

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT (L) NO.32669 OF 2023
WITH
INTERIM APPLICATION (L) NO.32673 OF 2023

Prashant Mehta & Anr.

.. Plaintiffs

Versus

K. Ashar & Co. Advocate & Solicitors
& Ors.

.. Defendants

...

Mr.Devashish Trivedi with Garvit Khandelwal, Parth Patel,
Vineet Sheth i/b Mohammed Asim and Adeeba Khan for the
Plaintiffs.

Mr.Aakash Sinha i/b Satyan Israni for the Defendant Nos.1 to
5.

Ms.Noopur Mathrawala i/b MZM Legal LLP for the Defendant
Nos.13 and 17.

...

CORAM: BHARATI DANGRE, J.

DATED : 19th DECEMBER, 2023

P.C:-

1. Heard the learned counsel for the Plaintiff/Applicant, who has filed the suit seeking declaration, injunction and damages against the Defendants in respect of several defamatory articles and/or newsletters/publications. It is claimed in the plaint that the aforesaid publication is defamatory in nature and contain misleading information provided by Defendant Nos.13 to 19 at the behest of Defendant Nos.1 to 12 against the Plaintiffs.

Interim Application (L) No.32673 of 2023, seeks the following reliefs, apart from relief of attachment of the immovable properties of the Defendant Nos.13 to 19.

“(a) direct the Defendants to withdraw/recall all defamatory materials including but not limited to newspaper articles and other letters, pleadings, and public statements they may have published, posted, circulated or shared;

(b) restrain the Defendants, either through themselves or through their agents, servants, representatives, assigns, friends, well-wishers etc. from publicly issuing, disseminating, circulating, communicating and publishing, in any manner, any disparaging, defamatory or accusatory statements against the Plaintiffs, their affiliates and their personnel, at any place, forum or social media;

(c) direct the Defendants to forthwith remove, delete and/or destroy the defamatory content and any other content/post which is defamatory, disparaging, malicious and denigrating from all places and forums.”

2. Defendants Nos.1 to 5, on being served, are represented by Mr.Satyan Israni, who seeks time to file reply affidavit.

The affidavit of service tendered on record, being affirmed on 16/12/2023 by the Clerk of the Plaintiffs, reflect that Defendant Nos.1 to 5 are served with the copy of the plaint and the interim application.

As far as Defendant Nos.13 to 19 are concerned, they are also shown to have been served with the copy of the plaint alongwith the interim application and Exh.D is purported to be the acknowledgment of the receipt on their behalf on 27/11/2023. However, there is no other endorsement as to who has received the said documents and whether they are handed over to Defendant Nos.13 to 19.

Defendant Nos.20 to 27 are served with the notice via E-mail.

The affidavit of service is taken on record.

3. Defendant Nos.1 to 5 have marked their appearance through the counsel. As far as Defendant Nos.13 and 17 are concerned, the learned counsel Ms. Noopur Mathrawala marked her appearance, by filing vakalatnama and she seeks an accommodation, so as to enable her to file the reply affidavit to the interim application.

Before the prayer for ad-interim relief sought in the application is considered, since it is the allegation that at the instance of Defendant Nos.13 to 19, the articles are published and since it is doubtful, whether they have received the notice of the suit and the interim application, I deem it appropriate to issue notice to the other Defendants.

4. Hence, issue notice to the unserved Defendants on the address indicated in the cause title of the plaint, making it returnable on 18/01/2024.

Hamdast granted.

The notice is also permitted to be served through private notice.

5. The Defendants, who have been served and marked their appearance through their counsel, shall file their reply affidavits on or before the returnable date, with an advance copy of the same being served on the other side.

(SMT. BHARATI DANGRE, J.)