

Patanjali Ayurved Ltd. & Anr vs Sobhagya Media Pvt. Ltd. (Apn Live) & Ors on 1 June, 2020

Author: V. Kameswar Rao

Bench: V. Kameswar Rao

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(OS) 135/2020, IAs 4093/2020, 4094/2020, 4095/2020 & 4096/2020

PATANJALI AYURVED LTD. & ANR.

..... Plaintiffs

Through: Mr. Darpan Wadhwa, Sr.
Adv. with Ms. Simranjeet
Singh, Mr. Aadhar Nautiyal
& Ms. Cauveri Birbal, Advs.

versus

SOBHAGYA MEDIA PVT. LTD. (APN LIVE) & ORS.

..... Defendants

Through: Mr. Mukul Rohatgi, Sr.
Adv. with Mr, . Tejas Karia,
Mr. Udit Mendiratta & Ms.
Nayantara Narayan, Advs.
for D-2

Ms. Mamta R. Jha, Adv.
with Ms. Shruttima Ehersa
& Ms. Sakshi Jhalani, Advs.
for D-3

Mr. Kapil Sibal, Sr. Adv.
with Mr. Ajit Warriar, Adv.
for D-4

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
ORDER

% 01.06.2020 This matter is being heard through video-conferencing IA 4094/2020 & 4095/2020
These are applications filed by the plaintiffs seeking exemption from filing original / dim documents
and attested affidavit respectively.

For the reasons stated in the applications, the plaintiffs are exempted from filing original / dim documents and attested affidavit. IA 4096/2020 (by plaintiff seeking extension of time to file Court fee) Subject to the applicant / petitioner filing the necessary Court fee within 72 hrs from the date of resumption of regular functioning of the Court, as mandated in terms of Office Order dated April 04, 2020 issued by this Court, exemption from filing the requisite court fees is granted. Application is disposed of.

CS(OS) 135/2020 & IA 4093/2020 (under Order 39 Rule 1 & 2 CPC) Issue summons to the defendants. Mr. Wadhwa states that copy of the plaint has been served on the defendant No.1. Despite service of the plaint, there is no appearance for the defendant No.1. Mr. Tejas Karia, Adv. accepts summons on behalf of defendant No.2. Ms. Mamta R. Jha, Adv. accepts summons on behalf of defendant No. 3 and Mr. Ajit Warriar, Adv. accepts summons on behalf of defendant No.4.

Let summons be issued to the defendant No.1, returnable before Joint Registrar on August 20, 2020. Summons shall state that the written statement shall be filed by the defendants No.1 within 30 days from the date of receipt of summons.

The defendants 2 to 4 shall also file their written statement along with affidavit of admission and denial of documents filed by the plaintiffs. Replication shall be filed within 30 days of the receipt of the written statements / documents. The replication shall be accompanied by the affidavit of admission denial of documents filed on behalf of the defendants. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the time lines. IA 4093/2020 (under Order 39 Rule 1 & 2 CPC)

1. Notice, Mr. Tejas Karia, Adv. accepts notice on behalf of defendant No.2. Ms. Mamta R. Jha, Adv. accepts notice on behalf of defendant No. 3 and Mr. Ajit Warriar, Adv. accepts notice on behalf of defendant No.4. Let notice on the application be issued to the defendant No.1, returnable on September 17, 2020.

2. It is the submission of Mr. Darpan Wadhwa, learned Sr. Counsel appearing for the plaintiffs that in May 2020, the plaintiffs came to know about the airing / telecasting / broadcasting / uploading / sharing / dissemination / publication of false, malicious, misleading and defamatory material on the news channel / portals of the defendants. According to him, the defamatory publications included grave allegations against the plaintiffs insinuating that the plaintiff No. 1 has illegally sold off Red-Sander Wood against the interests of the country. According to him, none of the news / videos / posts have taken into account the order of the Ld. Additional Commissioner of Customs vide Custom Assessment Order dated September 16, 2019 under Section 128 of the Customs Act, 1962 wherein the Ld. Additional Commissioner dropped all proceedings against the plaintiffs with regard to Red Sanders seized on February 17, 2018 that were being exported to China and allowed the release of the seized Red Sanders further granting permission to the plaintiff No. 1 to export the same, thus belying all claims made in the impugned news / videos.

3. According to Mr. Wadhwa, the said news being still freely available in the public domain and is creating false aspersions against the reputation of the plaintiffs. On coming to know the acts of the

defendants, the plaintiffs immediately took steps to initiate complaint proceedings on May 16, 2020 against the defendants on their portals and sent emails to the said defendants as per the procedure prescribed on their portals, who sent automated responses dated May 16, 2020 stating that the complaint of the plaintiffs is acknowledged and is under consideration. According to Mr. Wadhwa, the defendant Nos. 2 & 3 via responses dated May 20, 2020 stated their inability to assess the veracity of the posts / videos due to which no action can be taken but that they would comply to an order of a Competent Court in the matter.

4. It is also his submission that the acts of the defendants clearly violate the plaintiffs' rights under the Constitution. Further, it is his submission that the defamatory assertions of the defendants are not supported by any evidence at all, inasmuch as the same have been aired without verifying facts and / or documents, which goes against the basic tenets of ethical and fair journalism. He also states that under Rule 3(2)(b) of the Information Technology (Intermediaries) Guidelines Rules, 2011, the defendant Nos. 2 to 4 as intermediaries are obligated to observe certain due diligence while discharging their duties, regrettably it is evident that the defendants have disregarded the Rule of Law and have left no stone unturned to vilify, malign and denigrate the name, image, reputation and good will of the plaintiffs in the eyes of the general public. In support of his submission, Mr. Wadhwa had also relied upon similar orders passed by this Court in similar facts.

5. Mr. Mukul Rohatgi, Ld. Sr. Counsel appearing for the defendant No.2 reiterate the stand taken by the said defendant in its communication with the plaintiffs that the defendant No.2 shall abide by the orders passed by this Court. He also submits that the direction as sought for, by the plaintiffs in para (ii) of the application, which is for removing / pulling down the links i.e. URLs and to disable them is primarily against defendant No.2 and must be confined to the Indian domain and not at the global level. Similar submission is also canvassed by Ms. Mamta R. Jha, for the defendant No.3. This submission of Mr. Mukul Rohatgi and Ms. Mamta R. Jha is opposed by Mr. Wadhwa by drawing my attention to a judgment of the Coordinate Bench of this Court in the case of Swami Ramdev & Anr. vs. Facebook, Inc. & Ors., SCCOnLine Del 10701, to contend that this Court can grant injunction at the global level provided, the material has been uploaded from India. At the same time, Mr. Wadhwa concedes that the said judgment is a subject matter of an Intra- Court appeal before the Division Bench and the Division Bench even though, not stayed the order but has observed that no contempt proceedings shall be initiated against the defendant Nos. 2 & 3.

6. Mr. Kapil Sibal, learned Sr. Counsel appearing for the defendant No.4 has taken an objection that there are no allegations in the plaint of any identified / unlawful content circulated in the whatsapp platform. Even though, Mr. Wadhwa contest this submission, he could not able to point out from the plaint any specific averment in that regard. Mr. Wadhwa seeks time to take instructions in that regard, if required.

7. Having noted the aforesaid submissions and considered the record, this Court is of the view that the plaintiffs have made out a prima-facie case and even the balance of convenience is in their favour and accordingly, the defendant No.1 is restrained from in any manner airing / publishing / televising or propagating in any mode or manner either orally / writing / telecasting any material / article/ news / views / report etc. on their websites / webpages / channels including but not limited

to 'APN LIVE', which are false and/ or misleading and/ or defamatory and / or denigrating which relates to the plaintiffs including the impugned programs / videos and / or which lowers the goodwill and reputation of the plaintiffs in the eyes of the general public till the next date of hearing.

8. Further, I deem it appropriate to direct that the defendant Nos.2 & 3 shall take down / remove / restrict access / block the URLs mentioned hereinunder, which contain defamatory video or part thereof for the Indian domain.

List of URL's / Weblinks on the platform of Defendant No.2

1
<https://www.facebook.com/Congressachhithiyaar/videos/543616553017812/?v=543616553017812>

2
<https://www.facebook.com/545019649310246/videos/2447991978864819/?v=2447991978864819>

3. <https://www.facebook.com/Adarshyadav55/videos/674524396656857/?v=674524396656857>

4. <https://www.facebook.com/100626224687361/videos/550065592565673/?v=550065592565673>

5. <https://www.facebook.com/117781869631590/videos1723042598434488/?v=723042598434488>

6. <https://www.facebook.com/sibasisy2k/videos/2674862996132336/>

7
<https://www.facebook.com/331048044243233/videos/2382011128757269/?v=2382011128757269>

8. <https://www.facebook.com/Congresssanghbihar/videos/670169977137561/?v=670169977137561>

9. <https://www.facebook.com/tabrezalam.tabrezalam.7524/videos/642577622987876/>

10. <https://www.facebook.com/100036685599191/videos/241992060366979/>

11. <https://www.facebook.com/rudraa.thakurrajvanshi/videos/135696921413632/>

1
2
<https://www.facebook.com/316995129073459/videos/592162068061535/?v=592162068061535>

13. <https://www.facebook.com/2271685386487146/videos/235465154563103/>

1
4
<https://www.facebook.com/104985387851839/videos/2415904972035059/?v=2415904972035059>

List of URL's / Weblinks on the platform of Defendant No.3

1. <https://www.youtube.com/watch?v=aOUknkh18sM>
2. <https://www.youtube.com/watch?v=N4QrjlfzxaY>
3. <https://www.youtube.com/watch?v=BOCd31P6kNO>
4. <https://www.youtube.com/watch?v=lEhvWX14iyw>
9. The provisions of Order XXXIX Rule 3 CPC be complied within one week.

V. KAMESWAR RAO, J JUNE 01, 2020/ak