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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(OS) 309/2023

GAUTAM GAMBHIR Plaintiff

Through: Mr. Jai Anant Dehadrai and Mr.
Martin G. George, Advocates

versus

PUNJAB KESARI & ORS. Defendants

Through: Mr. Raj Shekhar Rao, Sr. Advocate
with Mr. Dhruv Chawla, Advocate
for D-1 and 2

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

% **17.05.2023**

I.A. 9525/2023 (Exemption)

Subject to the plaintiff filing the clear, original and legible/typed copies of any dim documents on which the plaintiff may seek to place reliance, within two weeks from today, exemption is granted for the present.

The application is disposed of.

I.A. 9526/2023 (Seeking leave to file additional documents)

1. The instant application under Section 151 of the Code of Civil Procedure, 1908 has been filed on behalf of applicant/plaintiff seeking the following reliefs:-

"a) Allow a time of 90 days to the Plaintiff to file additional documents, and

b) Any other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

2. For the reasons stated in the application, the same is allowed.
3. Accordingly, the application stands disposed of.

CS(OS) 309/2023

1. The instant suit is a suit for mandatory injunction, damages and costs filed on behalf of the plaintiff seeking the following reliefs:-

"A. Pass a Decree of Mandatory Injunction directing the Defendants to issue an unconditional written apology to the Plaintiff, which after approval of the Plaintiff would be published in all newspapers (including digital versions) that are published and circulated by Punjab Kesari, and this apology would contain an apology for malicious and false publications; and

B. Pass a Decree of Mandatory Injunction to the Defendants to retract each and every defamatory publication on made against the Plaintiff, removing all available defamatory publications of circulation on the Defendant No. 1's website; and

C. Pass a Decree of Mandatory Injunction to the Defendants to cease and desist from making any further defamatory publications (via print or online) against the Plaintiff.

D. Pass a decree of Damages of Rs. 2,00.00,000/- (Rupees two Crores) to the charitable organizations as identified by the Plaintiff."

2. Learned counsel appearing on behalf of plaintiff submitted that the plaintiff is a world-class athlete, a former cricketer and captain of the Indian Cricket Team, a Patriot and a Parliamentarian (Lok Sabha). The plaintiff is

constrained to invoke the jurisdiction of this Court due to the numerous malicious, libellous statements that have been published against him by the defendant No. 1 newspapers through its representatives. It is submitted that the plaintiff is a winner of numerous international accolades for the country, including two Cricket World Cups and he has, accordingly, been awarded a Padma Shri as well for his outstanding contribution to the sport of Cricket. It is further submitted that the plaintiff, through his Foundation, the Gautam Gambhir Foundation, has also undertaken numerous, charitable work for the upliftment of the society, especially for the widows and orphans of the Indian Army.

3. Learned counsel appearing on behalf of plaintiff submitted that the defendant No. 1, Punjab Kesari is one of the most widely read Hindi news dailies, with a circulation across Delhi N.C.R., Uttar Pradesh, Rajasthan, Jammu and Kashmir, Punjab, etc. with a total average circulation of 3,42,795 per day in Delhi alone. However, the defendant Organization, through its newspaper and its representatives, has been intentionally publishing false and defamatory articles with a view to damage the reputation of the plaintiff from 16th May, 2022 onwards.

4. Learned counsel appearing on behalf of plaintiff, in support of his arguments, has placed reliance on certain newspaper articles which are as follows:-

- i. On 16th May, 2022, Newspaper article published by the defendant titled 'Sansad Gautam Gambhir Lapata Gali-Gali Me Lage Poster'.
- ii. On 27th May, 2022, Newspaper article published by the defendant titled 'Dilli ke lapata Sansad Lucknow Super

Giants ke liye bane Bhasmasur'.

- iii. On 29th May, 2022, Newspaper article published by the defendant titled 'Ye Naye Mijaz ke Sansad hai Jara Faaslo se Mila Karo'.
- iv. On 15th June, 2022, Newspaper article published by the defendant titled 'Adesh Gupta bolte reh gaye, Gautam Gambhir uth chale'.
- v. On 28th August, 2022, Newspaper article published by Defendant titled 'Bhajpa Neta ki Dabangai: Mahila SHO ko karaya Line Haazir'.
- vi. On 10th November, 2022, Newspaper article published by the defendant titled 'Umeedwaroon ke namon ko lekar Bhajpa Vidhayakon va Jila-addhyakshon ke beech kheench-taan'

5. It is further submitted that due to the ongoing situation, a Legal Notice was also issued to the defendant No. 1 and 2 on 23rd November, 2022, to cease and desist from making any defamatory publication against the plaintiff. However, no response has been received to the same from the defendants till date.

6. On 7th April 2023, another Newspaper article has been published by Defendant No. 5 titled '*Gambhir Ke PA Arora Ke Sangrakshan Me Chal Rahi Hai Gandhi Nagar Me Avidh Parking*'. Accordingly, the hard-earned reputation of the plaintiff is under threat. Therefore, it is abundantly clear that the defendants have directly and indirectly defamed the plaintiff himself, while projecting the publication as an innuendo. In view of the above, the plaintiff has approached this Court for passing a decree of

mandatory injunction to the defendants.

7. *Per contra*, Mr. Raj Shekhar Rao, learned senior counsel appearing on behalf of defendants No. 1 and 2 has vehemently opposed the instant suit and has taken preliminary objection on the grounds that the defendant No. 1 is not a legal entity and the defendant No. 2 is not the Editor-In-Chief of the said Newspaper Organization.

8. Heard learned counsel for the parties and perused the record.

9. Upon a bare reading of the impugned news articles, this Court is of the *prima facie* opinion that many of these articles are indicative of willful campaign launched by the defendants to lower the reputation of standing of the plaintiff in the eyes of his constituents, supporters and the public at large. In the opinion of this Court, this does not befit a newspaper of the repute and stature of the defendants to indulge in such a conduct.

10. Let the plaint be registered as a suit.

11. Issue summons. Summons have been accepted by Mr. Dhruv Chawla, learned counsel appearing on behalf of defendants No. 1 and 2.

12. The written statement(s) shall be filed within thirty days from the receipt of summons. Along with the written statement(s), the defendants shall also file affidavit of admission/denial of the documents of the plaintiff.

13. Liberty is given to the plaintiff to file replication(s), if any, within thirty days from the receipt of the written statement(s). Along with the replication(s) filed by the plaintiff, affidavit of admission/denial of the documents of the defendants be filed by the plaintiff.

14. On filing PF within a week, issue summons to the defendants No. 3 to 5 through all permissible modes, returnable before the Joint Registrar on 4th August, 2023 for completion of service and pleadings.

15. List before the Court on 18th October, 2023.

I.A. 9527/2023 (u/O-XXXIX R-1 & 2 of CPC)

1. The instant application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 has been filed on behalf of applicant/plaintiff seeking the following reliefs:-

"a) Pass an Order of temporary injunction directing the Defendant till the pendency of the present suit to immediately withdraw the defamatory publications mentioned in Para No. 4, wherein false and factual incorrect, per-se defamatory, slanderous and libelous/imputations have been made by Defendant against the Plaintiff.

b) Pass an order of interim injunction against the Defendants to restrain them, their agents, employees, or persons claiming through or under him to forthwith remove all the defamatory/scandalous material published and circulated by them, or any other comment (s) against the Plaintiff or his family on social media platforms or any other defamatory publication on other medium against the Plaintiff.

c) Pass an order or temporary injunction restraining the Defendants till the pendency of the present suit from publishing any further defamatory publications in relation to the false and factually incorrect, per-se defamatory and libelous statements/imputations made by the Defendants against the Plaintiff in the series of the defamatory publications published by them.

d) Ad-interim ex-parte reliefs of prayers in (a), (b), & (c)

e) For costs of the application in favour of the Applicant and against the Defendant.

f) Any other and further reliefs as this Hon'ble Court may deem

fit and proper to meet the ends of justice."

2. Learned counsel for the plaintiff submitted that in light of the publications made, the Plaintiff is entitled to pray for injunction against the Defendant for immediate removal of these per-se defamatory publications as well as to recover adequate suitable damages from the Defendants for publishing/circulating utterly incorrect and defamatory allegations *qua* the Plaintiff. It is clear that the same has been done to create a false narrative despite knowing that all these false insinuations and malicious statements contained in their defamatory publications are absolutely dishonest.

3. It is submitted that this Court in plethora of judgments/orders has directed the withdrawal and removal of defamatory publications once the Plaintiff makes out right prima facie case for grant of an interim injunction against the Defendant.

4. It is therefore prayed that this Court may be pleased to pass an Order of temporary injunction directing the Defendant till the pendency of the present suit to immediately withdraw the defamatory publications mentioned in Para No. 4, wherein false and factual incorrect, per-se defamatory, slanderous and libelous/imputations have been made by Defendant against the Plaintiff.

5. Heard learned counsel for the parties.

6. Issue notice. Notice is accepted by Mr. Dhruv Chawla, learned counsel appearing on behalf of defendants No. 1 and 2.

7. Mr. Raj Shekhar Rao, learned senior counsel appearing on behalf of defendants No. 1 and 2 vehemently opposed the instant application and prayed for some time to file reply/objection.

8. Let reply/objection to the application be filed within three weeks. Rejoinder, thereto, if any, be filed within two weeks thereafter.
9. On filing PF within a week, issue notice to the defendants No. 3 to 5 through all permissible modes, returnable before the Joint Registrar on 4th August, 2023 for completion of service and pleadings.
10. List before the Court on 18th October, 2023.

CHANDRA DHARI SINGH, J

MAY 17, 2023
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[Click here to check corrigendum, if any](#)