modern Indian Judiciary, Juris Centre (July 22, 2023), <https://juriscentre.com/2023/07/22/forum-shopping-an-unethical-way-to-justice-in-modern-indian-judiciary/>.

⁵ Aaditi Singh, Forum Shopping: Recent Trend and Analysis of Its Effect on the Legal System, 3 Jus Corpus L.J. 120 (2023).

territorial jurisdiction is defined by the Due Process Clause of the Fifth Amendment. This clause allows federal courts to assert jurisdiction over individuals who have significant minimum contacts with the United States and over property situated within its borders.⁶

3.1.1. Federal Jurisdiction

Federal courts have jurisdiction over cases involving federal laws, the Constitution, or disputes between parties from different states (diversity jurisdiction). The territorial jurisdiction of federal courts is established by the United States Constitution and federal statutes. Federal courts have nationwide jurisdiction, meaning they can hear cases that arise in any state or territory of the United States. This allows federal courts to handle cases involving federal matters or issues that cross state borders.

The federal court system is organized into different levels, including:

- a. *U.S. District Courts*: These are the trial courts of the federal system and have original jurisdiction over most federal cases. There are 94 U.S. District Courts spread throughout the country, with each district covering a specific geographic area.
- b. *U.S. Courts of Appeals*: Also known as circuit courts, they are responsible for reviewing decisions made by the U.S. District Courts. There are 13 U.S. Courts of Appeals, each covering a specific geographical circuit.
- c. *The Supreme Court of the United States*: As the highest court in the land, the Supreme Court has both original and appellate jurisdiction. It primarily hears cases involving significant constitutional issues or conflicts among the circuit courts.

3.1.2. State Jurisdiction

State courts in the United States have territorial jurisdiction over cases involving state laws, local ordinances, and civil matters that do not fall within the scope of federal jurisdiction. Each state has its own court system, typically organized into trial courts and appellate courts. State courts generally have jurisdiction over cases that arise within their respective states, including

⁶ A. Benjamin Spencer, *The Territorial Reach of Federal Courts*, 66 Fla. L. Rev. 979 (2014), <https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=3016&context=facpubs>.

disputes between parties residing or conducting business within the state.

State court systems may have different levels, such as:

- a. *Trial Courts*: Commonly known as superior courts, circuit courts, or district courts, they have general jurisdiction and handle a wide range of civil and criminal cases.
- b. *Appellate Courts*: These courts review decisions made by trial courts to ensure they were reached correctly and in accordance with the law. The structure and naming of appellate courts may vary between states.

3.2.India

Territorial jurisdiction refers to the authority of a court to hear and proceed with the trial of a matter brought before it. In civil suits involving matters such as property recovery, partition, sale, mortgage, redemption, determination of rights or claims, or compensation for wrongdoing related to immovable or movable property, the suit must be initiated in the court within whose local limits the property is located. If the suit aims to obtain relief or compensation in relation to property held by the defendant, it may be filed either in the court within whose local limits the property is situated or in the court within whose jurisdiction the defendant resides or conducts business. Section 20 of the Civil Procedure Code, 1908 (CPC) states that a plaintiff can file a suit against a defendant in the court within whose local limits the defendant voluntarily resides, carries on business, or is employed. The section also allows the suit to be filed in a court where the whole or a part of the cause of action arises.⁷

In cases involving multiple defendants, the suit can be initiated in any court within whose jurisdiction any of the defendants reside or conduct business. However, the plaintiff must obtain leave from the court or secure the acquiescence of other defendants before filing the suit. If the property is located within the jurisdiction of multiple courts, the plaintiff may file the suit in any of the courts where a portion of the property is situated. This principle of law dictates that suits are generally filed in the court within whose jurisdiction the whole or a part of the cause of action arises. A cause of action refers to the facts giving the plaintiff the right to initiate legal action. It is also worth noting that the law requires proper court permission or

⁷ Law Senate, Territorial Jurisdiction of Courts in India, <https://www.lawsenate.com/publications/articles/territorial-jurisdiction-of-courts-india.pdf>.

consent from other defendants when filing a suit.⁸

4. IMPACT OF TERRITORIAL JURISDICTION ON THE JUSTICE SYSTEM:

4.1. Access to Justice

Territorial jurisdiction determines which courts have the authority to hear and decide cases. It plays a crucial role in ensuring access to justice for individuals and entities. If the territorial jurisdiction is too limited or restrictive, it may create barriers for parties seeking legal remedies, particularly when the jurisdiction does not align with the location of the dispute or the parties involved. This can result in difficulties in pursuing justice and can undermine the principle of equal access to the legal system.⁹

4.2. Efficiency and Case Management

Territorial jurisdiction affects the efficiency and case management of the justice system. Courts within specific jurisdictions are responsible for handling cases arising from their designated territories. If jurisdictional boundaries are ill-defined, overlapping, or fragmented, it can lead to confusion, delays, and inefficiencies. Clear and well-defined territorial jurisdiction helps streamline the legal process, facilitates the allocation of resources, and ensures that cases are appropriately managed within the designated courts.¹⁰

4.3. Consistency and Uniformity

Territorial jurisdiction impacts the consistency and uniformity of legal decisions. When cases with similar facts and legal issues are dispersed across multiple jurisdictions, there is a risk of inconsistent interpretations and outcomes. This can lead to disparate treatment, create legal uncertainty, and erode confidence in the justice system. To promote fairness and uniformity, efforts should be made to establish clear legal standards and mechanisms for resolving conflicts between decisions from different jurisdictions.

⁸ Sharadindu Shekhari, *Forum Shopping: An Analysis of the Deprecated Practice of Manipulating Jurisdiction*, 5 *Int'l J.L. Mgmt. & Human.* 1910 (2022).

⁹ *Forum Shopping*, Drishti IAS (May 24, 2023), <https://www.drishtias.com/daily-updates/daily-news-analysis/forum-shopping>.

¹⁰ Animesh Nagvanshi, *Forum Shopping: An Unethical Way to Justice in Modern Indian Judiciary*, *Juris Centre* (July 22, 2023), <https://juriscentre.com/2023/07/22/forum-shopping-an-unethical-way-to-justice-in-modern-indian-judiciary/>.

4.4. Local Context and Expertise

Territorial jurisdiction allows courts to develop expertise in specific areas of law based on the unique local context. Local courts may have a better understanding of regional customs, practices, and local laws, which can contribute to more informed and contextually appropriate decision-making. This expertise enhances the overall quality of justice delivered within a specific jurisdiction.

4.5. Enforcement of Judgments

Territorial jurisdiction is crucial for the enforcement of judgments and court orders. Once a court renders a decision, it is typically enforceable within its designated jurisdiction. If there are issues related to enforcing judgments across different jurisdictions, such as in cross-border disputes, it can present challenges and complexities for parties seeking compliance with court orders.

5. UNFAIRNESS OF FORUM SHOPPING

In the USA, forum shopping can lead to unequal convenience for the parties involved. If one party strategically selects a forum that is geographically closer to them or more convenient in terms of travel, it can place the other party at a disadvantage. The burden of travel expenses, logistical challenges, and potential disruptions to daily life can affect the ability of the disadvantaged party to effectively present their case. This can create an imbalance in resources and opportunities for the parties, compromising the fairness of the proceedings. Similarly, in India, when parties engage in forum shopping, it can lead to unequal convenience. If one party selects a forum that is located in their home state or a jurisdiction that is more accessible to them, it can create difficulties for the other party. The additional costs and logistical challenges associated with traveling to a distant jurisdiction can pose a significant burden on the disadvantaged party, affecting their ability to participate fully and present their case effectively.¹¹

5.1. Lack of Efficiency Ensuing from the Plaintiffs' Forum Selection:

In both India and the USA, the plaintiffs' forum selection can result in a lack of efficiency in

¹¹ Ronald A. Brand, *What's Wrong with Forum Shopping?*, 37 *Loy. L.A. L. Rev.* 452 (2003), <https://www.jstor.org/stable/23827261>.

the judicial process. Plaintiffs may engage in forum shopping, seeking jurisdictions that are known for favourable outcomes or higher damage awards. This can lead to a concentration of cases in certain jurisdictions, causing an increase in caseloads and potentially causing delays. The efficient administration of justice can be compromised when cases are concentrated in specific courts, which may not have the capacity to handle the increased workload. When plaintiffs engage in forum shopping, they strategically choose jurisdictions that are perceived to be more favourable to their case. This can create an imbalance by concentrating a significant number of cases in specific courts, potentially overwhelming their resources and capacity.¹²

The concentration of cases in particular jurisdictions due to plaintiffs' forum selection can lead to several efficiency-related challenges:

- a. *Increased Caseload:* When a large number of cases are concentrated in certain courts, it can result in a significant increase in their caseload. The courts may struggle to handle the influx of cases efficiently, leading to delays in scheduling hearings, issuing judgments, and providing timely resolution.
- b. *Backlog and Delays:* The increased caseload can contribute to a backlog of cases, as the courts may struggle to keep up with the growing number of disputes. Delays in the resolution of cases can undermine the efficiency of the judicial process and impact the timely delivery of justice.
- c. *Strain on Resources:* Courts that experience a sudden surge in cases due to plaintiffs' forum selection may face resource constraints. The courts may have limited judicial officers, staff, and infrastructure to handle the increased workload effectively. This strain on resources can further contribute to delays and inefficiencies in the resolution of cases.
- d. *Unequal Distribution of Cases:* Concentrating cases in specific jurisdictions due to forum selection can result in an unequal distribution of cases across the judicial system. Courts in other jurisdictions may have fewer cases, leading to underutilization of their resources. This imbalance can lead to inefficiencies and disparities in the administration of justice.

¹² Anthony Fitzsimmons, *Forum Shopping: A Practitioner's Perspective*, 11 *Global Jurist* 1 (2011), <https://doi.org/10.2202/1934-2640.1399>.

5.2.Lack of Uniformity of Decisions:

Both India and the USA can experience a lack of uniformity in legal decisions due to forum selection. When cases involving similar facts and legal issues are spread across multiple jurisdictions, different courts may interpret and apply the law differently. This can lead to inconsistencies in legal decisions, creating uncertainty in the legal system. Parties may face different legal standards or potential outcomes based on the forum where the case is litigated. Lack of uniformity can undermine the principle of equal treatment under the law and may result in contradictory outcomes for similar cases. Lack of uniformity in legal decisions is a significant concern in both India and the USA due to forum selection:¹³

5.2.1. India

The lack of uniformity in legal decisions can arise due to the existence of multiple high courts and lower courts across different states. Each court has its own jurisdiction and authority to interpret and apply laws. As a result, similar cases with identical facts and legal issues may receive different outcomes depending on the court in which they are litigated. This lack of uniformity can create confusion, uncertainty, and unpredictability for parties involved in legal disputes.¹⁴

5.2.2. USA

In the United States, the lack of uniformity in legal decisions is primarily attributed to the federal system and the existence of multiple state and federal courts. The federal courts and each state's court system operate independently, leading to variations in legal interpretations and outcomes. Consequently, similar cases litigated in different jurisdictions can result in conflicting decisions, leading to a lack of consistency in the application of laws. This lack of uniformity can affect businesses, individuals, and the overall functioning of the legal system.

6. INDIAN JUDICIAL STANDPOINT ON THE MATTER

6.1. Indian Performing Rights Society Ltd. v. Sanjay Dalia & Anr.

¹³ Animesh Nagvanshi, Forum Shopping: An Unethical Way to Justice in Modern Indian Judiciary, Juris Centre (July 22, 2023), <https://juriscentre.com/2023/07/22/forum-shopping-an-unethical-way-to-justice-in-modern-indian-judiciary/>.

¹⁴ Mark Moller, The Checks and Balances of Forum Shopping, Stan. L. Sch. (2008), <https://law.stanford.edu/wp-content/uploads/2018/05/moller.pdf>.

The Supreme Court emphasized the significance of selecting the appropriate venue for trademark and copyright violation proceedings in its ruling on the Indian Performing Right Society Limited's case. The appellant argued that the claimant's branch office was located in Delhi, while the claimant insisted that the entire civil action arose in Mumbai, Maharashtra, where their headquarters were also situated. The respondent objected to the lawsuit being filed in the Delhi Court and challenged the territorial authority of the high court. Both the Single Bench and Divisional Bench of the High Court supported the challenge, determining that the lawsuit should be filed in the jurisdiction of Mumbai, where the claimant's headquarters were located and the civil action took place. Subsequently, the claimant appealed against these findings to the Apex Court.¹⁵

According to the Supreme Court, sections 62 and 134 of the Copyright Act and the Trademarks Act respectively were intended to provide an additional platform for filing a lawsuit in the district court where the claimant resided, conducted business, or operated for profit. The purpose was to enable the claimant to file the lawsuit in the jurisdiction where they had a tangible presence, rather than allowing them to inconvenience the opposing party by initiating litigation in distant locations. The non-obstante clause in these sections of copyright and trademark legislation does not exclude the application of section 20 of the Civil Procedure Code (CPC). It was evident that the claimant had the option to file a lawsuit where they resided or conducted business. A claimant can sue where the defendant resides or if the civil action falls under Section 20 of the CPC. Sections 20(a) and (b) typically specify the defendant's residence, place of business, or location of individual employees working for profit. Section 20(c) of the CPC allows the claimant to file a lawsuit when the civil action arises in whole or in part. According to the Explanation appended to Section 20 CPC, a company can be considered to conduct business in India at its main or principal office or in relation to any claim for damages arising at any location where it has a subsidiary branch. Therefore, a company can be sued in the jurisdiction of its main or principal office, where the civil action arose wholly or partially, and where it has a subsidiary workplace.¹⁶

The Supreme Court held that section 62 of the Copyright Act and section 134 of the Trademarks Act must be interpreted purposively. This means that the plaintiff can initiate a lawsuit in any

¹⁵ Indian Performing Rights Soc'y Ltd. v. Sanjay Dalia, (2015) 10 S.C.C. 161 (India).

¹⁶ Aaditi Singh, Forum Shopping: Recent Trend and Analysis of Its Effect on the Legal System, 3 Jus Corpus L.J. 120 (2023).

jurisdiction where they reside, conduct business, or work for profit. It is not necessary to file the lawsuit in the jurisdiction where the defendant resides or where the civil action originated. However, if the claimant resides or conducts business in a jurisdiction where the civil action arose wholly or partially, they must file the lawsuit there. They cannot utilize section 62 of the Copyright Act and section 134 of the Trademarks Act to initiate a lawsuit in a different jurisdiction solely to harass the defendant. The Supreme Court applied the principle established in *Heydon's case* (the rules should be interpreted in a way that avoids causing mischief) to resolve the dispute. Adopting the appellant's viewpoint would allow any branch office of a corporation to bring the jurisdiction to far-flung locations for the purpose of harassing the defendant. While providing the plaintiff with legal recourse, it was essential to prevent harm to the respondent. The claimant's argument that the Delhi High Court has handled a large number of intellectual property cases in the country and therefore gained expertise in dealing with such disputes was also rejected. The jurisdiction should be determined based on relevant factors, not the convenience or expertise of the lawyers. Consequently, the Supreme Court dismissed the challenge.¹⁷

6.2. Krishna Lal Chawla v. State of U.P., (2021)

“This Court has condemned the practice of forum shopping by litigants and termed it as an abuse of law and also deciphered different categories of forum shopping.”¹⁸ The court made an observation regarding the potential consequences of allowing multiple complaints by the same party for the same incident, irrespective of whether it involves a cognizable offense or a private complaint offense. The court expressed concern that such a practice would result in the accused being burdened with numerous criminal proceedings, thereby compelling them to repeatedly surrender their liberty and valuable time before the police and courts in each case.

The bench further noted that despite this court's disapproval of forum shopping, Respondent 2 had lodged two complaints. One complaint was filed under section 156(3) of the Code of Criminal Procedure (CrPC) before the Tis Hazari Court in New Delhi, while another complaint was registered as a First Information Report (FIR) under sections 406, 420, and 120B of the Indian Penal Code (IPC) in Kolkata. This act of filing complaints in both Delhi and Kolkata

¹⁷ Animesh Nagvanshi, *Forum Shopping: An Unethical Way to Justice in Modern Indian Judiciary*, Juris Centre (July 22, 2023), <https://juriscentre.com/2023/07/22/forum-shopping-an-unethical-way-to-justice-in-modern-indian-judiciary/>.

¹⁸ *Krishna Lal Chawla v. State of Uttar Pradesh*, 2021 SCC OnLine SC 435 (India).

was seen as an abuse of the legal process.

7. SUGGESTIONS

- i.** The claimant should provide evidence to support the application of long-arm legislation, which grants the court jurisdiction over out-of-state parties. This can strengthen the claimant's ability to intervene in the case.
- ii.** If long-arm provisions are not applicable, the claimant should emphasize the relationship between the matter or respondents and the chosen court. It is advisable for the claimant to satisfy the "purposeful availment" test, which examines the extent to which the defendant has intentionally established connections with the venue.
- iii.** Alongside establishing a legal prima facie case, the claimant must demonstrate a genuine and substantial connection between the case and the selected jurisdiction. This helps validate the appropriateness of the chosen venue.
- iv.** Plaintiffs should avoid litigating unrelated issues in foreign jurisdictions to prevent the filing of frivolous cases or wasting the court's time. Engaging in such practices could ultimately undermine the claimant's objectives.
- v.** The claimant should carefully evaluate the jurisdiction's legal framework and precedents to assess the likelihood of a favourable outcome. Understanding the court's historical rulings and tendencies can help gauge the potential fairness and effectiveness of the chosen forum.
- vi.** It is important for the claimant to thoroughly research and assess the venue's legal system, including its procedural rules, judicial expertise, and efficiency. This knowledge can help the claimant anticipate any challenges or advantages associated with litigating in that particular jurisdiction.
- vii.** When selecting a forum, the claimant should take into account the practicalities and convenience for all parties involved. Considering factors such as proximity to evidence, witnesses, and legal representation can contribute to a more efficient and fair litigation process.
- viii.** Transparency and full disclosure of relevant information are crucial to maintaining the

integrity of forum selection. The claimant should provide accurate and complete details regarding the connection between the case and the chosen jurisdiction to avoid any perception of forum manipulation or abuse.

- ix. Collaborating with experienced legal counsel who possess knowledge of the selected jurisdiction can greatly assist in making informed decisions about forum selection. Attorneys with expertise in the relevant jurisdiction can provide valuable insights and guidance throughout the process.
- x. The claimant should be prepared to address any challenges or objections raised by the opposing party regarding the chosen forum. Anticipating and proactively responding to jurisdictional arguments can help strengthen the claimant's position and credibility during the litigation.

8. CONCLUSION

Forum shopping, which involves strategically selecting a favourable court or jurisdiction for litigation, has been strongly criticized and condemned by courts as an unethical practice without legal endorsement or superiority. Litigants often face a dilemma in deciding whether to approach a consumer court or their respective regulatory authority. The act of forum shopping has been regarded as deplorable and disreputable by courts. Explicit provisions addressing jurisdiction issues exist, which limit the freedom of litigants to choose their preferred forum. Forum shopping is not only prevalent in India but also in other countries. For example, in the United States, over 40% of patent lawsuits are filed in a specific Federal Court in East Texas. Similarly, Germany has a specialized German Patent Court with technically trained judges that handle all patent cases filed in the country. With technological advancements and the era of cyberspace, the principle of forum shopping has gained even more significance. Commercial transactions and the advertisement of services are no longer confined to specific regions or territories. The borderless nature of cyberspace has created uncertainty regarding the territorial jurisdiction of courts, particularly concerning the place of business and the place of cause of action. However, recent court decisions have helped bring clarity and streamline the law in this regard. It is crucial to adhere to the principle of discouraging forum shopping, as it lacks legal sanction and integrity. Allowing such practices to prevail could lead to anarchy, arbitrariness, and ultimately erode faith in the judicial system. Encouraging forum shopping is not in the best interest of maintaining a just and reliable adjudication process.