

## X vs Y on 12 July, 2021

**Author: C.Hari Shankar**

**Bench: C.Hari Shankar**

\$~21(Original Side)

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(COMM) 318/2021, I.A. 8022/2021, I.A. 8023/2021, I.A. 8024/2021, I.A. 8057/2021, I.A. 8058/2021, I.A. 8059/2021, I.A. 8060/2021, I.A. 8061/2021 &I.A. 8062/2021

X

..... Plain  
Through: Mr. Ramesh Chander Agrawal, Adv.

versus

Y

..... Defen  
Through: Mr. Aditya Gupta, Adv.  
YouTube  
Mr. Parag Tripathi, Sr.  
With Mr. Tejas Karia ,  
Warrier, Mr. Mr. Gauhar  
Ms. Ameer Rana, Ms Mishi  
Bajpai, and Mr.  
Karunakaran, Advs. for

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR  
ORDER

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12.07.2021  
(Video-Conferencing)

I.A. 8062/2021(under Section 148 read with Section 141 &151 of CPC, 1908- for enlargement of time for paying deficient court fees)

1. Mr. Agrawal, learned counsel for the plaintiff, undertakes to pay the deficient court fees, within one week from today. Subject thereto, exemption is granted for the present.

2. The application stands disposed of.

I.A. 8061/2021(under Section 141 &151 of CPC, 1908- seeking direction for filing the audio visual in the form of CD/DVD/Pen Drive)

1. This application seeks permission to file the video clips, on which the plaintiff seeks to place reliance in the form of CD, DVD or Pen Drive. This, in fact, would assist the Court in examining the matter.

2. Accordingly, permission is granted as sought above. The plaintiff is directed to file all video clips on which it seeks to place reliance in the form of a pen drive and to file further pen drives containing additional clips, with appropriate applications as and when the plaintiff deems it appropriate.

3. With these directions, the application stands disposed of.

I.A. 8060/2021(under Section 20(b) read with Section 141 &151 of CPC, 1908- seeking permission to sue the defendants)

1. In as much as the impact of the alleged copyright infringement as well as the offending clips is accessible within the jurisdiction of this Court, it is clarified that, prima facie, and subject to the right of the defendants to answer this issue, this Court has jurisdiction.

2. This application stands disposed of accordingly.

I.A. 8059/2021(under Section 141 &151 of CPC, 1908- for non- disclosure of the name of the plaintiff)

1. For reasons of anonymity, the plaintiff and the defendant shall be referred to as X and Y and the case title would, therefore, read as "X v. Y".

2. This application stands disposed of.

I.A. 8058/2021(under Section 12-A of the Commercial Courts Act, 2015 read with Section 141 &151 of CPC, 1908- for exemption)

1. Exemption is granted from pre-litigation as sought for.

2. The application stands disposed of.

I.A. 8057/2021 (under Order VII, Rule 14 read with Section 141 &151 of CPC, 1908- for exemption)

1. Exemptions allowed, subject to all just exceptions.

2. The application stands disposed of.

I.A. 8023/2021(under Order XI, Rule 1(4) read with Section 141 &151 of CPC, 1908- to file additional documents)

1. The plaintiff is permitted to file additional documents within a period of one week from today, subject to the right of the defendants to admit or deny the same.
2. The application stands disposed of.

I.A. 8024/2021 (under Order XI, Rule 2 read with Section 141 & 151 of CPC, 1908)

1. Issue notice to Defendant Nos. 1 and 2, being the only concerned defendants in this application.
2. Response, if any, be filed within four weeks, with advance copy to learned counsel for the plaintiff, who may file rejoinder thereto, if any, before the next date of hearing.
3. Accordingly, re-notify on 10th September, 2021, before the Court.

CS(COMM) 318/2021

1. Let the plaint be registered as a suit.
2. Issue summons. Written statement, accompanied by affidavit of admission and denial of the documents, filed by the plaintiff, be filed within four weeks, with advance copy to learned counsel for the plaintiff, who may file replication thereto, if any, accompanied by affidavit of admission and denial of the documents filed by the defendants, within two weeks thereof.
3. List before the Joint Registrar for completion of pleadings, admission and denial of documents and marking of exhibits, on 30th September, 2021.
4. Mr. Gupta, learned counsel for YouTube submits that YouTube has since been taken over by Google LLC, and that, therefore, Defendant No. 3 would have to be impleaded as Google LLC. He undertakes to e-mail a copy of the proper contact details, so that necessary rectification could be made. Mr. Agrawal undertakes to file an amended memo of parties within three days from today.
5. Mr. Tripathi, who appears for Defendant No. 5 submits that Defendant No. 5 would have to be impleaded as Facebook Inc. instead of Facebook India Pvt. Ltd., the details of the party would be provided to Mr. Agrawal, who undertakes to file an amended memo of parties.

I.A. 8022/2021 (under Order XXXIX, Rules 1 & 2 of the CPC- for stay)

1. This application seeks interim reliefs. The prayer clause in this application reads thus:

"It is, therefore, most respectfully prayed that in view of the facts and circumstance of the present case or in the interest of justice the following orders/directions may kindly be pleased to pass in favour of the plaintiff and against the defendants such as:

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Prayer "a" to pass an ad-interim order in favour of the plaintiff and against the defendants their servants agents' employees as well as person those are directly or indirectly connected to the defendants especially defendant no 1 & 2 & 6 or their affiliates, subsidiaries and anyone acting for or on its behalf of defendants no 1 & 2 & 7 to immediately close the channel which was created on the portal of YouTube i.e., defendant no 3 & 4 by the defendant no 2 & 6 and uploaded defamatory videos the detail of the channel and link of video is as follows:-

i) <https://youtu.be/8ecTxgxPLtU> titled as "\*\*\*\*\*  
" i.e., \*\*\*\*\* Buri Tarah Fussy Court Niklega Medical Report"

ii) \*\*\*\*\* \*\*\*\*\* \*\*\*\*\* kr. news Exclusive [see how  
\*\*\*\*\* and \*\*\*\*\* got married] KR NEWS <http://youtu.be/WKiSG1p5rXo> Document No 12

iii) Ms. \*\*\*\*\* (an obscene expletive, deleted for the purposes of propriety) //  
// // //\*\*\*\*\* [\*\*\*\*\* hai//Dekho full  
story// Married Hai// Cheats her husband/gives it to \*\*\*\*\*] [https://youtu.be/8cD\\_yzSMHq4](https://youtu.be/8cD_yzSMHq4) Prayer "b" to pass an ad-interim order in favour of the plaintiff and against the defendants their servants agents' employees as well as person those are directly or indirectly connected to the defendants especially defendant no 1 & 2 & 6 or their affiliates, subsidiaries and anyone acting for or on its behalf of defendants no 1 & 2 & 7 to immediately close the Facebook page and its video which was created on the portal of Facebook i.e., defendant no 5 by the defendant no 6 and uploaded defamatory videos the detail of the channel and link of video is as follows:

i) Facebook i.e., <https://www.facebook.com/vivek.kumarpatel.545> uploaded by defendant no 6 Document No 14 Prayer "c" to pass a such other orders and direction in favour of the plaintiff and against the defendants their servants' agents' employees as well as person those are directly or indirectly connected to the defendants especially defendant no 1 & 2 & 6 or their affiliates, subsidiaries and anyone acting for or on its behalf of defendants as this Hon'ble court may deem fit and proper."

(Names have been substituted with asterisks to maintain anonymity)

2. Issue notice. Notice is accepted on behalf of Defendant No. 3 by Mr. Aditya Gupta and on behalf of Defendant No. 5 by Mr. Tejas Karia. Let notice be issued to the remaining defendants by all modes possible in this time including e-mail and whatsapp. Response, if any, be filed within four weeks, with advance copy to learned counsel for the plaintiff, who may file rejoinder thereto, if any, before the next date of hearing.

3. Mr. Agrawal, learned counsel for the plaintiff, has invited my attention to a video clip, on YouTube, at Page 258 of the documents filed with the plaintiff which, according to him, seriously defames the plaintiff. I have seen the clip. The clip is seriously objectionable in nature. It levies obscene allegations against the plaintiff and uses the vilest and most vulgar language while referring to her. It may also constitute, prima facie, ground for criminal action under Section 354 of the IPC.

4. Mr. Agrawal, learned counsel for the plaintiff, submits that he would file an additional affidavit placing further details regarding the allegedly objectionable clips and that, after the plaint was filed, further such clips have surfaced. He is permitted to do so.

5. Given the nature of the clip at Page 258 of the documents filed by the plaintiff, it is essential that this clip is brought down immediately.

6. As such, Google LLC, who is stated to have taken over YouTube and is represented during the proceedings by Mr. Aditya Gupta, learned counsel, is directed to immediately remove the clip at Page 258. Mr. Agrawal undertakes to provide the URL of this clip to Mr. Aditya Gupta, during the course of the day.

7. Given the nature of the aforesaid clip, which has been posted by a channel under the name of "Bihar Bachao", I am of the opinion that this channel ought not to be permitted to post any more clips on YouTube till further orders passed by this Court. Subject to GD technical feasibility, Google LLC is also directed to ensure that no further posts, by the holder of the "Bihar Bachao" channel on YouTube, are posted on the YouTube platform.

8. Re-notify on 10th September, 2021, before the Court.

9. The Registry is directed to email a copy of this order to learned counsel for the parties as soon as it is ready.

C.HARI SHANKAR, J JULY 12, 2021 ss