

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

IA No. GA/1/2025
CS/224/2024

VIVEK KUMAR AGARWAL AND ANR.

-VS-

NAGPUR TODAY @ S.M. E-NEWS PRIVATE LIMITED AND ORS.

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : March 06, 2025.

Appearance:

Mr. Chayan Gupta, Adv.
Mr. Nigum Ashish Chakraborty, Adv.
Mr. Anujit Mookherji, Adv.
Mr. Prithish Chandra, Adv.
...for the plaintiff

The Court: Mr. Chayan Gupta, learned Counsel, is appearing for the plaintiff.

The plaintiff has filed the suit for damages of Rs.10,00,00,000/- along with the prayer for perpetual injunction. The plaintiff has filed the present application being GA/1/2025 praying for interim relief.

Counsel for the plaintiff submits that the plaintiff is a professional chartered accountant and is registered with the Institute of Charter Accountants of India with effect from 1st April, 2009. The plaintiff No. 2 is engaged in rendering service like Management Audit, Process Built-ups, Virtual Chief Financial Officer Services, Financial and Risk Advisory, Mergers and Acquisitions, Corporate Restructuring, Structured Finance, Wealth Advisory, Capital Market Solutions, Start-Up Solutions and other financial and advisory services. The plaintiff No. 1 is the designated partner/ founder of the plaintiff No. 2.

On 25th July, 2024 the plaintiff No. 1 was informed by one Mr. Chandan Singh that he came across a news article on the online web portal of the defendant No. 1 in which the statements were made about the plaintiff being involved in the criminal proceeding. After getting the said information, the plaintiff has searched online web portal of the defendant No. 1 from which the plaintiff No. 1 found that the said article have been published in the website www.nagpurtoday.in. with the caption auditech-360's-vivek-agarwal-facing-16-years-in-jail-in-criminal-investigation. The plaintiff submits that the plaintiff also came to know that another publication was made in the website easternherald.com wherein it is also published that vivek-agarwal-auditech-360-16 years-jail-criminal-investigation. On further searched, the plaintiff has also found that another application was made against the plaintiff in the website www.cinetalkers.com with the same articles.

Counsel for the plaintiff submits that the plaintiff has been engaged by one Sunland Project Private Limited for Management Audit, Process Built-ups, Virtual Chief Financial Officer Services, Financial and Risk Advisory, Mergers and Acquisitions, Corporate Restructuring, Structured Finance, Wealth Advisory, Capital Market Solutions, Start-Up Solutions and other financial and advisory services. Against the Sunland Project Private Limited, NCLT proceeding as well as criminal proceeding has been initiated wherein the plaintiff has also been made a party to the said proceeding. In the criminal proceeding investigation is pending before the police authorities. Counsel for the plaintiff submits that the defendants have also published warrant of search issued by the learned Chief Judicial Magistrate, Alipore, 24 parganas South, Court in the said website.

The plaintiff submits that after going through the said publication made by the defendant in their website, third parties are also started publication the said warrant in their respective publications. He submits that though the NCLT proceeding and the criminal case has been initiated against Sunland Project Private Limited and in the said cases the plaintiff has been fastly implicated. The case initiated against the plaintiff is still under investigation. No trial has been concluded no punishment has been awarded. In the publication made by the defendants it is published that the plaintiff is facing 16 years in Jail in major criminal investigation. Counsel for the plaintiff submits that due to the said allegation which is not correct and the case is pending for investing and no punishment has been imposed by the Court. Due to the publication made by the defendant, the reputation of the plaintiff has been badly affected and the plaintiff is also facing difficulties in his business.

Counsel for the plaintiff submits that unless and until the defendants are not restrained from publishing any false allegation against the plaintiff, the plaintiff will suffer irreparable loss and injuries. Counsel for the plaintiff further submits that due to the publication made by the defendants, the other parties are also making publication on the false allegations.

Considering the above submission, this Court finds that the plaintiff has made a prima face case and balance of convenience and inconvenience in favour of the plaintiff. It is further found that the publication made by the defendants that Audittech 360's Vivek Agarwal facing 16 years in jail in major criminal investigation is not correct. Thus the defendants their men, agents, representatives and servants are restrained

from publishing or posting any such statements concerning the punishment of the plaintiff in pending investigation and also directs the defendants forthwith take out the articles from the website wherein it is published Audittech 360's Vivek Agarwal facing 16 years in jail in criminal investigation by 12th March, 2025. The plaintiff has handed over the track report wherein it reveals that the defendant No. 1 has refused to accept the notice as regards the defendant Nos. 2 and 3 it was refunded with the endorsement insufficient address but this Court finds that the address which is mentioned in the website of the defendant Nos. 2 and 3, the plaintiff has sent the said notices to the defendants on the same address but unfortunately, the same has returned as insufficient address. Accordingly, the plaintiff is directed to send the copy of the plaint, document and the present application by speed post to the defendants at their register address and to file affidavit of service on the returnable date. The plaintiff is also given liberty to send all the documents with the email address of the defendants.

Let the matter appear on 19th April, 2025.

(KRISHNA RAO, J.)