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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 720/2022**
M/S VATIKA LIMITED Plaintiff

Through: Mr. Sanjeev Kr. Dubey, Sr.
Advocate with Ms. Niharika
Dubey, Mr. Avijit Dikshit,
Advocates (Ph.9650481199,
(e-mail:dubey.niharika24@gmail.com)

versus

MR. RAVI LUTHRA & ORS. Defendants
Through: Mr. Neeraj Grover and
Ms. Ayushi Chandra,
Advocates for defendants
(e-mail: groverindia@outlook.com).

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

% **ORDER**
22.11.2022

[Physical Hearing/ Hybrid Hearing]

IA No.19250/2022

1. The present application has been filed on behalf of the plaintiff seeking exemption from filing certified/legible copies of the original documents.
2. Plaintiff is directed to cure the defects within four weeks.
3. Recording the plaintiff's undertaking that the inspection of original documents shall be given, if demanded, or that the original documents shall be filed prior to the stage of admission/denial, the



exemption is allowed.

4. The present application stands disposed of.

I.A.19251/2022

5. This is an application filed on behalf of plaintiff under Order II Rule 2 of the CPC.

6. Issue notice.

7. Reply be filed within four weeks. Rejoinder thereto, if any, be filed within two weeks thereafter.

I.A.19249/2022

8. This is an application under Order 39 Rules 1 & 2 CPC read with Section 151 CPC filed on behalf of the plaintiff.

9. The present suit has been filed by the plaintiff for permanent injunction, mandatory injunction and consequential damages in lieu of defamation. It is submitted that the defendants have made defamatory and derogatory statements against the plaintiff to malign the goodwill and reputation of the plaintiff in respect of its established goodwill, reputation and credit worthiness in the construction industry. It is submitted that the defendant had invested in a commercial project being undertaken by the plaintiff in the name of “Vatika INXT High Street”(hereinafter “project”) located at Section – 83, Gurugram. The defendant No.1 booked Shop No.71 at the ground floor vide application dated 21.06.2017. The defendant No.1 was allotted the shop No.71 vide allotment letter dated 25.06.2017.

10. It is the case of the plaintiff that the said project comprises of various schemes, facilitating the prospective/ intending buyers. Under the said project, the intending buyers had the option to opt for various



schemes for purchase of the units, which included 'Assured Return'. Defendant No.1 opted for the scheme of 'Assured Return'.

11. According to the said application, the assured return which the plaintiff was to give was on the lumpsum deposit of the defendant No.1. Thus, it is submitted that an amount of Rs.1,24,46,500/- was deposited by the defendant No.1 with the plaintiff. Thus, it is submitted that in the light of the aforesaid plan opted by the defendant No.1, the plaintiff started remitting assured returns payment to the defendant No.1 with effect from 28.06.2017. It is submitted that the plaintiff diligently made the assured return payment to the defendant No.1 till 08.10.2018.

12. Subsequently, the Parliament introduced a Bill in July, 2018 banning the unregulated deposit scheme which as per the plaintiff also included 'Assured Return Scheme'. Subsequently, 'Banning of Unregulated Deposit Schemes Act, 2019' was enacted and came into effect on 21.02.2020. Thus, it is the case of the plaintiff that subsequent to the aforesaid Act of 2019, the plaintiff took a legal opinion from a retired Supreme Court Judge. Thus, in view thereof the plaintiff came to know that all unregulated deposit schemes including the assured return schemes have been banned. Further, any violation of the aforesaid Act would attract prosecution and serious penalties. Thus, it is submitted that by e-mail communication dated 30.11.2018, which was a general offer to all the investors, the plaintiff apprised all the allottees of the project regarding the new legal and regulatory changes. The plaintiff communicated its decision of not selling any further units in the project under 'Assured Returns



Scheme’. Further, the plaintiff in order to reinforce its commitments to its consumers and investors, offered various options to its existing allottees/investors who had invested in the ‘Assured Returns Scheme’ prior to the enactment of the Act of 2019.

13. Thus, it is the case of the plaintiff that the plaintiff offered various options including shifting the investment to any other project of the plaintiff or complete refund of entire amount paid, without any deductions whatsoever. The plaintiff further offered to investors that any allottees who were keen to receive assured returns, the entire investment could be shifted to another project of the plaintiff, which was registered with SEBI, which can offer quarterly returns with a fixed tenure.

14. It is the case of the plaintiff that the plaintiff initiated talks with all the buyers who had invested in the project under the ‘Assured Returns Plan’ including the defendant No.1 in order to offer such buyers alternate options to safeguard their investments. Such offers were made and as per the plaintiff, 33 such investors have already settled/accepted alternate offers of the plaintiff.

15. Learned senior counsel appearing on behalf of the plaintiff submits that the defendant No.1 in order to harass the plaintiff and extract more money in lieu of his investment, rejected all the offers made by the plaintiff to its various investors. Thus, it is submitted that the plaintiff had no other option but to cancel the allotment of unit of defendant No.1 and offer to refund entire money paid by defendant No.1 without any deduction whatsoever.

16. It is the case of the plaintiff that the defendant No.1 had already



received assured returns totalling to approximately Rs.29 lacs on depositing of Rs.1 crore by the defendant No.1 within a period of 16 months. Thus, it is submitted that defendant No.1 has already received returns to the tune of around 30% on the amount invested by the defendant No.1. Since the defendant No.1 did not return any original documents and also did not accept the said cancellation, thus, the plaintiff could not process the refund of the defendant No.1.

17. Learned senior counsel for the plaintiff submits that the defendant No.1 has started a malicious campaign to defame the plaintiff in the eyes of the investors of the plaintiff. Thus the defendant No.1 started disseminating false, unsubstantiated, baseless, disparaging, derogatory and defamatory information about the plaintiff in the WhatsApp groups.

18. It is the case of the plaintiff that the plaintiff was approached by its various investors to seek clarifications after reading the insinuations as submitted by the defendant No.1. Thus, the plaintiff became aware of the said act of the defendant No.1 with respect to disseminating false information against the plaintiff in the WhatsApp groups.

19. Learned senior counsel appearing for the plaintiff has drawn the attention of this Court to the various WhatsApp chats wherein allegations had been made that there are similarities between the plaintiff group and another construction group against which Enforcement Directorate has initiated proceedings. In the various chats, there are allegations of abuse and cheating against the plaintiff. The WhatsApp chats are to the effect that the plaintiff is among the



top ten defaulters and that there is huge amount of loan taken by the plaintiff. The WhatsApp chats as shown to this Court are also to the effect that the Income Tax Department has already unearthed various documents against the rival construction companies against whom the ED proceedings are going on and that the Income Tax Department can unearth various documents against the plaintiff also. The WhatsApp chats are also to the effect that ED is after the plaintiff and that the properties of plaintiff can also be attached by ED. The WhatsApp chats are also to the effect that the plaintiff has cheated large number of investors and that it has not obtained any fresh occupation certificate.

20. Learned senior counsel for the plaintiff submits that the said statements as made in the WhatsApp groups are false. This Court has been shown the various documents on record which are occupation certificates issued in favour of the plaintiff company with respect to the various projects that are being undertaken by the plaintiff company.

21. Learned counsel appears on advance notice for defendant nos.1 and 2. He at the outset raises strong objections to the various submissions made on behalf of the plaintiff. It is the contention on behalf of the defendants that the defendants have formed a registered society and that the defendant no.1 is a lawful member of the society. He submits that defendant No.1 is the elected President of the said society which had approximately 150 members. He, thus, submits that the WhatsApp messages which are being circulated are in a closed group consisting of 150 people. Learned counsel appearing for



the defendant nos.1 and 2 submits that four FIRs have been registered against the plaintiff with Economic Offences Wing (EOW), Delhi. He further submits that the said FIRs were registered by EOW after due preliminary enquiry by the EOW. He further submits that the Directors and other officials of the plaintiff company have also been asked by the ED to join the investigation.

22. Learned counsel for the defendant nos.1 and 2 further submits that insolvency proceedings are going on before the NCLT, Chandigarh against the plaintiff having been initiated by defendant No.1 and 2. It is submitted that the said petition in NCLT, Chandigarh is listed for hearing on 24.11.2022.

23. Learned counsel further submits that a consumer complaint has been filed on behalf of defendant No.1 which is pending before the National Consumer Disputes Redressal Commission (NCRDC). He further submits that two writ petitions have also been filed by defendant No.2 association in Punjab & Haryana High Court with respect to the project in question. He submits that two complaints have been made by defendant No.2 association with RERA Haryana. He submits that all these material information has been concealed by the plaintiff in the present plaint. He further submits that the occupation certificates as relied upon by the plaintiff, pertain to residential projects, whereas the project in question is a commercial project.

24. Learned counsel appearing for defendant Nos.1 and 2 submits that there is a phone recording in their possession to the effect that Rs.3 crores was offered to the defendant No.1. He further submits



that Rs.3 crore is the amount which is due and payable to the defendant No.1 even otherwise.

25. Learned counsel for defendant Nos.1 and 2 submits that the plaintiff had delivered a settlement document to the defendant No.1 asking defendant No.1 to take Rs.3 crore and in lieu thereof resign from the post of President of the defendant No.2 association. He submits that there are communications amongst the closed group of WhatsApp group members who are members of the defendant No.2 associations and that there are communications by other members also. He also submits that defendant No.1 being the President of defendant No.2 association is being targeted alone.

26. It is further submitted on behalf of the defendants that the plaintiff has attached only six WhatsApp chats along with the present plaint, whereas the WhatsApp group is four years old. He further submits that the WhatsApp chats that have been attached along with the present complaint are starting from the year 2021. He further submits that there is no urgency and no ground has been made out for granting any ad interim injunction to the plaintiff. He submits that the present suit was initially filed on 29.10.2022. The documents that have been filed in the present suit have been attested on 18.10.2022 and that the court fee that has been filed in the present plaint has been procured on 19.10.2022. Thus, it is submitted that there is no urgency.

27. Considering the documents shown to this Court and the submissions made by both the parties, it is considered appropriate that directions are issued to defendant nos.1 and 2 not to circulate any



messages in WhatsApp/social media, related to the project, which are unsubstantiated. At this stage, learned counsel for defendant nos.1 and 2, on instructions, submits that defendant nos.1 and 2 will exercise self restraint and shall not circulate any WhatsApp chats without substantiating and verifying the information as such. Defendant No.1 further submits that all the information as contained in the WhatsApp chats are true and on the basis of verified and substantiated information. The said statements on behalf of the defendant nos.1 and 2 are taken on record.

28. Issue notice.

29. Let reply be filed within four weeks. Rejoinder if any, be filed within two weeks thereafter.

30. It is clarified that this order will not prejudice any other pending proceedings between the parties.

31. List before the Joint Registrar on 10.01.2023.

MINI PUSHKARNA, J

NOVEMBER 22, 2022

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This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 14/06/2026 at 15:14:08