



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION (L) NO. 24433 OF 2024
IN
SUIT (L) NO. 24425 OF 2024

Malabar Gold Limited

...Applicant

In the matter between

Malabar Gold Limited

...Applicant

Vs.

Mr. Shajan Skariah & Ors.

...Respondents

Mr. Karl Tamboly a/w Nidhi Singh, Ishan Gambhir, Shubham Khairee and
Akshata Parkar i/by India Law LLP for the Applicant.

Ms. Vinuta Rayadurg i/by Economic Laws Practice for Respondent No.2.

CORAM : ARIF S. DOCTOR, J.

DATE : 7TH AUGUST, 2024

P.C.:-

1. When the matter was called, Ms. Rayadurg, Learned Counsel appearing on behalf of Google LLC pointed out that Respondent No.2 had incorrectly been described as You Tube, whereas, the legal entity was Google LLC which in fact owns and runs the YouTube platform.

2. Mr. Tamboly, Learned Counsel for the Applicant seeks leave to carry out the necessary amendment to the name of Defendant No.2 to the Suit

and Respondent No.2. to the Interim Application. The draft amendment is tendered and taken on record and marked 'X' for identification. The amendment to be carried out on or before 5.00 p.m. tomorrow i.e. 8th August, 2024. Reverification is dispensed with.

3. Mr. Tamboly then points out that the present Suit has been necessitated on account of the fact that Respondent No.1 has posted on his YouTube channel which goes by the name of "Marunadan Malayali" a post by which several defamatory statements have been made against the Plaintiff-company. Mr. Tamboly submitted that one of the ex employees of the Plaintiff namely Arjun Sathyan's services came to be terminated on account of what he submits were various acts of misdeed on the part of the said employee and it is in connection with this incident that Respondent No.1 has posted.

4. Mr. Tamboly then invited my attention to a transcript of the said post which are set out in the Interim Application. I have perused the same with the assistance of Learned Counsel for the Applicant and have no hesitation holding that these statements are indeed *per se* defamatory. Furthermore, Mr. Tamboly points out that these statements have not been made on instructions of the ex employee Mr. Arjun Sathyan as much as a report of the said incident but appear to be at the pure *ipse dixit* of Respondent No.1. He submits that Respondent No.1 is a complete stranger/outsider to the Plaintiff-company and thus has no justifiable basis or knowledge to make such statement.

5. Mr. Tamboly then pointed out that Respondent No.1 in the habit of using his YouTube channel Marunadan Malayali as a medium making such false and defamatory statements. In support of his contention he has invited my attention to Exhibit A-1 of the Interim Application to point out that Respondent No.1 had also made certain defamatory statements qua an MLA and that the Hon'ble Supreme Court had reserved its verdict on a bail plea filed by Respondent No.1 seeking pre-arrest bail in a case lodged against Respondent No.1 by the said MLA.

6. Mr. Tamboly to highlight the extent of the circulation that the post has garnered pointed out that as on the date of the filing of the present Suit i.e. 2nd August, 2024, the post had received 517,461 views, 11000 likes and 1618 comments. He then to point out the damage caused to the Plaintiff's reputation basis the said post invited my attention to a comment of one viewer in which it is stated *"I am afraid of Malabar gold after hearing marunadan news (27/07). These people are trying to snatch properties from their former employee."* Mr. Tamboly submits that as on date the post has garnered 540,053 views. He submits that thus the post is being widely viewed/circulated and is having a grave impact on the Plaintiff's reputation.

7. He similarly invites my attention to (i) an order passed by the Delhi High Court against Respondent No.1 which is dated 26th May, 2023 and (ii) an order passed by the Additional Sub Judge-III, both of which direct certain

defamatory material posted by Respondent No.1 on his YouTube channel to be taken down. He also submits that Respondent No.1 has been arrested for forgery in support of which he places reliance upon an article which is annexed at Exhibit A-4 to the Interim Application.

8. Respondent No.1 though served is today not present. Mr. Tamboly has placed reliance upon an Affidavit of Service dated 6th August, 2024 to point out that Respondent No.1 has duly been served by email since he has refused to accept the physical copy of the notice. The Affidavit is taken on record.

9. After having heard Learned Counsel for the Applicant and satisfying myself basis the transcript upon which reliance has been placed, I find that the same are *per se* defamatory and indeed reckless. I therefore find that the Plaintiff has made out a case for the grant of the limited prayer for ad interim relief that has been sought for today i.e. prayer clause (g) which reads thus:

“g) Pending the hearing this Hon’ble Court be pleased to direct the Respondent No.1 and all other acting for and on his behalf to forthwith take down/remove the said video (Exhibit-C) and/or any other videos identical to, or similar in content, and/or any other videos and/or content in any format, including but not limited to use of pictures, names, images, likeness that violate the rights of the Applicant, as specified in the plaint in line with the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021;from the You Tube and other Social website/platform;”

10. It is clarified that the offending post from the YouTube channel which appears at https://www.youtube.com/watch?v=B56za_og87o is to be deleted by Respondent No.1 on immediate receipt of this order and failing which Respondent No.2 shall do so on intimation of the failure of Respondent No.1 by the Plaintiff.

11. List the matter for further hearing on 20th August, 2024.

(ARIF S. DOCTOR, J.)