



Spl. Summary Suit No. 03/2017
CNR No.-MHPU010021352017
Hari Tulshiram Gholap etc 1 Vs.
M/s Melinkeri Construction etc

ORDER BELOW EXH. 451

1] This is an application on behalf of defendant no.4 with specific prayer that this court may kindly be pleased to call the Forensic Report from the Central Forensic Science Laboratory, Hyderabad, to verify that the copies of the newspapers both dated 17th September, 2007 produced by the parties at Exh.326 and along with list Exh.299 of Dainik Rashtratej are printed in one Printing Press by Dainik Rashtratej.

2] Application is strongly opposed on behalf of plaintiffs to the effect that whatever the prayer made in this application is no base of specific pleadings. After closure of evidence of both parties, at the behest of plaintiffs application below Exh.422 was filed for reopening of evidence and accordingly after reopening of evidence, it has examined editor of Dainik Rashtratej Umesh Tanaji Kadam and with the help of his evidence the copy of newspaper dated 17.09.2007 was came to be exhibited at Exh.434. So also, the original newspaper dated 17.09.2007 was placed on record which was also marked at Exh.326. This witness has been cross-examined on behalf of

defendant no.4.

3] Thereafter, the present application is moved on behalf of defendant no.4. Heard arguments of both parties. Perused the pleadings and certain admissions given by plaintiff's witness Umesh Tanaji Kadam, editor of Dainik Rashtratej.

4] It is also a matter of record that on behalf of defendant no.4 copy of newspaper Dainik Rashtratej dated 17.09.2007 is placed on record in which a public notice about his retirement is came to be flashed. However, witness Umesh Kadam has categorically made statement in his evidence that whatever the newspaper placed on record on behalf of defendant no.4 was never printed in his press or office. So, the time has come that the defendant no.4 wants to prove the said newspaper.

5] Para no.20 of written statement of defendant no.4 is having foundation of pleadings regarding his retirement and it is published through newspaper dated 17.09.2007. It is also a matter of record that while leading the evidence, the defendant no.4 did not prove the said newspaper.

6] It is also important to note that, there is no specific issue framed by learned predecessor of this court regarding the valid

retirement of defendant no.4 from partnership firm and it is published by way of public notice through Dainik Rashtratej.

7] However, in order to decide the real controversy between parties, in my view, such issue is also required to be answered and the parties are required to accord fair opportunity to prove their respective contentions.

8] Now question comes whether by virtue of order below Exh.422, only reopening of evidence is for plaintiffs or it is for both parties. In my view, the said order does not speak that the evidence is reopened only for plaintiffs. If intention of court is of that then definitely it should have reflected in order itself. In my opinion, fair opportunity to both parties is required to be given. Therefore, the present application needs to be allowed.

9] Again one more question is there whether prayer made by the defendant no.4 in present application can be granted particularly when newspaper placed on record by it has not been proved nor it is admitted on behalf of plaintiffs. In this connection, it is submitted on behalf of defendant no.4 that source of evidence to prove said newspaper is the editor of said newspaper i.e. Umesh Kadam. Further, unfortunately he is stated that the newspaper Dainik Rashtratej filed on behalf of defendant no.4 is on record was never printed or

published from his office. Therefore, no alternative is remained for defendant no.4 but to seek forensic report regarding printing of both newspapers. Hence, in my view, I pass the following order.

ORDER

- 1] Application is allowed.
- 2] The defendant no.4 shall take necessary steps so that the forensic report from the Central Forensic Science Laboratory, Hyderabad, to verify the copies of the newspapers dated 17.09.2007 produced by the parties at Exh.326 and along with list Exh.299 of Dainik Rashtratej were printing in one Printing Press by Dainik Rashtratej.
- 3] The bench clerk shall prepare the specific draft letter to be issued to Forensic Lab. Concern along with Exh.326 and Dainik Rashtratej filed along with list Exh.299 and hand over the same to defendant no.4 in order to give it to said Lab.
- 4] The defendant no.4 shall deposit the necessary charges of said Forensic Lab. immediately.

Date : 14.08.2024

(Sunil.G. Vedpathak)
District Judge-2, Pune.

C E R T I F I C A T E

I affirm that the contents of this P.D.F. file order are same word for word as per original order.

Name of steno	:	S. Y. Shaikh, (Stenographer Grade-I)
Name of the Court	:	Shri. Sunil G. Vedpathak District Judge-2, Pune
Date of Order	:	14.08.2024
Order signed by PO. on	:	16.08.2024
Order uploaded on	:	16.08.2024