

Title Suit no. 05/2026 (CIS 05/2026)

WB 01110

Order No. 21 dated 21.07.2026

Today is fixed for passing order relating to the temporary injunction petition filed by the plaintiff under Order XXXIX Rule 1 & 2 dated 07.04.2026.

Both parties file hazira.

Now the record is taken up for passing order.

By filing instant petition, the plaintiff prayed for issuance of temporary injunction restraining the defendant no. 1 & 2 and their agents, associates, representatives from publishing, posting, sharing, circulating or disseminating any defamatory, false or derogatory contents concerning the plaintiff through any platform including social media or broadcasting or participating in any meeting, campaign or publication targeting the plaintiff during pendency of the present suit. There is also prayer for mandatory injunction which the plaintiff did not move during the hearing.

The plaintiff's case in nutshell is that the plaintiff is a businesswoman and sole proprietor of registered firm in the name and style of M/s Richa Enterprise providing security and scavenging service in District Hospital, Kalimpong on the basis of valid tender opened by Health and Family Welfare Department, GTA, Darjeeling on and from the year 2005 till now and she is involved in active social service and commands high respect and prestige in the society. The plaintiff alleged that a systematic and targeted campaign of defamation has been published and circulated against the plaintiff by defendant no. 1 who runs one NGO in the name Kalimpong Care and by defendant no. 2 the Managing Director of KTV, an online local news channel with malafide intention due to their personal animosity against the plaintiff. In the petition the plaintiff has detailed the statement published through Facebook post along with the detailed URL mentioned in the schedule of the plaint in both Nepali and English.

The defendant nos. 1 and 2 filed their w.o. against the injunction petition filed by the plaintiff on 12.03.2026. In their w.o., the defendant has denied the allegation raised by the plaintiff the defendants have inter alia stated that though the plaintiff is claiming herself as a Social Worker commanding high respect in the society but the plaintiff herself has been forcefully and illegally occupying a plot of land in the District Hospital, Kalimpong at its premises and constructed her 3 storeyed building forcefully under L.R. Plot no. 5058 without nay

sanction of building plan from Kalimpong Municipality and she has been residing there for years and operating her agency Richa Enterprise. It is alleged that her musclemen are deputed there to see that no other vehicle is parked at the particular place of District Hospital and using some portion of parking lot as her private property. It is further stated that defendant no. 1 submitted one application dated 06.01.2026 under Right to Information Act before the Public Information Officer, Office of Land and Land Reforms, Kalimpong seeking certified copy of the Land holding in respect of Land occupied the plaintiff under Plot nos. 5056 and 5058, the Office of BL & LRO, Kalimpong supplied a certified copy of said plot no. under Khatian no. 1714 of Kalimpong Town Mouza along with the enquiry report. The copies of reply and annexures have been annexed with the w.o. Defendant no. 1 further stated that an application dated 14.07.2025 before the PIO, Kalimpong Municipality seeking information regarding sanction Blueprint approved Plan with date of approval sanction plan number and also the copy of building plan of the building of the plaintiff. In response to said letter, Kalimpong Municipality replied that the Municipality did not find the record of any building plan or any approval and impliedly it is evidence that no building plan was ever obtained by the plaintiff. The defendant no. 1 further stated that in terms of government order outsourcing of scavenging staff and security personnel in the state of West Bengal should be done through a proper publication of public notices in three newspapers and it is mandatory to have e-tender for the same and for particular year. But in case of Kalimpong Sub Divisional Hospital, now the District Hospital flouting the said Government order, the GTA is granting this contract without paper publication of tender notice to the plaintiff agency for a period three years continuously from the year 2015 till date and this is clear evidence of concerned department being in the gloves of the plaintiff. In terms of the aforesaid letter, GTA details deployed by the Agency is required to be submitted to the hospital by the Agency. In the same manner M/s Richa Enterprise of plaintiff was asked to submit man power details deployed by her through the letter of Superintendent, District hospital, Kalimpong. Such requirement was since the inspection of the system of providing scavenging staff was introduced in the hospital of the Government of West Bengal. However, no point of time plaintiff's enterprise ever submitted such mandatory details of deploy scavenging staff in the District Hospital, Kalimpong. Defendant no. 1 has obtained an application, the copy of the memo along with the acknowledgment of the same addressed to the plaintiff's enterprise but at no point of time plaintiff submitted any kind of such report to the concerned Department. The mandatory system to disburse the

wages of scavenging man power through Direct Bank Transfer in terms of memo no. HM/1H-99-2018/378 dated 12.10.2018 issued by the Director of health Services, Government of West Bengal and the said order was communicated to the plaintiff's enterprise by the Superintendent, Kalimpong District Hospital vide Memo no. 910DH/KPG/1(3) dated 07.07.2022 but at no point of time the disbursement of wages was ever being paid through Direct Bank Transfer to the man power engaged by the plaintiff's enterprise. They were paid cash amount that too much lesser than payable amount obtaining some of their signature in the Bank/blank payment sheet which clearly demonstrate the high handedness and bull dozing attitude of the plaintiff in due disregard to the Government Orders and official instruction. The time to time plaintiff's enterprise was asked to submit the staff strength of the security and scavenging personnel with list of Supervisors duly certified copy of duty roster and attendance sheet of security scavenging personnel, details of EPS deduction with supporting documents of payment of Bonus report of yearly payment of all through District Hospital, Kalimpong. The plaintiff was asked to submit EPF account slip of each worker, duty roster etc. as example of said direction. The defendants have filed two copies of memo no. issued by Superintendent of District Hospital, Kalimpong but no point of time plaintiff's enterprise ever responded to those instructions. Again vide memo no. CMOH/KPG/3512 dated 02.12.2025, the CMOH, Kalimpong issued a letter to the Plaintiff's enterprise asking her to submit relevant documents like ECI enrollment certificate, Bank details, Company profile documents for technical bids with tender id 2025 HFW8694461 but plaintiff did not bother to respond to his letter as well. Each and every worker working for not less than 30 days were required to paid bonus during the year ending 31st March. This direct had been reflected in notification No. 167-HS(MS)/HFW-15017(14)/7/2018 dated 15/09/2025 issued by the Special Secretary Government of West Bengal Department of Health and Family Welfare. the plaintiff in utter disregard to this Government orders failed to pay any amount if bonus to any of the staffs engaged through the plaintiff's enterprise. It is stated by the defendants that none of the staffs engaged by Richa Enterprise was paid EPF though each and every staff's EPF was deducted from their salary. The payment of all these benefits are pre conditions and after payment, the agency was required to submit the bills with necessary payment details but the same has not been complied with by the plaintiff. It is alleged that the plaintiff did not pay the required remunerations to the staffs as per the agreement. It is further stated that vide file no.200-HS(MS/HFW-15017)(14)/7/2018 dated 26.09.2023 issued by the Additional Secretary, Government

of West Bengal Department of Health and Family Welfare followed by memo no.167-HSS(MS/HFW-15017) (14)/7/2018 dated 15.09.2025 issued by the Special Secretary to The Government of West Bengal the payment of bonus to the contractual staffs was directed to be made to the agencies including all the government Hospital establishments @ 8.33% of the salary but the staffs engaged by the plaintiff in the District Hospital was never paid any bonus in view of the reply of the GTA to the defendant No.1 it is evident that the said bonus fund has not been released by the GTA in favour of the plaintiff enterprise which is evident that she did not submit any bill for reimbursement and thereby totally denying the rights of the staffs employed by plaintiff. It is further pleaded that in terms of the schedule of payment the scavenging personnel and security guards were due to be paid a monthly remuneration of Rupees 9,784/- after deduction of EPF, ESI, EDLI but the said personnel were paid much less than the said amount by the agency of the plaintiff. The employees engaged by Rich Enterprise were paid only Rupees 5,900/- per month and some of them Rupees 6,900/- some Rupees 6,000/- and the like and many of them were asked to sign on unfilled payment sheet. That from the affidavits sworn by some of the employees who were removed from job by the plaintiffs testify the above statement and the answering defendants have filed 14 such affidavits sworn by the removed staffs of Richa Enterprise. It is further alleged that in terms of the tendered agreement it was mandatory for the plaintiff's enterprise to submit licence under Contract Labour (Regulation and abolition Act) to the in-charge of the health facility within one month from the date for commencement of service but the plaintiff failed to submit such license. But still she continued her man power supply contract with the District Hospital Kalimpong. The failure on the part of the agency to submit such document would invalidate the contract as provided in the contract agreement but this invalidating the agreement for non submission of license is a glaring evidence of the authorities of the District Hospital Kalimpong to be in hands in gloves with the plaintiff. This is evident from the fact that on application of the defendant no. 1 had applied to the GTA with certain questions including if the plaintiff's Enterprise has obtained the mandatory license as stated above, the Executive Director, Personl & Administration, GTA vide his memo no. 51/IX5/555/H & FW/ GTA/26-27 dated 5.5.26 has clearly replied that the plaintiff's enterprise has not submitted the said license and in terms of the agreement each staff engaged by the plaintiff in terms of the contract agreement were required to be thoroughly verified with police verification and other formalities. The antecedents of security staff deployed to be verified by the

plaintiff from the local police authority and an undertaking in this regard in the form of an affidavit were required to be submitted to the department concerned. It is claimed that The plaintiff was required to observe and abide by the provisions of the Payment of Wages Act 1936, Minimum Wages Act 1948, Employees Liability Act 1938. The Workman Compensation Act 1923, Industrial Dispute Act 1947, the Equal Remuneration Act 1976, Maturity Benefits Act 1961 and other laws as applicable. The plaintiff is also required to follow the Labour Act, Minimum Wages and (Contract labour) (Regulation and abolition Act 1970), EPF etc. with regard to security personnel engaged by her. The payment of Minimum Wages was made mandatory and all these undertaking were required to be submitted by the plaintiff to the District Hospital Kalimpong but none of the required compliance to law were ever observed by the plaintiff. The plaintiff's as a agency of supply of man power was required to maintain a register of which day to day personnel would be entered and the same was required to be counter signed by the Hospital Authority but this system was not followed as the plaintiff was enjoying her free hand in the administration of the District Hospital Kalimpong and it is learnt that after the mischief committed by the plaintiff brought to the notice of the Authorities concerned. The plaintiff in connivance with the Superintendent of District Hospital Kalimpong (who in fact has already been transferred from the Hospital but still carrying out his work inside the office in defiance to the order of the transfer) and other staffs have been manufactured the required documents to suit the convenience of the plaintiff. The plaintiff was also under obligation to give an undertaking on a prescribed form duly countersigned by the authorised Hospital regarding payment of wages as per rules and laws enforced but this has also not been complied with by the plaintiff in terms of contract work. The employees engaged through the plaintiff's enterprise were mandatorily required to be paid through Direct Bank Transfer to the individual account of the employees but the employees were paid money much lesser than entitled amount and that too in cash. That it is learnt that the plaintiff after having come to know the deputations and enquiry before the Hospital Authorities the plaintiff started direct bank transfer to the employees with effect from **24.01.2025**. However, there is every suspension in the authenticity and genuineness of such bank transfer as the plaintiff is an expert in such type of setting up and management. the plaintiff was required to submit man power details deployed by her in the District Hospital, Kalimpong in form Annexure-22(ii) which was issued to her at different times including on 5.09.2024 but the plaintiff keeping an scope of manipulation of the number of

employees did not submit the man power details. But subsequently it transpires that she submitted such statement showing 94 employees with their photographs which was countersigned by the Superintendent of the Hospital but in none of the signatures there is any date mentioned in the details. Furthermore, the said details as given is on its face is suspicious and the possibility of manufacturing of the same cannot be ruled out. The defendant No.1 has obtained a list of man power details through RTI application. That the Superintendent of District Hospital Kalimpong vide memo No. 10/176/(A/2022) dated 22.02.2022 directed the plaintiff to submit information regarding the staff, strength of security of scavenging personnel, duly certified copy of duty roster, detail of EPF deduction, C1 supporting documents of yearly bonus, reports of payments of details of all. Even the GTA Executive Director vide his memo no.219(4)IX 5/ED /H&FW/GTA 19-20 dated 22.11.2019 directed the Superintendent of District Hospital Kalimpong & others for compliance of the payment regulation while executing the contract agreement. It is alleged that plaintiff had overpowered the different Departments of the District Hospital, Kalimpong and rampantly and arbitrarily showing her bulldozing attitude took various consumables from the District Hospital stores at Kalimpong on regular basis from the very beginning and in that case she unauthorisedly used such articles worth Rupees 21,90,200/- during the period March 2020 to March 2022 although she was being paid Rupees 87,000/ per month by the Health and Family Welfare Department, GTA for supply of consumables in terms of contract agreement . But The Superintendent District Hospital, Kalimpong vide memo no.911/DH/KPG dated 7.07.2022 directed the plaintiff to return the said amount to the hospital but this amount was never returned or refunded by the plaintiff to the hospital causing misuse of huge public money for her own benefit. The GTA vide memo no.49/IX-5/SSS/H&FW/GTA/2627 dated 30.04.2026 in reply to RTI application of the defendant no.1 at point no.8 it has been clearly replied that the plaintiff neither refunded the amount nor returned consumable items unauthorisedly used by her. The plaintiff was unauthorisedly occupying Kalimpong District Hospital private cabin no.17 without any permission in connivance with District Hospital Kalimpong who camouflaging the truth reported that it was reserved as a sick room for Hospital Security and Scavenging staff but to a great surprise the keys of the said rooms was under the custody of the plaintiffs and as a matter of fact there is evidence that it was purely used by the plaintiff by her own benefit. From the reply of the GTA at column no.11 it transpires the keys of the said room was released by the agency

i.e. the plaintiff's agency on March 2026 as per the instruction of the Executive Director of Health & Family Welfare Department GTA Darjeeling which makes the matter clear. It is further asserted by the defendants that a Government Hospital Quarter was also taken over by the Plaintiff under her control and custody and occupation illegally and without any authority in connivance of the Superintendent of the District Hospital Kalimpong but in reply to the RTI application of the the defendant no.1 the Superintendent District Hospital, Kalimpong has cleverly referred as the condemned quarter but he has said it is being used by M/S Richa Enterprise as store cum changing room but at no point of time the said quarter was ever been legally and procedurally handed over to the plaintiff and the whole world knows that the plaintiff took the quarter for her personal use and the Superintendent District Hospital Kalimpong is taking side of the plaintiff and is trying to give a different story to protect the illegal act of the plaintiff. It is further pleaded that in terms of the regulations of the Security Supervisor was required to be given to an ex-serviceman preferably the rank of JCO but at no point of time the plaintiff ever engaged any Army personnel, not to speak of rank of JCO as a Security Supervisor. From the manufactured document of the plaintiff in her statement of security and scavenging personnels obtained by the defendant no.1 through RTI application it transpires that the plaintiff's husband Ebenezer Lepcha serial no.58 and her daughter Eleanore Jacita Lepcha at serial no.90 have been shown as the Supervisor which is palpably in violation of the Rules but the fact remains that the husband of the plaintiff or her daughter have never been seen discharging their duties as supervisors. The defendant further submitted that the defendant no.1 as the President of Kalimpong Care submitted one petition dated 12.11.2025 to the Superintendent of the District Hospital Kalimpong under RTI Act Seeking several misinformation in respect to the procedure and the system of various areas of District Hospital Kalimpong which was duly received by the Hospital on 13.11.2025 but to the utter surprise of the defendant the Superintendent of District Hospital Kalimpong did not bother to reply to the said petition. The defendant no.1 as the President of Kalimpong Care submitted one petition dated 12.11.2025 to the Superintendent of the District Hospital Kalimpong under RTI Act seeking several misinformation in respect to the procedure and the system of various areas of District Hospital Kalimpong which was duly received by the Hospital on 13.11.2025 but to the utter surprise of the defendant the Superintendent of District Hospital Kalimpong did not bother to reply to the said petition. After having brought the anomalies in the District Hospital Kalimpong in the hands of plaintiff enterprise to the notice of

Sri. Ruden Sada Lepcha, the then MLA from Kalimpong also made a public statement confirming such anomalies. The defendants have seen such statement and also seen by many viewers which was uploaded by Gorkha Channel of Kalimpong but later it transpires that the said post was deleted by said channel perhaps out of pressure or for the best reason known to Gorkha Channel. Over and above the illegal occupation of the Hospital land by the plaintiff just in front of the District Hospital, Medical Ward Section and construction of three storied building thereon the plaintiff has also occupied a portion of the land opposite the Group A Staff quarter in the District Hospital, land and erected a wooden structure by the plaintiff forcefully and without any sanction. On much of the pressure the Superintendent of District Hospital Kalimpong wrote a letter to the CMOH of District Hospital Kalimpong vide memo no. KDH/909/2024 dated 11.06.2024 requesting the CMOH Kalimpong for urgent removal of the said encroached land. However, though the whole world knows the plaintiff herself is the encroacher but the Superintendent of District Hospital Kalimpong to protect the illegal interest of the plaintiff suppressed the name of the encroacher. Not only that the Superintendent of the Hospital instead of taking legal action to remove the said illegal structure and encroachment has shifted his responsibility to the CMOH, District Hospital, Kalimpong. The CMOH then vide a letter no. CMOH/KPG/24-25/1022 dated 11.06.2024 wrote to The District Magistrate, Kalimpong for necessary action but for no avail till date which can trace the strength of the plaintiff generated through political backup. Subsequent to such representations, the GTA made an instant preliminary enquiry and having found anomalies in the financial management Doctor Saiket Bose, The Superintendent, District Hospital, Kalimpong was transferred and so also Sri. Mahendra Pariyar the Ward Master. The Doctor Saiket Bose was transferred to another post while the Ward Master, Sri Mahendra Pariyar was withdrawn from the Health Department by the GTA and posted to Sericulture Department at Kalimpong. The defendant no. 1 had applied under RTI Act for several information before the District Hospital, Kalimpong as well as the GTA, Darjeeling and some parts of the questions were replied but some parts were not replied appropriately with the sole intention to protect the plaintiff. The defendants further stated that in reference in the matter relating to Shakti Mandir near Mela Ground Kalimpong these defendants state that the said Mandir was established sometimes in the year 1990 which was being run by the committee and constituted for worship of general Hindu community and to organise various Hindu Religious festivals under the name and style of Gorkha Sanskritik Sanagarakshan Samity. For the last twenty years the plaintiff took

over the management of the said mandir as the secretary superseding the founder members and the other devotees on her strong political backing and since then all the papers and documents including the audit report etc have been taken over by her. A Sanskrit Bidyapit was also part of the said Mandir Committee. The said Bidyapit used to run at the single storied house near the said mandir and the teaching and non-teaching staffs are funded through Panchasheel Sewa Ashram. The name of regular group D staff of this Sanskrit Bidhyapit is Sri Yadev Naipal son of Late Jai Narayan Naipal of Tari Lower Tari Gaon, Bong Busty, Kalimpong. Sri Mahesh Newpaney was/is the Pandit of Shakti Mandir under Gorkha Sanskritik Sanagrakshan Samity and he is paid salary from the Shakti Mandir. It is ridiculous to note that both Sri Yadev Naipani and Sri Mahesh Newpani who render regular service to the Bidhyapith and Shakti mandir and receive monthly salary have been shown as scavenging employees of the plaintiff at the hospital under serial no. 65 and 83 in her statement of security and scavenging personals. A meeting of Panchasheel Sewa Ashram was held on 31.03.2026 in which recorded the closure of Chatrabash (Hostel) and the high handedness of the plaintiff and the need of reopening the mandir. The defendant asserted that the plaintiff acting as a secretary, of the mandir continuously for over last twenty years has not accounted for any account collected for several programmes under her leadership and the devotees' donations contributed in the donation box of the said mandir. During her period no meeting of the mandir committee was conveyed nor any account was placed and she has been running the said mandir at her own whims and fancy and for the last many years the entrance gate of the said mandir was kept under said lock and key while the said donation box of the said mandir was found thrown below the house of the plaintiff. Having seen the condition of the said mandir the devotees and some founding members organised a meeting on 5.04.2026 where they resolve to reopen the said mandir and to request the plaintiff to handover all the papers and documents including the audit report to the new committee. This meeting also resolved to request the plaintiff to keep the mandir open throughout the day. The plaintiff was also requested to hand over the keys of the Sanskrit Bidyapit hostel as the students were unable to make use of the same, the keys been lying with the plaintiff. It is further submitted that the defendant no.1 is the President of a registered society Kalimpong Care and the object of the society is to work for the common interest of the general interest of Kalimpong and in the process when the anomalies were found in the District Hospital Kalimpong with regard to the properties of the District Hospital Kalimpong and the irregular payment of the security and scavenging

personnels engaged through the plaintiffs agency the plaintiffs society in any ways tried to request the CMOH and the Superintendent District Hospital Kalimpong to put the things in order but as the plaintiff is so much of aggressive in nature that she does not bother about the rule of law and becomes violent against anyone when such questions are raised due to which the entire administration is so scared of her that none dare to take any action against her. Furthermore, some of the officials and the staffs of the District Hospital are in hands in gloves with the plaintiff. The entire system in the District Hospital has collapsed and since the District Hospital is a Government Hospital where huge amount is funded by the government for the benefit of the poor patients of Kalimpong, the plaintiff society having failed to persuade the matter with the District Officials of the District Hospital Kalimpong, brought this issue to the notice of the public as the duty bound citizens. That the documents referred herein above are the testimonials of illegal activities in the district Hospital Kalimpong where the plaintiff is playing a major role. That from the affidavits given by the security and scavenging personnel removed from service and amply the official produce by the defendants satisfy the conduct of the plaintiffs at the cost of the employees. It is stated that only after these matters were brought to the notice of the public it has come to the notice to the defendant No.1's society and the KTV that there is some improvement in the area pointed out by the defendant's society. But the steps taken by the defendants and his society then and the defendant no.2, could not be consumed by the plaintiff and therefore she tried to stop the defendants to go further by using various methods and even by intimidating him. The defendant no.1 after having received threats lodged a complaint before the Kalimpong Police Station on 22.03.2026 which was duly acknowledged by Kalimpong Police Station vide GD entry no.1130 dated 22.03.2026 but the Kalimpong Police Station did not take any action on such complaint as it is evident that the plaintiff have strong background both in terms of muscle and money. It is further alleged that a tender for engagement of 6 security guards was called for by the Chief Medical officer of Health at the District Hospital, Kalimpong. The defendant no. 1 sought for an information under RTI Act vide his application dated 24.04.2026 to which the District Hospital, Kalimpong replied that Richa Enterprise was asked to submit some required documents which the said Enterprise could not submit. As Richa enterprise could not submit EST Enrolment Certificate, Dank Details and Company Profile documents her tender was not accepted and it was given to Das Enterprise. The strength of the plaintiff is her accumulation of her huge amount of money at the cost of the security and scavenging personnel

engaged by her and also she having strong political back up through which she has the courage to control the District Hospital Official.

It is claimed by the defendants that defendants as a duty bound citizens of this country have brought the truth to the notice of the general public who have right to know the activities of the Government Departments being the tax payers of the government and therefore the answering defendants have done no wrong as alleged but the act of the answering defendants is Bonafide and truthful and the illegal activities in the hands of the District Hospital or anywhere should be exposed for stopping repetition of the same on the one hand and to protect the general public interest. It is stated that the defendant no.1 being a registered NGO in the name an style Kalimpong Care, registered under the West Bengal Registered Societies Act 1961 and whatever maybe the act of the defendant No. 1 maybe the same is not the personal act of the defendant no. 1 but that of the society of the plaintiff as he was representing Kalimpong Care but the plaintiff has not made the Kalimpong Care Society as a party in the suit and therefore the suit is liable to fail for misjoinder of parties. It is further stated that the defendant no. 2 is a news reader of his channel KTV and therefore, it is his duty to bring the anomalies related to the Government Offices and involvement of the public money and it is his duty to bring such facts to the knowledge of the general public as the same is in the interest of the general public and therefore, this defendant has qualified privilege to disclose such facts, if at all such statements were ever assimilated through news channel. The defendants further stated that the discloser of the posts in the plaint, if at all be posted of circulated the same are based on facts and the defendants have brought such facts bonafide for public good as the involvement of the plaintiff in various illegal acts has surfaced. The Kalimpong District Hospital is a Government institution for benefit of the citizens and it is funded by the Government and the Gorkhaland Territorial Administration and the plaintiff is associated with the said hospital. The fund payable to the plaintiff is the public money collected as taxes from the citizens and therefore, the citizens have right to know the anomalies and corruption prevailing in the District Hospital, Kalimpong and the defendant no. 1 acting as the President of a registered NGO shown his courage to bring the suppressed corruption inside the hospital which he considered as his moral duty towards the general public. It is claimed by the defendants that the discloser of the posts in the plaint, if at all be posted of circulated the same are based on facts and the defendants have brought such facts bonafide for public good as the involvement of the plaintiff in various

illegal acts has surfaced. The Kalimpong District Hospital is a Government institution for benefit of the citizens and it is funded by the Government and the Gorkhaland Territorial Administration and the plaintiff is associated with the said hospital. The fund payable to the plaintiff is the public money collected as taxes from the citizens and therefore, the citizens have right to know the anomalies and corruption prevailing in the District Hospital, Kalimpong and the defendant no. 1 acting as the President of a registered NGO shown his courage to bring the suppressed corruption inside the hospital which he considered as his moral duty towards the general public. The defendants stated it is evident that the corruption in the hospital and the rule of the plaintiff consistently seen by many people many years and it is fully aware to one and all in the hospital, but no one dared to question due to the oppressive and aggressive character of the plaintiff and therefore the defendant no. 1 has acted purely for public good with an intention to stop further anomalies and corruption in the hospital in the hands of the plaintiff in connivance with some of the officials. This defendant further states that he brought all these anomalies to the authorities of the District Hospital as well as the GTA but of no avail which opened another avenue of public pressure to set the things right. The defendants prayed for rejection of injunction petition.

Submission on behalf of the Ld. Advocate for the Plaintiff/Petitioner

Ld. Advocate on behalf of the Plaintiff submitted that when the defendants have taken the plea of justification, they admitted that they have published such defamatory words against the accused person. Ld. Advocate on behalf of the plaintiff submitted that the defendants have pleaded about misconduct on the part of the plaintiff in discharging her duties but same has not been proved yet before Authority. Ld. Advocate further submitted that freedom of speech is not absolute right and the word “mafia virus” etc. are defamatory words. Such words cannot be used in plea of freedom of speech. Ld. Advocate referred the decision in Subramanian Swami vs. Union of India, Ministry of Law reported in (2016)7SCC 221 and others and Sahara India Real Estate Corporation vs. SEBI AIR 2012 SC 3829

Submission on behalf of the Ld. Advocate for the Defendants/Opposite Parties

Ld. Advocate for the Defendants on the other hand submitted that defendant no. 1 is a registered NGO and defendant no. 2 is the Managing Director of KTV and they work for the development and welfare of entire Kalimpong District and in good faith and in order of public interest, the said Authorities have brought the illegal activities and misuse of power by the plaintiff and it is the fundamental right that cannot be curtailed by way of injunction showing defamation. The Ld. Advocate further submitted that the number of documents already produced by the defendants from which it would be clear that the conduct of the Plaintiff Enterprise namely M/s Richa Enterprise warrants criticism for the public interest. Ld. Advocate further submitted that it is the fundamental principle that the person who approach the Court must come before the Court in clean hand but the plaintiff by obtaining injunction on publication regarding her illegal activities wants to suppress the voice of the defendants who are fighting for public interest. Ld. Advocate further referred the decisions reported by Hon'ble Delhi High Court in Tata Sons Limited vs. Green Peace International and others 2011 SCC Online Del 466 and San Nutrition Pvt. Ltd vs. Arpit Mangal and others 2025 SCCOnline Del 2701

Documents submitted by the Plaintiff

The following documents have been submitted by the plaintiff:

- 1) Copy of Aadhar Card.
- 2) Copy of Agreement (11 pages)
- 3) Copy of certificate of Enrollment
- 4) Copy of photograph
- 5) A letter sent by Kalimpong Care
- 6) A copy of photograph from facebook.
- 7) A copy of complaint filed by Jyoti Karkee (2 pages)
- 8) A copy of facebook post by Bikash Chettri
- 9) Another copy of facebook post by Bikash Chettri
- 10) A copy of legal notice sent to Bikash Chettri and Narendra Tamang (6 pages)
- 11) Postal receipts and Track Consignment Report (3 pages)
- 12) A copy of complaint filed at Cyber Crime P.S. (3 pages)

13) A copy of Medical prescription of Jyoti Karkee

14) A certificate under section 65B of the Indian evidence Act, 1872 read with section 63 of the Bharatiya Sashay Adhiniyam (2 pages).

Documents submitted by the Defendants

List of Documents filed by the Defendants:

1. Photocopy of an application dated 06/01/2026 under the Right to Information Act before the Public Information Officer, Office of the Land and Land Reforms Kalimpong seeking certified copy of the Land Holding in respect of the land occupied by the Plaintiff under Plot no. 5056 and 5058(Annexure “A”) 1 page.
2. Photocopy of the certified copy of the said Plot Numbers under Khatain no.1714 of Kalimpong Town Mouza (Annexure “B”) 1 page.
3. Photocopy of the Field Enquiry report in respect of a plot of land bearing Plot nos. 5056 and 5058 situated under Khatain No. 1714(L.R) of Kalimpong Town Mouza.(Annexure “C”) 1 page.
4. Photocopy of Application dated 14/07/2025 P.I.O Kalimpong Municipality. (Annexure “D”) 2 pages.
5. Photocopy of the reply to the application dated 14/07/2025 by the Kalimpong Municipality vide memo no.847/KM Dated 22/08/2025. (Annexure “E”) 1 page.
6. Photocopy of the letter of the Superintendent District Hospital Kalimpong vide Memo No.1336/KDH/2024-25/1(2) Dated 05/09/2024. (Annexure “F”) 1 page.
7. Photocopy of acknowledgement of the letter of the Superintendent District Hospital Kalimpong vide Memo No.1336/KDH/2024-25/1(2) Dated 05/09/2024 address to the Plaintiff’s enterprise. (Annexure “G”) 1 page.
8. Photocopy of the Memo No. DH/KPG dated 07 July 2022.(Annexure “H”) 1 page.
9. Photocopy of the memo no. 10/176/(A) 2022 dated 22/02/2022 issued by the Superintendent District Hospital Kalimpong (Annexure “I”) 1 page.
10. Photocopy of the memo No. 797KDH/(1)/5 dated 15 June 2022 issued by the Superintendent District Hospital Kalimpong (Annexure “J”) 1 page.

11. Photocopy of the letter of CMOH Kalimpong vide memo no. CMOH/KPG/3512 Dated 2/12/2025 issued to the Plaintiff's Enterprise (Annexure "K") 1 page.
12. Photocopy of the notification No. 167-HS(MS)/HFW-15017(14)/7/2018 dated 15/09/2025 issued by the Special Secretary Government of West Bengal Department of Health and Family Welfare.(Annexure "L").
13. Photocopy of the Letter of Government vide memo no.167-HSS(MS/HFW-15017) (14)/7/2018 dated 15.09.2025 issued by the Special Secretary to The Government of West Bengal. (Annexure "M").
14. Affidavits sworn by the removed staffs of Richa Enterprise marked as Annexure "N" To "E1".
15. Photo copy of the Letter "To the Executive Director Dept of Health nad Family Welfare, GTA , District Darjeeling dated 02/05/2026 send by the Bikash Chettri. (Annexure F1)
16. Photocopy of the reply to the letter of Bikash Chettri dated 02/05/2026 by Executive Director, Peresonl & Administration, GTA vide his memo no. 51/IX5/555/H & FW/ GTA/26-27 dated 5.5.26 (Annexure "G1").
17. Photocopy of the list of man power details of Security and Scavenging engaged in Richa Enterprise (Annexure "H1").
18. Photocopy of the Letter of the Executive Director vide Memo No. 219(4) IX5/ED/H&FW/GTA/19-20 dated 22/11/2019. (Annexure "I1")
19. Photocopy of the Letter of The Superintendent District Hospital, Kalimpong vide memo no.911/DH/KPG dated 7.07.2022 sent to the Proprietor M/S Richa Enterprises directed to refund the amount of Rs. 21,90,200/-. (Annexure " J1")
20. Photocopy of reply to RTI application of the Bikash Chettri by The GTA vide memo no.49/IX-5/SSS/H&FW/GTA/2627 dated 30.04.2026. (Annexure "K1")
21. Photocopy of the petition dated 12/11/2025 filed by the Bikash Chettri President of Kalimpong Care before The Superintendent of the District Hospital Kalimpong under RTI Act (Annexure "L1").
22. Photocopy of the letter by Office of the Superintendent Kalimpong District Hospital vide Memo No. . KDH/909/2024 dated 11.06.2024 address to the CMOH of District Hospital Kalimpong for urgent removal of the said encroached land.(Annexure "M1").
23. Photocopy of the letter of CMOH vide a letter no. CMOH/KPG/24-25/1022 dated 11.06.2024 address to District Magistrate, Kalimpong. (Annexure "N1").

24. Photocopy of the transfer order of the Superintendent of District Hospital, Kalimpong issued vide memo no. CMOH/KPG/4462/2025-26 dated 17.03.2026. (Annexure “O1”)
25. Photocopy of the Transfer order of the Ward Master, Sri Mahendra Pariyar issued vide Or. No, 512 dated 19.03.2026. (Annexure “P1”).
26. Photocopy of the certificate in regard to the appointment and service of Yadav Naipa . (Annexure “Q1”).
27. Photocopy of the resolution of Panchasheel Sewa Ashram dated 31/03/2026. (Annexure “R1”)
28. Photocopy of the resolution of Gorkha Sanskriti Sangrashkan Samity dated 05.04.2026 9Annexure “S1”)
29. Photocopy of the complaint lodge by Bikash Chettri before the Kalimpong Police Station on 22.03.2026 which was duly acknowledged by Kalimpong Police Station vide GD entry no.1130 dated 22.03.2026 Annexure “T1”.
30. Photocopy of RTI application dated 24.04.2026, letter of CMOH, Superintendent of District Hospital and tender notice collectively. {Annexure “U1” (18 pages)}.
31. Photocopy of the registration certificate of Kalimpong Care (Annexure “V1”).
32. Photocopy of pass book of Sri Yadev Naipany (Annexure “W1”).
33. Photocopy of RTI Application dated 28.04.2026 and the reply of the GTA dated 30.04.2026 (three pages) (Annexure “X1”)
34. Photographs of the building of Mrs Jyoti Karki along with the certificate under section 63 of The Bharatiya Sakshya Adhiniyam, 2023. (Annexure “Y1”) (Annexure Y2)
35. Termination letter

Decision with Reasons

In the instant case, Plaintiff has filed for damages for defamation along with the prayer for permanent and mandatory injunction. The plaintiff’s claim is that she is working under a valid agreement entered in between the District Hospital Authority and her enterprise for providing service specifically mentioned therein in the agreement. The plaintiff has produced the copy of such documents for the period of 1st August, 2026 till 31st July, 2026 along with the certificate of enrollment of Richa Enterprise and claimed that plaintiff being

supplier of scavenging staff under a valid agreement performing her duty but the defendant no. 1 & 2 with ulterior motive of defaming her publishing the defamatory statement details of which mentioned in the plaint.

The defendants on the other hand in support of series of document claim that there is reasonable justification of their criticism over Social media to draw the attention of public about the alleged activity on part of Richa Enterprise, details of which submitted supported by the documents and lastly the defendants have produced the document of notice of termination issued by Office of Superintendent of District Hospital, Kalimpong dated 25.05.2026 submitted during the pendency of instant petition. It is pleaded that being a registered NGO and local News Channel, they owe duty towards the public to bring into the notice of any unauthorised act and same is guaranteed under article 19 of the Constitution of India. The instant case fall under the arena of Civil defamation where the following defences are available:

- i) Truth (justification): i.e. the statement is substantially true.
- ii) Fair comments: i.e. honest expression of opinion on the matter of public interest provided they are based on true facts and made without malice.
- iii) Qualified privilege: which protects the statement made in discharge of legal, social or oral duty provided there is no malicious intent
- iv) Consent.

It is the interlocutory stage and in considering the petition for injunction, the Court has to satisfy that there is a prima facie case, there is existence of balance of convenience and inconvenience and the ingredients of irreparable losses and injury.

*The law relating Civil defamation has originated in English Court. The rule takes its name from **Bonnard v. Perryman [1891] 2 Ch 269 (CA)**, in which the English Court of Appeal held that a court should not, save in the clearest of cases, restrain publication of an allegedly defamatory statement before trial where the defendant states an intention to justify it (i.e., to plead truth). The Court of Appeal reasoned that the right of free speech is one which it is in the public interest that individuals should possess and exercise without impediment, so long as no wrongful act is done; and that until it is clear an alleged libel is untrue, it cannot be said that any right has been infringed at all.*

*Indian courts, following **Bonnard** and its English successors (notably **Fraser v. Evans** [1969] 1 All ER 8, and the later Court of Appeal restatement in **Holley v. Smyth**), have consistently held that:*

- *An interlocutory injunction will be refused where the defendant pleads an intention to justify (prove truth), unless it is prima facie clear that the defence of justification has no real prospect of succeeding at trial.*
- *The plaintiff carries a heavy burden: to show that the statement is patently false, that there is no sustainable defence of truth, fair comment or privilege, and, generally, that the defendant acted with malice.*
- *Courts must avoid resolving disputed questions of fact — including the truth of the imputation — on affidavit evidence at the interlocutory stage; those questions are for trial.*
- *The threshold for restraining speech before trial is deliberately set higher than the ordinary Order XXXIX, CPC test of prima facie case, balance of convenience and irreparable injury — the **Bonnard** principle operates as an additional, free-speech-specific constraint layered on top of that ordinary test.*

*In the case of **Khushwant Singh and another versus Maneka Gandhi** reported in 2001 SCC OnLine Del 1030 the author Khushwant Singh sought to publish his autobiography, “Truth, Love and a Little Malice”, which contained a chapter titled “Gandhis and Anands” referring to Maneka Gandhi's personal life, including her relationship with the Gandhi family after the death of Sanjay Gandhi. Maneka Gandhi obtained an ad-interim ex parte injunction from a Single Judge in December 1995 restraining publication. Singh appealed. The Hon’ble Delhi High Court's Division Bench vacated the injunction and permitted publication of the autobiography after a delay of nearly six years. The Court accepted that Singh had unambiguously pleaded justification — asserting in his application that what he had written about Maneka Gandhi “is correct and the truth of the statement will be justified at the trial.” Applying the **Bonnard** line of authority, the Bench held that where a defendant unequivocally intends to plead and defend truth, an interlocutory*

injunction restraining publication should ordinarily be refused, leaving the question of truth or falsity to be tried on evidence rather than pre-empted on affidavits. The Court also took into account that much of the material had already appeared in earlier publications and that the respondent had herself, at an earlier point, been an active participant in public commentary on the same family disputes — a fact going to the balance of convenience.

This decision is widely regarded as the foundational Indian authority squarely importing the Bonnard rule into Indian defamation practice, and it has been repeatedly followed — including, as discussed below, in Naveen Jindal v. Zee Media reported in 2015 SCC OnLine Del 7810— as binding Division Bench precedent within the Delhi High Court.

Tharoor decision is the most recent demonstrates the continued vitality of the Bonnard principle in the era of 24-hour television news and “trial by media”, while also showing that courts retain equitable tools — undertakings, directions to exercise restraint — that fall short of, and are preferred to, an outright pre-publication injunction.

In case of Dr. Shashi Tharoor Versus Arnab Goswami and Anr reported in 2017 SCC OnLine Del 12049 Following the death of Sunanda Pushkar in January 2014 and the subsequent, prolonged criminal investigation, Congress MP Dr. Shashi Tharoor sued journalist Arnab Goswami and his television channel for defamation and sought a permanent and interim injunction restraining further broadcasts implying his involvement in his wife's death — broadcasts that included remarks such as an assertion that “the person trying to throttle her... is Shashi Tharoor” and a challenge to the plaintiff to “come on, face me you coward.” Tharoor argued that no chargesheet had been filed and that he had not even been named a suspect by the investigating authority, so that the reportage amounted to a media-driven pre-judgment of a matter still sub judice.

*Hon'ble Delhi High court declined to grant the interim injunction, holding — prima facie, and without finally determining the truth of the allegations — that the reportage constituted a case of legitimate investigative journalism, noting pointedly that more than three-and-a-half years after the death of a person who was the wife of a then sitting Union Minister, no charge sheet had yet been filed. Consistently with the Bonnard line, the Court declined to gag the broadcaster's ongoing reportage in the absence of a clear showing that no sustainable defence existed, while nonetheless **Bonnard v. Perryman [1891] 2 Ch 269 (CA)** directing the anchor to be bound by his own undertaking to the Court to show greater restraint and to bring down the rhetoric of the coverage — an illustration of courts using case-management and undertakings, short of a full injunction, to moderate excess without engaging in prior restraint.*

Although , in the instant case existence of any criminal case against the plaintiff has come to record.

*Both the cases referred by Ld Cases referred by the Ld Advocate on behalf of the defendants i.e., **Tata Sons Limited vs. Green Peace International and others 2011 SCC Online Del 466** and **San Nutrition Pvt. Ltd vs. Arpit Mangal and others 2025 SCCOnline Del 2701** Hon'ble Delhi High Court applied the principle of **Bonnard v. Perryman [1891] 2 Ch 269 (CA)** and found sustainable and applicable in facts and circumstance of instant case.*

*In the case of **Tata Sons Limited (Supra)** it had been alleged that Greenpeace used the modified TATA trademark and logo to protest a port joint venture in Odisha, claiming the project threatened the nesting habitats of endangered Olive Ridley turtles. Petitioner claimed that the game amounted to trademark infringement, brand dilution, and defamation, seeking permanent injunctions and damages.*

While deciding the case Hon'ble Delhi High Court concluded :

“ the Court notes that the rule in Bonnard is as applicable in regulating grant of injunctions in claims against defamation, as it was when the judgment was rendered more than a century ago. This is because the Courts, the world over, have set a great value to free speech and its salutary catalyzing effect on public debate and discussion on issues that concern people at large. The issue, which the defendant's game seeks to address, is

also one of public concern. The Court cannot also sit in value judgment over the medium (of expression) chosen by the defendant since in a democracy, speech can include forms such as caricature, lampoon, mime parody and other manifestations of wit. The defendant may - or may not be able to establish that there is underlying truth in the criticism of the Dhamra Port Project, and the plaintiff's involvement in it. Yet, at this stage, the materials on record do not reveal that the only exception - a libel based on falsehood, which cannot be proven otherwise during the trial-applies in this case. Therefore, the Court is of opinion that granting an injunction would freeze the entire public debate on the effect of the port project on the Olive Ridley turtles' habitat. That, plainly would not be in public interest; it would most certainly be contrary to established principles. To recall the words of Walter Lippman

“The theory of the free press is not that the truth will be presented completely or perfectly in any one instance, but that the truth will emerge from free discussion”

In the case of San Nutrition Pvt. Ltd vs. Arpit Mangal and others 2025 SCCOnline Del 2701 Hin’ble Delhi High Court ruled in favor of social media fitness influencers, establishing a strong precedent that shields content creators who post evidence-backed, critical product reviews in the public interest. In this case San Nutrition sought a permanent injunction against the influencers accusing them of trademark infringement, defamation, commercial disparagement, and unfair trade practices.

While deciding the matter in issue relating to grant of interim Injunction the Hon’ble Delhi High Court observed the following:

“112. In view of the discussion above, the plaintiff has failed to show that the defences of ‘truth’ and ‘fair comment’ put up by the defendants are palpably false and/or are bound to fail at the stage of trial. On a prima facie view, the plaintiff has also failed to make out a case for disparagement against the defendants as it cannot be said that the contents of the impugned videos are false or misleading or have been made in a malicious manner with an objective to cause damage or injury to the plaintiff.

113. Therefore, applying the Bonnard principle as approved by the judgments of the Supreme Court as well as this Court, the plaintiff has failed to make out a prima facie case for grant of interim injunction against the defendants and the statements made by the defendants would be entitled to protection of free speech.

114. The plaintiff has also not been able to establish a prima facie case for infringement of trade marks/copyright against the defendants.

115. The balance of convenience would also be in favour of the defendants and granting an interim injunction would be to their prejudice as it would

result in putting fetters on their right to freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution and would also deprive the right of the public at large to receive information on matters of health.

116. Accordingly, the plaintiff's application for interim injunction is dismissed."

On the other hand the judgement referred by the Ld. Advocate on behalf of the plaintiff Subramanian Swami vs. Union of India, Ministry of Law reported in (2016)7SCC 221 and others and Sahara India Real Estate Corporation vs. SEBI AIR 2012 SC 3829 are not applicable in facts and circumstances of the instant case inasmuch as first one related to case of Criminal Defamation and the later is not a case under defamation either Civil or Criminal.

In the instant case, before this court the prima facie documents, in bulk, produced by the defendants being a registered NGO and Local news channel which pointing out something so obvious that can not be ignored in light of the principle of Bonnard v. Perryman [1891] 2 Ch 269 (CA) adopted and followed by Indian courts in aforesaid decisions and therefore there is no hesitation to hold that plaintiff failed to show that defence of 'truth', 'fair comment' 'qualified privilege' as placed by the defendants are tangibly false because most of the documents were collected from the Government authorities on the basis of RTI. Therefore, balance of convenience and inconvenience is tilted in favour of the defendants and granting injunction would cause prejudice to the defendants as it would result in putting fetters on their right to freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution of India and would deprive the right of the public at large to receive information on the matter which they should be aware of specially being residents of the District of Kalimpong.

On basis of above observation, this Court is not inclined to allow the injunction petition filed by the plaintiff on 07.04.2026.

Hence, it is

ORDERED

that the petition filed by the plaintiff under Order XXXIX Rule 1 & 2 read with section 151 of Code of Civil Procedure is **rejected on contest** and disposed of accordingly.

Fix **25.08.2026** for hearing of the petition filed by the defendants u/s 215 of BNSS. Objection if any, in the meantime.

D/c by me:

-S/d-

CJSD, KPG

-S/d-

Civil Judge (Senior Divn.),

Kalimpong.