

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

SUIT NO. 156 OF 2024

PRASHANT MEHTA)...PLAINTIFF

V/s.

**K. ASHAR AND CO. ADVOCATES AND)
SOLICITORS)...DEFENDANTS**

**WITH
INTERIM APPLICATION NO. 1406 OF 2025
WITH
INTERIM APPLICATION NO. 3238 OF 2024
WITH
INTERIM APPLICATION (L) NO. 28394 OF 2024
WITH
INTERIM APPLICATION (L) NO. 27406 OF 2024
WITH
INTERIM APPLICATION (L) NO. 32673 OF 2023
WITH
INTERIM APPLICATION NO. 1860 OF 2024
IN
SUIT NO. 156 OF 2024**

Mr.Devashish Trivedi a/w. Mr. Monish Bhatia, Ms.Minal Chandnani,
Advocate for the Plaintiff and for the Applicant in IAL/32673/2023.

Mr.Kevik Setalwad, Senior Advocate a/w. Mr.Dharam Jumani, Ms.Prapti
Kedia, Mr.Rushikesh Dusane, Ms.Neha Rautela i/by Atama Law
Associates, Advocate for the Defendant no.6 – HDFC Bank.

Mr.Amey Gokhale, through video conferencing, a/w. Ms.Kriti Kalyani,
Mr.Chintan Gandhi and Ms.Diva Shukala i/by Shardul Amarchand
Mangaldas & Co., Advocate for the Defendants no.7 to 10 and for the
Applicant in IA/3238/2024.

Mr.Ayush Tiwari i/by Mr.Shekhar Bhagat, Advocate for the proposed
Defendant no.29 in IA/2192/2024.

Mr.Arshad Shaikh, Senior Advocate a/w. Mr.Aditya Udeshi and Mr.Rahul Sanghvi i/by Mr.Sanjay Udeshi & Co., Advocate for the Defendant no. 19 and for the Applicant in IA/1406/2025.

CORAM : ABHAY AHUJA, J.

DATE : 9th APRIL 2025

PC. :

INTERIM APPLICATION (L) NO. 1860 OF 2024

1. Pursuant to order dated 12th March 2025, today when the matter is called out, at the outset, Mr.Trivedi submits that the said application has been served on the proposed Defendants no.28 and 29 and tenders across the bar affidavit of service dated 8th April 2025 which indicates that service of the said application has been effected on Google India Private Limited i.e. the proposed Defendant no.28 as well as on X Corp i.e. the proposed Defendant no.29 respectively on 18th March 2025 and 17th March 2025.

2. Mr.Ayush Tiwari, learned Counsel, appears for the proposed Defendant no.29 and submits that copy of the Interim Application had been received by the Bangalore office, however, since reply has to be filed, a copy of the plaint would also be necessary as the same was not served along with the Interim Application.

3. Let a true copy of the plaint be served not only upon the proposed Defendant no. 29 who is represented in Court today, but also on the proposed Respondent no.28 within a period of one week and an appropriate affidavit of service be filed in this Court.

4. Let reply to the application be filed by the proposed Defendants within a period of two weeks on receipt of a true copy of the plaint, with copy to the other side. Rejoinder, in a week thereafter, with copy to the other side.

5. Let objections also be removed by the next date, failing which, the Interim Application to stand dismissed without further reference to the Court.

INTERIM APPLICATION NO. 1406 OF 2025

6. This Interim Application has been filed by the Defendant no. 19 seeking to strike out the name of the said Defendant no. 19 as a party to the Suit on the ground that he has been improperly joined under Order I Rule 10 of the Code of Civil Procedure, 1908 ("CPC").

7. Mr.Arshad Shaikh, learned Senior Counsel, submits that despite service of this application to the Respondents, no reply has been filed till date. Mr.Shaikh submits that the Plaintiff is the main contesting party and that although the Plaintiff has also received the said application, no reply has been filed till date.

8. Mr.Trivedi, learned Counsel, appearing for the Plaintiff submits that one week's time be granted to file reply to this application, however, submitting that the Plaintiff's application being Interim Application (Lodging) No.32673 of 2023 which has been filed seeking interim injunction in the matter be heard first as the defamation continues day to day. In support, Mr.Trivedi has tendered before this Court a decision of the Hon'ble Supreme Court in the case of ***Asma Lateef and Another vs. Shabbir Ahmad and Others***¹ and draws this Court's attention to paragraph 50 to submit that if an extra ordinary situation arises where it could take time to decide the point of maintainability of the Suit and non-grant of protection pro-tem pending such decision could lead to irreversible consequences, the Court may proceed to make an appropriate order in the manner that has been indicated in the said judgment justifying the course of action it adopts,

1 (2024) 4 Supreme Court Cases 696

to avoid irreparable harm or injury or undue hardship to the party claiming the relief and/or to ensure that the proceedings are not rendered infructuous by reason of non-interference by the Court.

9. Mr.Amey Gokhale, learned Counsel, appearing through video conferencing for the Defendants no.7 to 10, which is the board of the Defendant no.6, submits that there is no urgency in the matter, in as much as, the Suit and the said application have been filed in the year 2023 and no steps have been taken since then to seek any ad-interim relief of injunction as claimed in the Interim Application (Lodging) No. 32673 of 2023.

10. Mr.Shaikh, learned Senior Counsel for the Defendant no.19 submits that while this Court may consider the other applications, however, since there is no cause of action against the Defendant no.19, the Defendant no.19 has been unnecessarily dragged into the litigation and this Court direct deletion / striking off of the said Defendant, after hearing the Interim Application No.1406 of 2025 expeditiously.

11. However, since time is being sought on behalf of the Plaintiff to file a reply, let reply to Interim Application No.1406 of 2025 be filed

within a period of one week with copy to the others. Rejoinder, in a week thereafter, with copy to the others.

INTERIM APPLICATION NO. 3238 OF 2024

12. Mr.Gokhale further submits that the Defendants no.7 to 10 have taken out Interim Application No.3238 of 2024 seeking rejection of the plaint under Order VII Rule 11 of the CPC and as per law settled by the Hon'ble Supreme Court in the case of *R. K. Roja vs. U. S. Rayudu and Another*² an application under Order VII Rule 11 of the CPC has to be heard first before any other application can be heard in the matter.

13. Mr.Gokhale also submits that the said application has been served on all including the Plaintiff, however, no reply has been filed till date. Mr.Trivedi, learned Counsel for the Plaintiff submits that two weeks time be granted to file reply in the matter.

14. Since time is being sought to file reply, let reply to Interim Application No.3238 of 2024 be filed within a period of two weeks with copy to the other side. Rejoinder, in two weeks thereafter, with copy to the other side. Thereafter, the Interim Application No.3238 of 2024

² (2016) 14 Supreme Court Cases 275

seeking rejection of plaint under Order VII Rule 11 of the CPC would be heard on the next date.

15. Coming back to the Interim Application (Lodging) No.32673 of 2023, which pending the hearing and final disposal of the Suit seeks direction to the Defendants to withdraw/recall all defamatory materials and restrain the Defendants as well as removal of the said defamatory material and in addition to attach their immovable properties, this Court is informed by Mr.Trivedi that the said Interim Application along with the Suit has been served on all the Defendants and reply to the Interim Application has been filed by the Defendants no.6, 7, 8, 9, 10 and 19 and that Defendants no.1 to 5 and 11 and 12 have been deleted. Mr.Trivedi submits that the main reliefs are being sought against Defendants no.20 to 27 and proposed Defendants no.28 and 29 and that all of them have been served but neither of them have filed any reply nor are being represented before this Court, except proposed Defendant no.29. Mr.Trivedi also submits that in order dated 19th December 2023, this Court (Coram : Smt.Bharati Dangre, J.) has also recorded that Defendants no.13 to 19 have been served.

16. Mr.Trivedi, learned Counsel for the Plaintiff, submits that since based on the material that has been posted on the sites of the Defendants no.20 to 27 as well as the proposed Defendants no.28 and 29 which continues to invite further defamatory tweets, this Court may, before proceeding in the matter or hearing any other application, consider allowing Interim Application (Lodging) No.32673 of 2023 against the Defendants no.20 to 27 as well as the proposed Defendants no.28 and 29.

17. Mr.Trivedi submits that this is despite the fact that the Suit has been filed in the year 2023 so also the Interim Application. However, as the defamatory tweets are causing further damage to the reputation of the Plaintiff, on a day to day basis, there is urgency in the matter.

18. While this Court is keen to hear and consider the submissions made by Mr.Trivedi on behalf of the Plaintiff, keeping in mind the submissions made by the other learned Counsel on the urgency in the matter, considering that the Suit and the said Interim Application have been filed in the year 2023 and also that the pleadings including reply by the Plaintiff in the application filed under Order VII Rule 11 of the CPC for rejection of plaint are yet to be completed and which

application it has been submitted ought to be heard first, this Court cannot consider the said request today and is not inclined to grant any interim relief today, without hearing the others, also because as noted above, there is a request that had been made on behalf of the proposed Defendant no.29 to file a reply in the Interim Application seeking to implead the two proposed Defendants and this Court has already granted the request and permitted filing of reply after service of a true copy of the plaint by the Plaintiff to the said two proposed Defendants against whom also relief of injunction is being sought for by the Plaintiff.

19. Accordingly, list on **18th June 2025** provided where removal of objections is pending and/or registered number(s) have not been obtained to the Interim Application(s), the objections, if any, be removed and registered number(s) be obtained by the next date, failing which, the said Interim Application(s) on lodging number to stand dismissed without further reference to the Court.

20. Let replies and rejoinders be exchanged in advance.

(ABHAY AHUJA, J.)

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