



CNR: KAHC010443492026

NC: 2026:KHC:45980
MFA No. 4754 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF AUGUST, 2026

BEFORE

R

THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

MISCELLANEOUS FIRST APPEAL NO. 4754 OF 2026 (CPC-)

BETWEEN:

1. ARTI SINGH
AGED ABOUT 41 YEARS
HAVING HER PLACE OF WORK AT A-30
TAKSHILA APARTMENT
PATPAR GANJ COMPLEX
DELHI 110 092.
2. HEAD AND TALE MEDIA PVT.LTD.
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 2013
HAVING ITS REGISTERED OFFICE AT
A-30, TAKSHILA APARTMENT
PATPAR GANJ COMPLEX, DELHI 110 092.

...APPELLANTS

(BY DR.MALAVIKA PRASAD, ADVOCATE FOR SRI. A S
VISHWAJITH.,ADVOCATE)



AND:

CASHFREE PAYMENTS INDIA PRIVATE LIMITED
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 2013,
HAVING ITS REGISTERED OFFICE
AT 10TH FLOOR, BUILDING NO. 7
ECO WORLD, SARJAPUR-MARATHAHALLI
OUTER RING ROAD
BENGALURU 560 103.

REP. BY ITS AUTHORISED SIGNATORY



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MR.JAMAL SAIT

...RESPONDENT

(BY SRI.RAGHURAM CADAMBI., ADVOCATE FOR C/R)

THIS MFA IS FILED U/S.43 RULE 1(r) OF THE CPC, PRAYING TO SET ASIDE THE ORDER DT. 03.06.2026. PASSED ON IA NO.1 IN O.S.NO.3717/2026 BY THE i/c LXXV ADDL CITY CIVIL AND SESSIONS JUDGE, BENGALURU.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

ORAL JUDGMENT

This appeal is preferred by the appellant/defendant Nos.1 and 2 challenging the order dated 3.6.2026 passed on I.A. No.1 in O.S. No.3717/2026 by the i/c LXXV Addl. City Civil & Sessions Judge, Bengaluru, granting an *exparte* order of Temporary Injunction against the appellant/defendant nos.1 and 2.

2. Parties shall be referred to as per their ranking before the trial Court for the sake of easy understanding.



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(i) Brief facts of the case

3. Brief facts leading to filing of this appeal are as under:

3.1 The plaintiff filed the suit against the defendants for the relief of mandatory injunction directing the defendants, their agents or any other person acting on their behalf or under their instructions to remove the defamatory article about the plaintiff, on the social media platform of the 1st defendant and for Permanent Injunction directing the defendants and their agents from making statements which are defamatory, denigrating, disparaging, false and misleading content in respect of the plaintiff and its business and also for other consequential reliefs.

3.2 Along with the plaint, the plaintiff filed an application - I.A. No.1 for temporary injunction under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure for a direction to the defendants to immediately take down



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the defamatory article published on the platform of the 1st defendant available at the URL mentioned therein, along with any social media handles of the defendants, pending disposal of the suit.

3.3 The trial Court took up the matter for consideration. As an *ad-interim* order was sought prior to issuance of notice, the application was heard and the learned trial judge granted an *ex parte* order of Temporary Injunction and ordered issuance of notice on I.A. No. 1 and also suit summons to the defendants. It is this order of ad interim temporary injunction granted in favour of the plaintiff that is questioned by the defendants in this appeal.

3.4 The appellant no. 1/defendant No.2 is a journalist for over 18 years and for the past 9 years, she has been closely tracking India's fintech space and has written some of the most defining pieces on the ecosystem. Prior to that, the appellant no. 1 served as a



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Deputy Editor at India's leading business daily, Mint, where she covered the intersection of finance and technology. Prior to that, she worked at the Economic Times Prime, a subscription-led platform by India's top newspaper. She has done several various other activities as a journalist. The appellant No.2/defendant no.1 is a private limited company, incorporated in 2024 and it runs a reader-funded news media and news platform engaged in publishing reports, articles, analysis on business, finance and fintech etc., Whereas, the respondent/plaintiff is a company engaged in the business of providing payment aggregation and related financial technology services.

3.5 Being aggrieved by the impugned order passed by the learned trial judge granting an *ex parte* order of temporary injunction, the appellants/defendants are before this Court in the present appeal.



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4. I have heard learned counsel - Dr. Malavika Prasad for the appellants/defendants as well as learned Counsel - Sri Raghuram Cadambi for the respondent/plaintiff.

(ii) Contentions of learned counsel for appellants/defendants

5. Learned counsel for the appellants/defendants contends that as an issue of maintainability was raised in this appeal, she would address it first. It is contended that the appeal is maintainable before this Court as contemplated under Order XLIII Rule 1(r) of CPC for the reason that when an injunction is granted *ex parte*, it is an order under Order XXXIX Rules 1 and 2 of CPC and the same would come within the purview of Order XLIII Rule 1 of CPC for a challenge in the appeal. It is not necessary for the trial Court to have disposed of the application *exparte*. It is also contended by learned counsel that when there is a failure to provide reasoning as contemplated under the proviso to Order XXXIX Rule 3 of CPC or a



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failure to provide reasoning that demonstrates the application of mind, an appellate Court may be approached by filing an appeal under Order XLIII Rule 1 of CPC and the same could be entertained. It is further contended by learned counsel that the only superior Court that may be seized of the matter is the appellate court under Order XLIII Rule 1 of CPC.

5.1 Learned counsel for appellants/defendants vehemently contends that the impugned order passed by the learned trial judge is perverse, illegal, and arbitrary. She contends that the impugned order is unreasoned and the order merely asserts that if notice is ordered, it causes the delay and defeats the very purpose of filing the suit. She further contends that the impugned order has failed to record any reasons in terms of proviso to Order XXXIX Rule 3 of CPC as to why the notice to the appellants/defendants is being dispensed and how the object of



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injunction would be defeated by the delay, if notice was first issued.

5.2 Learned counsel also contends that no specific reasoning or explanation in the light of the facts pleaded in the plaint is forthcoming in the impugned order as to urgency, imminent irreparable injury before notice, or any factual basis showing that delay in issuing of notice would render the interim prayer infructuous.

5.3 Learned counsel further contends that it is a settled law that compliance with the proviso to Order XXXIX Rule 3 is mandatory in case of *ex parte* injunction orders. Where an injunction is granted without notice to the defendant, trial Court requires to mandatorily record reasons as to why notice is being dispensed and how it would defeat the very object of injunction.

5.4 Learned counsel contends that there is a clear absence of reasoned findings on prima facie case, balance of convenience and irreparable injury, especially given the



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heightened standard for *ex parte* ad interim injunctions on journalistic content.

5.5 Learned counsel also contends that the impugned order is perverse and illegal for the reason that it merely states in a generic manner that after perusing the materials on record and plaint averments, documents, citations and looking to the facts and circumstances of the suit, the plaintiff has made out a *prima facie* case for grant of *ex parte* temporary injunction in order to avoid multiplicity of proceedings.

5.6 Learned counsel further contends that the impugned order has failed to record proper reason for existence of a *prima facie* case; record any findings on irreparable injury to the respondent/plaintiff; and examine the competing rights and positions of the appellants/defendants as media/ journalistic appellants in a defamation context in contrast with those of the respondent/plaintiff.



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5.7 Learned counsel also contends that it is only in exceptional circumstances, *ex parte* interim temporary injunction is granted. While doing so, the Court must apply the ordinary three-fold test of *prima facie* case, balance of convenience and irreparable injury that would be caused and upon being satisfied with these essential requirements, Court could pass an *ad interim* order of temporary injunction.

5.8 The learned counsel further contends that the impugned order held the existence of a *prima facie* case without reasons and has failed to articulate the remaining two limbs on irreparable injury and balance of convenience. She also contends that the impugned order omitted to consider irreparable injury by not only failing to record or recognize injury that is caused to the respondent/plaintiff by a way of allegedly defamatory article, but also failing to provide any reasoning as to how injury is irreparable by way of damages. It is also



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contended that the balance of convenience is also not clearly narrated and explained as to how it would tilt in favour of the respondent/plaintiff.

5.9 It is further contended by learned counsel that the appellant No.1 has a right to publish information being a journalist and as a part of freedom of press, speech, expression, profession and trade, which is a constitutional right, she is entitled to put up article in the social media, platform and other press and electronic media.

5.10 The learned counsel further contends that the impugned order does not even record, much less consider, the heightened standards for injunctions against journalistic content, viz., that the alleged defamatory article should be demonstrably and palpably false or malicious, in such a manner that the defence of the appellants would undoubtedly fail at trial. It is further contended that no relevant documents are produced along



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with the plaint. Therefore, the impugned order is per se illegal, perverse and arbitrary and requires to be set aside.

5.11 On these grounds, learned counsel for appellants seeks to allow the appeal and consequently set aside the impugned order passed by the trial judge.

5.12 Learned Counsel for the appellants relies upon the following judgments in support of her case:

1. Wander Ltd. vs. Antox India (P) Ltd, reported in 1990 Supp SCC 727.
2. Shiv Kumar Chadha vs. Municipal Corpn.of Delhi, reported in (1993) 3 SCC 161.
3. Karnataka State Cricket Association vs. Mr.Shashidhara A.V - Order of this Court dated 17th November 2025 in WP No.33725 of 2025.
4. Sri. Chethan A Vs. Smt.Rakshitha - Judgment of this Court in MFA No.1910/2026 dated 16.03.2026.
5. Bloomberg Television Production Services India Private Limited and Others Vs. Zee Entertainment Limited- Order of High Court of Delhi in FAQ 79/2024, CM APPL. 14346/2024 dated 14th March 2024.



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(iii) Contentions of learned counsel for respondent/plaintiff

6. Per contra, learned counsel appearing for the respondent/plaintiff vehemently contends that there is no illegality or perversity in the impugned order passed by the learned trial judge. It is further contended by learned counsel for the respondent that the appeal is totally devoid of merits and it is not maintainable either in law or facts. On the ground of the appeal being not maintainable, he seeks dismissal of the appeal.

6.1 Learned counsel further contends that the appellate Court would not normally interfere with the exercise of discretion by a Court of the first instance in matters of interim injunction merely because, it would arrive at a different opinion and therefore would come to a different conclusion. Learned counsel further contends that there is no material placed on record to show that the impugned order is an exercise of arbitrariness and capriciousness or perversity by ignoring the settled



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principles of law regulating the grant or refusal of temporary injunction.

6.2 Learned counsel further contends that there is no substance with regard to there being any violation or non-compliance of the proviso to Order XXXIX Rule 3 of CPC. The trial Court, in fact, has examined the plaint averments, affidavit filed in support of the application, documents produced by the respondent/plaintiff and also the citations relied by the respondent/plaintiff before recording that the object of injunction would be defeated by delay.

6.3 Learned counsel further contends that continuing and repeated publication and circulation of defamatory article across multiple social media platforms, constituted precisely the species of continuing the harm that justifies dispensation of prior notice and the trial Court has precisely done the same by dispensing notice and granting an ad interim order of temporary injunction.



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6.4 Learned counsel further contends that the impugned order is not mechanical reproduction of the citations relied by the respondent/plaintiff, whereas the trial Court upon proper consideration of the principles emerging from the decisions cited therein and on perusal of the materials on record, plaint averments, documents and the arguments that were put forward, *prima facie* came to a conclusion that an ad interim order of temporary injunction is warranted in the present case on hand for the reason that the defamatory article would cause more irreparable injury and hardship to the respondent/plaintiff and accordingly on being satisfied has granted the ad interim order of temporary injunction, which does not suffer from any illegality or perversity.

6.5 Learned counsel further contends that the trial Court has come to a conclusion that a *prima facie* case is made out by the respondent/plaintiff, balance of convenience tilts in his favour, so also irreparable injury



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and hardship would be caused more to the respondent/plaintiff than to the appellants/defendants and accordingly granted an ad interim order of temporary injunction which does not call for interference.

6.6 Learned counsel vehemently contends that the impugned order is not appealable under the provisions of Order XLIII Rule 1 of CPC and therefore, the present appeal is not maintainable. He further contends that the appellants/defendants have already entered appearance before the trial Court and they have not chosen to either file their statement of objections before the trial Court or for that matter file an application for vacating or modifying the impugned order, instead they have approached this Court in a hurried manner by filing an appeal, without exhausting the remedy available before the same Court under Order XXXIX , Rule 4 of CPC.

6.7 Learned counsel further contends that the appeal would not be maintainable as the application - I.A. No.1 is



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yet to be disposed of and it is pending adjudication. Therefore, unless the application is decided, the appellants/defendants could not have filed an appeal to fall within the ambit of Order XLIII Rule 1(r) of CPC. The appellants are at liberty to file an application under Order XXXIX Rule 4 before the trial court to get the order vacated. Therefore, the present appeal preferred by the appellants/defendants is not maintainable on this ground.

6.8 On these grounds, learned counsel sustains the impugned order passed by the learned trial judge and seeks dismissal of the appeal.

6.9 Learned counsel for the respondent/plaintiff relies upon the following judgments of this Court in support of his case.

1. Parijatha v. Kamalaksha Nayak - (1981) SCC Online Kar 319.
2. Procter And Gamble Home Products Private Limited vs. Marico Limited and Others - MFA No. 8990/2017 dated 30th November 2017



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3. Gopal Ahuja Vs. Sanman Distributors - ILR 1993 KAR 3275.
4. R.Ravindranatha Manvi Vs. K.B. Ramesh and Others - MFA No. 3837/2018 dated 21st December 2018
5. Shankargouda Vs. G.N.Khakhhandaki and Others - WP No. 201004/2021 and connected matter dated 1st September 2023.

(iv) Consideration

7. Having heard learned counsel for the appellants/defendants and the learned counsel for the respondent/plaintiff, the points that would arise for consideration in this appeal are:

- 1) Whether the appeal preferred by the appellants/defendants is maintainable under the provisions of Order XLIII Rule 1 of CPC ?*
- 2) Whether the impugned order is illegal and perverse, calling for interference?*
- 3) What order?*

8. Firstly, on the question of maintainability of the appeal, it is seen that any order that is passed under



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Order XXXIX Rules 1 and 2 of CPC is amenable to appeal jurisdiction under Order XLIII Rule 1(r). Apparently in the present case, by the impugned order, an ad interim order of temporary injunction has been issued by the trial Court. Therefore, the appeal filed by the appellant would be squarely falling within the ambit of Order XLIII Rule 1(r), as the trial Court has passed an order granting ad interim order of temporary injunction and restrained the appellants/defendants as prayed for in the application - I.A. No.1. Therefore, the appeal would be maintainable before this Court as an *ex parte* order of temporary injunction is granted in favour of respondent/ plaintiff and against the appellants/defendants. This aspect of the matter has been dealt with by the Hon'ble Apex Court in the case of ***A. Venkat Subbaiah Naidu -vs- S. Chellappan and others***¹.

¹ (2000)7 SCC 695



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9. It would be relevant to extract the provisions of Order XXXIX Rule 1 and 2 and Order - XXXIX Rule-3 of CPC:

" ORDER XXXIX

TEMPORARY INJUNCTIONS AND INTERLOCUTORY ORDERS

1. Cases in which temporary injunction may be granted: Where in any suit it is proved by affidavit or otherwise-

(a) that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or

(b) that the defendant threatens, or intends, to remove or dispose of his property with a view to defrauding] his creditors,

(c) that the defendant threatens to dispossess, the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute in the suit,

the Court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property for dispossession of the plaintiff, or otherwise causing injury to the plaintiff in relation to any property in dispute in the suit as the Court thinks fit, until the disposal of the suit or until further orders.



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2. Injunction to restrain repetition or continuance of breach.-(1) In any suit for

restraining the defendant from committing a breach of contract or other injury of any kind, whether compensation is claimed in the suit or not, the plaintiff may, at any time after the commencement of the suit, and either before or after judgment, apply to the Court for a temporary injunction to restrain the defendant from committing the breach of contract or injury complained, of, or any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right. (2) The Court may by order grant such injunction, on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise as the Court thinks fit.

3.Before granting injunction, Court to direct notice to opposite party: The Court shall in all cases, except where it appears that the object of granting the injunction would be defeated by the delay, before granting an injunction, direct notice of the application for the same to be given to the opposite party:

Provided that, where it is proposed to grant an injunction without giving notice of the application to the opposite party, the Court shall record the reasons for its opinion that the object of granting the injunction would be defeated by delay, and require the applicant-

(a) to deliver to the opposite party, or to send to him by registered post, immediately after the order granting the injunction has been made, a copy of the application for injunction together with-



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(i) a copy of the affidavit filed in support of the application;

(ii) a copy of the plaint; and

(iii) copies of documents on which the applicant relies, and

(b) to file, on the day on which such injunction is granted or on the day immediately following that day, an affidavit stating that the copies aforesaid have been so delivered or sent."

10. It would also be relevant to extract the provisions of Section 104 of the Code of Civil Procedure:

"104.Orders from which appeal lies. (1) An appeal shall lie from the following orders, and save as otherwise expressly provided in the body of this Code or by any law for the time being in force, from no other orders:-

(ff) an order under section 35A;

(ffa) and order under section 91 or section 92 refusing leave to institute a suit of the nature referred to in section 91 or section 92, as the case may be;

(g) an order under Section 95;

(h) an order under any of the provisions of this Code imposing a fine or directing the arrest or detention in the civil prison of any person except where such arrest or detention is in execution of a decree;



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(i) any order made under rules from which an appeal is expressly allowed by rules:

Provided that no appeal shall lie against any order specified in clause (ff) save on the ground that no order, or an order for the payment of a less amount, ought have been made

(2) No appeal shall lie from any order passed in appeal under this section."

11. It would also be relevant to extract the provisions of Order XLIII Rule 1 of CPC which clearly demonstrates as to how and when an appeal would be maintainable on the order passed under Order XXXIX Rules 1 and 2 of CPC, which reads as under:

**"ORDER XLIII
APPEALS FROM ORDERS**

1. Appeal from orders. An appeal shall lie from the following orders under the provisions of section 104, namely:-

(a) an order under rule 10 of Order VII returning a plaint to be presented to the proper Court [except where the [procedure specified in rule 10A of ORDER VIII has been followed]:

(c) an order under rule 9 of Order IX rejecting an application (in a case open to appeal) for an order to set aside the dismissal of a suit;



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(d) an order under rule 13 of Order IX rejecting an application (in a case open to appeal) for an order to set aside a decree passed ex parte;

(f) an order under rule 21 of Order XI;

(i) an order under rule 34 of Order XXI on an objection to the draft of a document or of an endorsement;

(j) an order under rule 72 or rule 92 of Order XXI setting aside or refusing to set aside a sale;

(ja) an order rejecting an application made under sub-rule (1) of rule 106 of Order XXI, provided that an order on the original application, that is to say, the application referred to in sub-rule (1) of rule 105 of that Order is appealable;

(k) an order under rule 9 of Order XXII refusing to set aside the abatement or dismissal of a suit;

(l) an order under rule 10 of Order XXII giving or refusing to give leave;

(n) an Order under rule 2 of Order XXV rejecting an application (in a case open to appeal) for an order to set aside the dismissal of a suit;

(na) an order under rule 5 or rule 7 of Order XXXIII rejecting an application for permission to sue as an indigent person;

(p) orders in interpleader-suits under rule 3, rule 4 or rule 6 of Order XXXV;

(q) an order under rule 2, rule 3 or rule 6 of Order XXXVIII;

(r) an order under rule 1, rule 28[rule 2A], rule 4 or rule 10 of Order XXXIX;



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- (s) an order under rule 1 or rule 4 of Order XL;
- (t) an order of refusal under rule 19 of Order XLI to re-admit, or under rule 21 of Order XLI to re-hear, an appeal;
- (u) an order under rule 23 [or rule 23A] of Order XLI remanding a case, where an appeal would lie from the decree of the Appellate Court;
- (w) an order under rule 4 of Order XLVII granting an application for review."

12. The Hon'ble Apex Court in the case of **A. Venkatasubbiah Naidu -vs- S. Chellappan and others²** held at paragraph Nos.13 and 21 as under:

"**13.** It cannot be contended that the power to pass interim ex parte orders of injunction does not emanate from the said Rule. In fact, the said Rule is the repository of the power to grant orders of temporary injunction with or without notice, interim or temporary, or till further orders or till the disposal of the suit. Hence, any order passed in exercise of the aforesaid powers in Rule 1 would be appealable as indicated in Order 43 Rule 1 of the Code. The choice is for the party affected by the order either to move the appellate court or to approach the same court which passed the ex parte order for any relief.

² (2000)7 SCC 695



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21. 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, 2-A, 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 which 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 3-A 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. In such appeal, if preferred, the appellate court shall be obliged to entertain the appeal and further to take note of the omission of the subordinate court in complying with the provisions of Rule 3-A. In appropriate cases the appellate court, apart from granting or vacating or modifying the order of such injunction, may suggest suitable action against the erring judicial officer, including recommendation to take steps for making adverse entry in his ACRs. Failure to decide the application or vacate the ex parte temporary injunction shall, for the purposes of the appeal, be deemed to be the final order passed on the application for temporary



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injunction, on the date of expiry of thirty days mentioned in the Rule."

13. Therefore, the Hon'ble Apex Court, while considering an *ex parte* order of Temporary Injunction, held that an appeal would be maintainable under Order XLIII Rule 1 of CPC. It also held that the choice is for the party affected by the said order either to move the appellate court or to approach the same court which passed the *ex parte* order for any relief. Therefore there is a two-pronged remedy available for the person who suffers *ex parte* order of Temporary Injunction. One to move the very same Court, which passed the *ex parte* order seeking for any relief. Second to move the appellate court against the said order. The appellate Court would be the High Court in the present case under Order XLIII Rule 1 of CPC. Therefore the appeal would be maintainable before this Court.



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14. In the case of ***Bloomberg Television Production Services India Private Limited and Others Vs. Zee Entertainment Enterprises Limited***³, the Hon'ble Apex Court has once again come to the conclusion that on an ad interim exparte order of injunction, the appeal would be maintainable under Order XLIII Rule 1 of the Code of Civil Procedure. In the said case, the Hon'ble Apex Court held at paragraph-11 as under:

"11. 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". [Ramdev Food Products (P) Ltd. v. Arvindbhai Rambhai Patel, (2006) 8 SCC 726, paras 126 & 128; Shyam Sel & Power Ltd. v. Shyam Steel Industries Ltd., (2023) 1 SCC 634, para 37 : (2023) 1 SCC (Civ) 301.] The grant of an ex parte interim injunction by way of an unreasoned order, definitely falls within the above formulation, necessitating interference by the

³ (2025) 1 SCC 741



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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."

15. In the judgment stated *supra*, the Hon'ble Apex Court, while dealing with similar situation of a grant of an *ad interim* order of injunction, did not agree with the findings arrived at by the trial Court, where there was no proper reasoning provided and it was an unreasoned order and fell for consideration necessitating interference by the High Court for not providing a valid and proper reason including the appreciation of three essential requirements of prima facie case, balance of convenience and hardship that would be caused, and accordingly allowed the appeal before it, remitted the matter to the trial judge to pass fresh orders on the said application. Therefore, the facts and circumstances in the case of ***Bloomberg Television Production Services India Private Limited and Others (supra)*** is squarely applicable to the present case. Under



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the circumstances, the question of maintainability is answered in favour of the appellants and it is made clear that against any order passed under Order XXXIX Rules 1 & 2 either granting or rejecting the relief of Temporary Injunction by way of specific restraintment, an appeal would be maintainable under Order XLIII Rule 1(r) of CPC. The 1st point raised in the present appeal is answered accordingly.

16. The next question that would arise for consideration is whether the impugned order is perverse, illegal and arbitrary ?

17. It is not in dispute that the respondent/plaintiff filed a suit against the appellants/defendants for the relief of mandatory injunction directing the defendants, their agents or any other person acting on their behalf or under their instructions to remove the defamatory article about the plaintiff, on the media platform of the 1st defendant and also for other consequential reliefs. Along with the



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grant of ad interim order of temporary injunction, which came to be allowed by the trial Court and same is the subject matter of this appeal.

18. It would be relevant to extract the impugned order passed by the learned trial Judge on I.A. No.1 filed by the respondent/plaintiff, which reads as under:

"Heard the learned Counsel Sri.Raghuram Cadambi, for the plaintiff on I.A.No.I.

Perused the application filed Under Order 39 rule 1 and 2 R/w/Sec.151 of CPC, to pass an ex-parte ad-interim order of Temporary Injunction directing the defendants to immediately take down the defamatory article published on the platform of the defendant No.1 available at the URL [https:// theheadandtale.com/ deepdives/cashfree-in distressed - sale-pine-labs-leads-race-paytm-also-in-fray exclusive-/](https://theheadandtale.com/deepdives/cashfree-in-distressed-sale-pine-labs-leads-race-paytm-also-in-fray-exclusive/), along with the social media handles of the defendants, pending disposal of this suit.

In support of the application I.A.No.I, the authorized representative of the plaintiff company by name Mohamad jamal Sait has sworn to an affidavit. In support of the case he has produced the documents.

The counsel for the plaintiff has relied upon the following decisions:



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1. 2021 SCC OnLine Del 3675.
2. 2026 SCC OnLine Del 3647.
3. 2024 SCC OnLine Bom 1079.
4. 2026 SCC OnLine Delhi 331.

I have bestowed my anxious considerations to the principles emerges from these respected decisions.

By perusing the materials on record and plaint averments, documents, citations and looking to the facts and circumstances of this suit, at this stage the plaintiff has made out a prima-facie case for grant of ex-parte temporary injunction and in order to avoid multiplicity of proceedings. If the notice is ordered to be issued, it causes the delay and defects the very purpose of filing the suit. Hence, I proceed to pass the following:

ORDER

Issue ex-parte Temporary Injunction order against the defendant Nos.1 and 2 as prayed in I.A.No.1, till next date of hearing.

Plaintiff shall comply Order 39 Rule 3 of C.P.C. Issue emergent notice on I.A:No.I, order and suit summons to the defendants, if P.F. is paid.

Call on: 17.06.2026."

19. Upon careful perusal of the impugned order, it is seen that the trial Court observed that after bestowing



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anxious consideration to the principles emerging from the decisions relied by the plaintiff and on perusing the materials on record, plaint averments, documents and looking to the facts and circumstances, the plaintiff has made out a prima facie case for grant of *exparte* order of temporary injunction. Apparently, it is seen that the trial Court has not clearly said what is a prima facie case made, why the *exparte* ad interim order of temporary injunction is required to be granted prior to the issuance of notice and that delay would cause irreparable injury or hardship to the plaintiff. Thereby the trial Court has not spelt out in its order with regard to the *prima facie* case being made out for grant of an ad interim order of temporary injunction. The trial Court while considering an application under Order XXXIX Rules 1 & 2 of CPC is required to follow the three essential requirements namely prima facie case, balance of convenience and the hardship that would be caused to the aggrieved party.



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20. The Hon'ble Apex Court in the case of **Shiv kumar Chadha -vs- Municipal Corporation of Delhi and Others**⁴, held at paragraphs 32, 33, 34 and 35 as under:

"32. Power to grant injunction is an extraordinary power vested in the court to be exercised taking into consideration the facts and circumstances of a particular case. The courts have to be more cautious when the said power is being exercised without notice or hearing the party who is to be affected by the order so passed. That is why Rule 3 of Order 39 of the Code requires that in all cases the court shall, before grant of an injunction, direct notice of the application to be given to the opposite-party, except where it appears that object of granting injunction itself would be defeated by delay. By the Civil Procedure Code (Amendment) Act, 1976, a proviso has been added to the said rule saying that "where it is proposed to grant an injunction without giving notice of the application to the opposite-party, the court shall record the reasons for its opinion that the object of granting the injunction would be defeated by delay..."

33. It has come to our notice that in spite of the aforesaid statutory requirement, the courts have been passing orders of injunction before issuance of notices or hearing the parties against whom such orders are to operate without recording the reasons

⁴ (1993) 3 SCC 161



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for passing such orders. It is said that if the reasons for grant of injunction are mentioned, a grievance can be made by the other side that court has prejudged the issues involved in the suit. According to us, this is a misconception about the nature and the scope of interim orders. It need not be pointed out that any opinion expressed in connection with an interlocutory application has no bearing and shall not affect any party, at the stage of the final adjudication. Apart from that now in view of the proviso to Rule 3 aforesaid, there is no scope for any argument. When the statute itself requires reasons to be recorded, the court cannot ignore that requirement by saying that if reasons are recorded, it may amount to expressing an opinion in favour of the plaintiff before hearing the defendant.

34.*The imperative nature of the proviso has to be judged in the context of Rule 3 of Order 39 of the Code. Before the proviso aforesaid was introduced, Rule 3 said "the court shall in all cases, except where it appears that the object of granting the injunction would be defeated by the delay, before granting an injunction, direct notice of the application for the same to be given to the opposite-party". The proviso was introduced to provide a condition, where court proposes to grant an injunction without giving notice of the application to the opposite-party, being of the opinion that the object of granting injunction itself shall be defeated by delay. The condition so introduced is that the court "shall record the reasons" why an ex parte order of injunction was being passed in the facts and circumstances of a particular case. In this background, the*



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requirement for recording the reasons for grant of ex parte injunction, cannot be held to be a mere formality. This requirement is consistent with the principle, that a party to a suit, who is being restrained from exercising a right which such party claims to exercise either under a statute or under the common law, must be informed why instead of following the requirement of Rule 3, the procedure prescribed under the proviso has been followed. The party which invokes the jurisdiction of the court for grant of an order of restraint against a party, without affording an opportunity to him of being heard, must satisfy the court about the gravity of the situation and court has to consider briefly these factors in the ex parte order. We are quite conscious of the fact that there are other statutes which contain similar provisions requiring the court or the authority concerned to record reasons before exercising power vested in them. In respect of some of such provisions it has been held that they are required to be complied with but non-compliance therewith will not vitiate the order so passed. But same cannot be said in respect of the proviso to Rule 3 of Order 39. The Parliament has prescribed a particular procedure for passing of an order of injunction without notice to the other side, under exceptional circumstances. Such ex parte orders have far-reaching effect, as such a condition has been imposed that court must record reasons before passing such order. If it is held that the compliance with the proviso aforesaid is optional and not obligatory, then the introduction of the proviso by the Parliament shall be a futile exercise and that part of Rule 3 will be a surplusage for all practical purposes. Proviso to Rule 3 of Order 39 of



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the Code, attracts the principle, that if a statute requires a thing to be done in a particular manner, it should be done in that manner or not at all. This principle was approved and accepted in well-known cases of Taylor v. Taylor [(1875) 1 Ch D 426 : 45 LJ Ch 373] and Nazir Ahmed v. Emperor [AIR 1936 PC 253 (2) : 63 IA 372 : 37 Cri LJ 897] . This Court has also expressed the same view in respect of procedural requirement of the Bombay Tenancy and Agricultural Lands Act in the case of Ramchandra Keshav Adke v. Govind Joti Chavare [(1975) 1 SCC 559 : AIR 1975 SC 915]

35. *As such whenever a court considers it necessary in the facts and circumstances of a particular case to pass an order of injunction without notice to other side, it must record the reasons for doing so and should take into consideration, while passing an order of injunction, all relevant factors, including as to how the object of granting injunction itself shall be defeated if an ex parte order is not passed. But any such ex parte order should be in force up to a particular date before which the plaintiff should be required to serve the notice on the defendant concerned. In the Supreme Court Practice 1993, Vol. 1, at page 514, reference has been made to the views of the English Courts saying:*

"Ex parte injunctions are for cases of real urgency where there has been a true impossibility of giving notice of motion...."

An ex parte injunction should generally be until a certain day, usually the next motion day...."



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21. The Hon'ble Apex Court in the case of ***Morgan Stanley Mutual Fund -vs- Kartick Das⁵***, held at paragraph No.36 as under:

"**36.** As a principle, ex parte injunction could be granted only under exceptional circumstances. The factors which should weigh with the court in the grant of ex parte injunction are—

(a) whether irreparable or serious mischief will ensue to the plaintiff;

(b) whether the refusal of ex parte injunction would involve greater injustice than the grant of it would involve;

(c) the court will also consider the time at which the plaintiff first had notice of the act complained so that the making of improper order against a party in his absence is prevented;

(d) the court will consider whether the plaintiff had acquiesced for sometime and in such circumstances it will not grant ex parte injunction;

(e) the court would expect a party applying for ex parte injunction to show utmost good faith in making the application.

(f) even if granted, the ex parte injunction would be for a limited period of time.

(g) General principles like prima facie case, balance of convenience and irreparable loss would also be considered by the court."

⁵ (1994)4 SCC 225



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22. In the case of ***Time City Infrastructure and Housing Limited, Lucknow -vs- State of UP and others***⁶, the Hon'ble Supreme Court held at paragraph No.5 as under:

"5.Looking to the scheme of Order 39, CPC it is clear that ordinarily an order of injunction may not be granted ex parte. The opposite party must be issued a notice and heard before an injunction may be granted. Rule 3 carves out an exception in favour of granting an injunction without notice to the opposite party where it appears that the object of granting injunction would be defeated by the delay. Conferment of this privilege on the party seeking an injunction is accompanied by an obligation cast on the court to record reasons for its opinion and an obligation cast on the applicant to comply with the requirements of Clauses (a) and (b) of the proviso. Both the provisions are mandatory. The applicant gets an injunction without notice but subject to the condition of complying with Clauses (a) and (b) above said."

23. The Principles governing grant of temporary injunction has been explained by the Hon'ble Apex Court in the case of ***Ramakant Ambalal Choksi -vs- Harish***

⁶ 2025 SCC OnLine SC 1674



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Ambalal Chokshi⁷, wherein at paragraph nos.32 and 33,
it is held as under:

"Principles governing grant of temporary injunction

32. *In Anand Prasad Agarwalla v. Tarkeshwar Prasad [Anand Prasad Agarwalla v. Tarkeshwar Prasad, (2001) 5 SCC 568] , it was held by this Court that it would not be appropriate for any court to hold a mini-trial at the stage of grant of temporary injunction.*

33. *The burden is on the plaintiff, by evidence aliunde by affidavit or otherwise, to prove that there is "a prima facie case" in his favour which needs adjudication at the trial. The existence of the prima facie right and infraction of the enjoyment of his property or the right is a condition precedent for the grant of temporary injunction. Prima facie case is not to be confused with prima facie title which has to be established on evidence at the trial. Only prima facie case is a substantial question raised, bona fide, which needs investigation and a decision on merits. Satisfaction that there is a prima facie case by itself is not sufficient to grant injunction. The Court further has to satisfy that non-interference by the court would result in "irreparable injury" to the party seeking relief and that there is no other remedy available to the party except one to grant injunction and he needs protection from the consequences of apprehended injury or dispossession. Irreparable injury, however, does not mean that there must be no physical possibility of repairing the injury, but means only that the injury must be a material one, namely, one that*

⁷ (2024)11 SCC 351



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cannot be adequately compensated by way of damages. The third condition also is that "the balance of convenience" must be in favour of granting injunction. The Court while granting or refusing to grant injunction should exercise sound judicial discretion to find the amount of substantial mischief or injury which is likely to be caused to the parties, if the injunction is refused and compare it with that which is likely to be caused to the other side if the injunction is granted. If on weighing competing possibilities or probabilities of likelihood of injury and if the Court considers that pending the suit, the subject-matter should be maintained in status quo, an injunction would be issued. Thus, the Court has to exercise its sound judicial discretion in granting or refusing the relief of ad interim injunction pending the suit. (See Dalpat Kumar v. Prahlad Singh [Dalpat Kumar v. Prahlad Singh, (1992) 1 SCC 719] .)"

24. Apparently, in the present case on hand, an ad interim order of temporary injunction has been granted by the trial Court. Hence, this Court will have to see whether the trial Court has provided proper reasoning to come to such a conclusion for grant of an ad interim order of temporary injunction. Upon careful perusal of the impugned order, it is seen that the trial Court has merely stated that it has considered the principles emerging from the decisions relied by the respondent/plaintiff, perused the materials on record, so also the plaint averments and



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documents and came to a conclusion that plaintiff has made out a *prima facie* case for grant of *ex parte* temporary injunction and if the notice was ordered to be issued, it would cause delay and defeat the very purpose of filing the suit and therefore, in order to avoid multiplicity of proceedings, granted an *ex parte* order of temporary injunction.

25. In my opinion, the trial Court has not assigned any reasons for grant of temporary injunction and not stated what is the *prima facie* case that is made out and why the delay would defeat the very purpose of filing of the suit. When an application is filed under Order XXXIX Rules 1 & 2 of CPC, the trial Court is obligated to consider whether the plaintiff has made out a *prima facie* case and come to the conclusion by arriving at a proper reasoning and not merely stating *prima facie* case is made out. The trial Court is obligated to spelt out in its order as to what is the *prima facie* case that is made out by way of



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application of mind through judicial reasoning and thereafter whether the plaintiff has made out balance of convenience to be tilting in his favour and so also the irreparable injury would be caused by non grant of such an order. It is only then the temporary injunction order could be granted. If no such thing is decided or adjudicated by the learned trial judge while passing the ad interim order of temporary injunction, it would squarely come within the meaning of non-application of mind and improper exercise of judicial discretion while appreciating the materials on record and granting an ad interim order of temporary injunction amounting to perversity. In the present case on hand, it is apparently clear that reasons are not spelt out in the impugned order passed by the trial Court as to what is the prima facie case made out and the two other essential requirements of balance of convenience and irreparable hardship that would be caused more to which of the parties.



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26. As I have already stated, the judgments of the Hon'ble Apex Court and several judgments of this Court have clearly laid down the principles as to how an application under Order - XXXIX Rules - 1 & 2 of CPC for grant of an ad interim order of temporary injunction to be decided. It is not merely by saying *prima facie* case is made out or balance of convenience tilts and irreparable injury would be caused. It is for the trial Court to specifically spelt out the reasons for all three essential requirements, which in the present case has not been clearly opined.

27. As stated supra, whenever an application under Order XXXIX Rules 1 and 2 of CPC is considered, the trial Court is required to deliberate upon three essential requirements of prima facie case, balance of convenience and the hardship that would be caused more to which of the parties. While doing so, the trial Court is required to legally articulate the specific reasons of prima facie case



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and the balance of convenience would tilt in whose favour, so also the hardship that would be caused more to which of the parties. In the present case on hand, the trial Court has not specified by way of a proper reasoning and not applied its judicial mind to give brief details of prima facie case, balance of convenience and hardship that would be caused to the plaintiff. It is rather held that prima facie case is made out based on the citations relied by the plaintiff, but not adverted to what is the prima facie case made out by the plaintiff for grant of an ex parte ad interim order of temporary injunction prior to giving notice to the defendants. Therefore the order that is passed by the trial Court is clearly coming within the ambit of an unreasoned order, so also it would amount to an order which is perverse, arbitrary, capricious for having ignored the settled principles of law regulating the grant of temporary injunction.



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28. In view of the discussion made hereinabove and having heard learned counsels for both parties and the judgments relied by them, I am in agreement with learned counsel for the appellants/defendants that the impugned order passed by the learned trial Judge is illegal and perverse for not having legally articulated the essential requirements of the prima facie case, balance of convenience and irreparable hardship in the proper perspective. Therefore, the impugned order deserves to be set aside. The 2nd point raised in the present appeal is answered accordingly.

29. Now coming to the next question, whether this Court should consider the application and pass necessary orders or should it remand the matter back to the trial Court for reconsideration of the application - I.A. No. 1 filed under Order XXXIX Rule 1 and Rule 2, it is seen that whenever an application is filed under Order XXXIX Rules 1 and 2 of CPC, it is required to be filed in the Court of the



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first instance, so also in the present case such an application is filed. But before issuance of notice, the trial Court found it appropriate to grant an ad interim *ex parte* order of Temporary Injunction for the reason that the delay would defeat the purpose of filing the suit. It is always for the Court of the first instance to deal with the application and decide the matter on merits. The appellants/defendants have already filed their *vakalath* and have come on record before the trial Court. If they have not filed their objections to the application, they are at liberty to file the objections so also the written statement and contest the application on merits. It may not be appropriate for this Court to pass an order on the said application as it is for the trial Court to deal with the application based on the pleadings and the materials available on record, as held by the Hon'ble Apex Court in the case of ***Wander Ltd. & Anr. vs. Antox India P. Ltd***⁸.

⁸ 1990 Supp SCC 727



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30. The appellate Court should not interfere with the order if it is passed by following the principles of three essential requirements of prima facie case, balance of convenience and irreparable hardship. Had it been the case where both the parties were heard, this Court could have considered the appeal on its merits on the application. But in the present case on hand, the impugned order is an unreasoned *exparte* order without hearing the appellants/defendants. Therefore in my opinion, an opportunity requires to be given to the appellants/ defendants before the trial Court by remitting this matter back to the trial Court for reconsideration of the application once again in a time bound manner rather than this Court deciding the application.

31. Under the circumstances, I am of the opinion that the matter requires to be remanded to the trial Court for reconsideration of I.A No. 1 by providing an opportunity to the plaintiff as well as the defendants,



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keeping open all contentions with regard to the merits of the application.

32. Accordingly, I pass the following:

ORDER

- i) The appeal is **allowed**.
- ii) The impugned order dated 03.06.2026 passed on I.A No. 1 in O.S No. 3717/2026 by the i/c LXXXV Additional City Civil & Sessions Judge, Bengaluru, is hereby set aside.
- iii) Matter is remitted back to the trial Court to re-consider the application - I.A. No. 1 afresh and pass reasoned order after providing sufficient opportunity to both parties, within fifteen (15) days from the date of receipt of copy of this order.
- iv) The parties are at liberty to file further pleadings and documents, if required.
- v) It is open to the parties to urge all grounds that are urged in the present appeal.
- vi) It is made clear that this Court has not expressed any opinion on the merits of the matter, so also on the application.



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vii) All contentions of parties are kept open.

Ordered accordingly.

Sd/-
(PRADEEP SINGH YERUR)
JUDGE

GSS
List No.: 1 Sl No.: 42