

**IN THE COURT OF SH. VINOD KUMAR MEENA,
DISTRICT JUDGE - 10 (WEST), TIS HAZARI COURTS, DELHI**

MCA DJ No. 15/26

Moneywise Media LLP

.... Appellant

VERSUS

Manoj Kesarichand Sandesara

....Respondents

ORDER

30.04.2026

1. Vide this order, the Court shall decide an application filed by or on behalf of respondent no. 1 (*hereinafter to be referred as applicant*) for seeking dismissal of the appeal filed by appellant to assail order dated 04.04.2026. Before proceeding further with giving any finding on the application at hand, the Court deem it fit to mention here the relevant facts which have resulted into the appeal. The appeal has been filed by or on behalf of appellant, Moneywise Media LLP on the ground that the appellant had not been named as defendant specifically in the suit before the Ld. Senior Civil Judge in CS SCJ No. 459/2026 and has been arraigned as defendant no. 3 i.e. John-Doe/ Ashok Kumar, despite the fact that appellant could be duly identified from/in the document, which had been annexed with the suit/plaint. The appeal has also been filed by taking a ground that the suit had been filed in bad faith by suppressing material facts and vide order dated 04.04.2026, the Ld. Trial Court had passed order in a mechanical manner, without due application of mind and by flouting the

basic principle of natural justice i.e. *Audi alteram partem* and ad-interim ex-parte injunction has been granted. It has also been contended in the appeal that three fold test, for grant of interim injunction has not been take care of and it has been prayed that impugned order i.e. order dated 04.04.2026, as passed by Ld. Senior Civil Judge in Manoj Kesarichand Sandesara Vs. Google LLC and Ors in CS SCJ no. 459 of 2026, be set aside.

Submissions on behalf of applicant/respondent no.1

2. Through the present application, it has been submitted by or on behalf of Ld. Counsel for applicant/respondent no.1 that the impugned order was passed on 04.04.2026 and the appeal has been filed on 10.04.2026 i.e. prior to expiry of 30 days from the date of impugned order. It has also been submitted that though the interim order passed under Order 39 Rule 3 of CPC is appealable, however, same can only be challenged if the Ld. Trial Court failed to adjudicate the application under Order 39 Rule 1 and 2 of CPC within 30 days from the date of passing of the ex-parte interim orders. It has been further submitted that the Ld. Trial Court had fixed the date as 20.04.2026 and the Ld. Counsel for appellant had duly filed his vakalatnama and same had been taken on record and now the matter had been fixed for 04.05.2026 i.e. within 30 days from the date of the impugned ex parte interim order. It is further submitted that application under Order 39 Rule 1 and 2 of CPC is still pending for adjudication and the appellant had already filed his vakalatnama. It is submitted that appeal is not maintainable in terms of orders as passed by Hon'ble Apex Court in **Venkatasubbiah Naidu v. S. Chellappan. (2000) 7 SCC 695**. It is further submitted that order dated 04.04.2026 is a detailed order running into almost 47 pages thereby dealing with

the three fold test for grant of interim injunction. It is further submitted that the order dated 04.04.2026 is *per se* not unreasoned, so even same can not be appealed in terms of orders of Hon'ble Apex Court in **Bloomberg Television Production Services India (P) Ltd. Zee Entertainment Enterprises Ltd., (2025) 1 SCC 741**. It is further submitted by the Ld. Counsel for the respondent no. 1/ applicant that the appellant had already filed his vakalatnama, which had been taken on record on 20.04.2026 and he has no objection if the appellant is impleaded as defendant by the Trial Court even without moving the application under Order 1 Rule 10 of CPC. It is submitted that application under Order 39 Rule 1 and 2 of CPC is yet to be decided by the Ld. Trial Court, in terms of order 39 Rule 3A of CPC and as the application is still pending, the appellant had no right to approach appellate or Revisional Court during the pendency of application. It is finally submitted that appeal is pre-mature and not maintainable.

Submissions on behalf of non applicant/appellant

3. Per contra, it was submitted by Ld. counsel for appellant/non applicant that the application filed by and on behalf of the respondent no.1/applicant for seeking dismissal of the appeal has been filed on the basis of incorrect law. It was further submitted by Ld. counsel for appellant/non applicant that appeal is duly maintainable, as the ex parte order dated 04.04.2026, as passed by Ld. Senior Civil Judge, is nothing, but on the face of it, a perverse order. It was also submitted that the impugned order dated 04.04.2026 has been passed against the appellant although the appellant had not been named and identified as defendant in the suit and its articles and video has been impugned in the suit and accordingly, contents beyond the purview of the suit has been restrained from publication. It was also submitted by Ld. counsel for appellant/non applicant

that the grounds as taken by or on behalf of the applicant to the effect that appeal must be dismissed, as the same has been filed within a period of 30 days cannot be sustained in terms of judgement, **Asian Hotels North Limited vs Exclusive Capital Limited and Others 2026 SCC OnLine Del 817**. It was further submitted that contentions/submissions as taken by or on behalf of the applicant are factually and legally untenable as Hon'ble Apex Court has discussed and decided on this point in judgment **Bloomberg Television (supra)** and accordingly, appeal is maintainable. It was further submitted that the application as filed by the applicant be disposed of as dismissed, as appeal is maintainable.

Finding of the Court:-

4. After hearing submissions of both the parties and after going through the contents of the application, annexed documents and record, as available on judicial record, it is observed by the Court that the Court has to decide as to whether present appeal, as filed by appellant, is maintainable or not, in terms of mandate as enumerated under Order 39 Rule 3A of CPC. The Court is confronted with only one question that is that, as to whether, in a case where ex-parte ad-interim injunction orders have been passed, the affected party can approach the Appellate Court without waiting for final disposal of application under Order 39 Rule 1 and 2 of CPC within the prescribed period of 30 days as enumerated under Order 39 Rule 3A of CPC. The settled legal position, as propounded by Hon'ble Apex Court in **Venkatasubbiah Naidu (supra)** is that the affected party can not approach the Appellate or Revisional Court during pendency of application for grant or vacation of temporary injunction within 30 days of passing of such ex parte interim order. The relevant para is quoted here as under:-

“... It is the acknowledged position of law that no party can be forced to suffer for the inaction of the court or its omissions to act according to the procedure established by law. Under the normal circumstances the aggrieved party can prefer an appeal only against an order passed under Rules 1,2,2A, 4 or 10 of Order 39 of the Code in terms of Order 43 Rule 1 of the Code. He cannot approach the appellate or revisional court during the pendency of the application for grant or vacation of temporary injunction.

... In such circumstances the party who does not get justice due to the inaction of the court in following the mandate of law must have a remedy. So we are of the view that in a case where the mandate of Order 39 Rule 3A of the Code is flouted, the aggrieved party, shall be entitled to the right of appeal notwithstanding the pendency of the application for grant or vacation of a temporary injunction, against the order remaining in force.”

5. Having gone through the settled legal position as propounded by Hon’ble Apex Court in **Venkatasubbiah Naidu (supra)** and juxtaposing the same to the factual matrix of the present case at hand, it is observed that in the present matter though the ex-parte interim order has been passed, yet the Court has fixed the next date within 30 days from the date of passing of such ex-parte interim orders for the final disposal of application under Order 39 Rule 1 & 2 CPC and accordingly, the application under Order 39 Rule 1 & 2 CPC is still pending. It is pertinent to mention here that it is an admitted fact that the appellant had already joined the judicial proceedings before the Ld. Trial Court on 20.04.2026 and has also filed his vakalatnama. The Court is of the view that the mandate as enumerated under Order 39 Rule 3A of CPC, has not been flouted by the Ld.

Trial Court in the present matter and the appellant is getting due opportunity of being heard before the Ld. Trial Court.

6. In view of the above-mentioned, it appears that present appeal is nothing but pre-mature, as application under Order 39 Rule 1 and 2 of CPC is still pending for adjudication before the Ld. Trial Court and 30 days, as mandated under Order 39 Rule 3A of CPC, has yet not lapsed.

7. As far as the contentions taken by or on behalf of appellant/non applicant, to the effect that an appeal against ex-parte interim order has to be maintainable even before 30 days in terms of judgment of **Asian Hotels (supra)** and **Venkatasubbiah Naidu (supra)**, is concerned, it is observed by the Court that in **Asian Hotels (supra)**, the Hon'ble High Court of Delhi has dealt with the settled legal proposition to the effect that an appeal against an ex-parte interim order is maintainable, if the mandate under Order 39 Rule 3 A of CPC is flouted i.e. if the application under Order 39 Rule 1 & 2 CPC is not decided within 30 days from the date of passing of ex parte interim order. It is pertinent to mention here that in the **Asian Hotels (supra)**, the appeal was filed after a period of 45 days, as reflected in para 3 of the judgment. So, the judgment as passed by Hon'ble High Court in **Asian Hotels (supra)** is not applicable to the facts and circumstances of the present case.

At the cost of repetition, it is pertinent to mention here that the court is deciding the point to the effect that an appeal, with respect to ex-parte interim order, is not maintainable within 30 days from the date of passing of such ex-parte interim order, as the application under Order 39 Rule 1 & 2 of CPC is still pending for adjudication before the Ld. Trial Court. As already discussed, in terms of observations as passed by Hon'ble Apex Court in **Venkatasubbiah**

Naidu (supra), an appeal can not be filed, if the application under Order 39 Rule 1 & 2 of CPC is pending and 30 days have not expired since passing of such ex-parte interim order. It appears that the judgment **Asian Hotels (supra)** has been relied upon without any basis. Accordingly, it can succinctly be opined that the judgment **Asian Hotels (Supra)** is not applicable to the facts and circumstances of the present case.

8. Now coming to the next leg of argument, as advanced by or on behalf of Ld. Counsel for appellant, wherein he contended that an appeal had already been allowed by Hon'ble Apex Court in **Bloomberg Television (supra)** within 30 days from passing of an ex parte interim order and accordingly, appeal is maintainable in the present matter also, it is observed by the Court that this legal principle to the effect that the aggrieved party can not approach the Appellate Court or Revisional Court during the pendency of application for grant or vacation of temporary injunction within 30 days of passing ex parte interim orders, as propounded by Hon'ble Apex Court in **Venkatasubbiah Naidu (supra)**, has not been dealt with by the Hon'ble Apex Court in **Bloomberg Television (supra)**. The Hon'ble Apex Court in **Bloomberg Television (supra)** had categorically observed that the impugned ex-parte order as passed by Ld. Trial Court was an unreasoned order. The relevant para is quoted here as under:-

“...The order of the trial Judge does not discuss, even cursorily, the *prima facie* strength of the plaintiff's case, nor does it deal with the balance of convenience or the irreparable hardship that is caused. The trial Judge needed to have analysed why such an *ex parte* injunction was essential, after setting out the factual basis and the contentions of the respondent made before the trial Judge. The trial Judge merely states, in paras 7-8, that the court has “gone through the

record available as on date” and noticed certain precedents where an ad-interim injunction was granted. Without even cursorily dwelling on the merits of the plaint, the ad-interim injunction granted by the trial Judge amounts to unreasoned censorship which cannot be countenanced.”

9. It was further opined by the Hon’ble Apex Court that the ex-parte order, being an unreasoned order, falls within the category of perverse order. The relevant para is quoted here as under.

“...Undoubtedly, the grant of an interim injunction is an exercise of discretionary power and the appellate court (in this case, the High Court) will usually not interfere with the grant of interim relief. However, in a line of precedent, this Court has held that appellate courts must interfere with the grant of interim relief if the discretion has been exercised “*arbitrarily, capriciously, perversely, or where the court has ignored settled principles of law regulating the grant or refusal of interlocutory injunctions.*”¹⁰ The grant of an ex parte interim injunction by way of an unreasoned order, definitely falls within the above formulation, necessitating interference by the High Court. This being a case of an injunction granted in defamation proceedings against a media platform, the impact of the injunction on the constitutionally protected right of free speech further warranted intervention.”

10. Having gone through the above quoted observations of Hon’ble Apex Court in **Bloomberg Television (supra)**, it can be easily deduced that the appeal has been dealt with by the Hon’ble Apex Court as the impugned ex parte interim order was an unreasoned order, which had not even taken into consideration the three fold test of establishing (i) a *prima facie* case, (ii) balance of convenience, & (iii) irreparable loss or harm, for grant of interim relief. The judgment, as propounded by Hon’ble Apex Court, in **Bloomberg Television (supra)** is not applicable in the facts and circumstances of the present matter, as the order dated 04.04.2026 is sufficiently long order running into 47 pages. On the face of it, it appears that all the three fold establishing test for

grant of interim relief had been sufficiently dealt with. Without going into the length and breadth of legality/merits of the impugned ex parte interim order, the Court is of the view that the appellant is having an opportunity to be heard before the Ld. Trial Court before deciding the application under Order 39 Rule 1 & 2 of CPC finally and accordingly in terms of the observations, as propounded by Hon'ble Apex Court in **Venkatasubbiah Naidu (supra)**, the appeal is not maintainable at this stage.

11. In view of the above-mentioned, it can be easily deduced that the appeal is not maintainable at this stage, as the appellant has opportunity to be heard before the Ld. Trial Court.

12. In view of above findings, the application filed by or on behalf of the respondent no.1 for seeking dismissal of the appeal filed by appellant to assail order dated 04.04.2026 is **allowed**. Application stands disposed of accordingly.

13. Before parting with this order, it is clarified that nothing mentioned herein above shall be considered the opinion of the Court on the merits of the case.

**Announced in the open
Court on 30th April, 2026**

**(Vinod Kumar Meena)
District Judge-10, West District
Tis Hazair Courts, Delhi
30.04.2026**