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Order on draft N/M. in
Suit No.1413/2020



2345558
23/12/20

MHCC040045872020

BOMBAY CITY CIVIL COURT, BORIVALI DIVISION
AT DINDOSHI, GOREGAON, MUMBAI

DRAFT NOTICE OF MOTION

IN

S.C. SUIT NO. 1413 OF 2020
(CNR NO. MHCC040045872020)

Mr. Manish Jamadar Mishra

.... Plaintiff

V/s.

Mrs. Sarla w/o Ashok Saraogi & Atr.

... Defendants

CORAM: H.H. JUDGE SHRI S.N. SALVE
(C.R. NO. 16)

DATE : 22nd December, 2020

Adv. Sunil J. Mishra for plaintiff.

Adv. Sarogi for Defendants.

ORDER

R-G. Khan
28/12/2020
City Civil & Sessions Court
Bombay District Division
At Dindoshi (Goregaon)

This draft Notice of Motion is taken out by the plaintiff
against the defendants for temporary injunction restraining the defendants
from releasing, exhibiting, displaying, broadcasting any such film and /or
programme in respect of life of actor late Mr. Sushant Singh Rajput by

[Signature]
22/12/2020

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presenting discarded facts including by virtue of film titled "Nyay, the justice" in any manner.

2. In short, it is the case of the plaintiff that he is the businessman by profession and also the social worker. The defendant Nos. 1 and 2 are carrying on their business of film production. The plaintiff being social worker, he is very much concerned with the harmony within Society at large and he is also concerned with any of the misrepresentation made by any person of any of the media. It is further case of the plaintiff that, it is unhidden fact that on 14/06/2020, one of the noted film personality late Mr. Sushant Singh Rajput was found dead at his residence. The said issue is still being investigated by the CBI Authority and tilldate, no conclusive report has been issued, whether, it was death or murder. According to the plaintiff, in view of the fact that the matter is still under investigation, none can be permitted to represent to the public at large, contrary to the facts which are yet to be released by the CBI Authority. Despite the facts, the defendants have produced the Hindi feature film "Nyay, the justice" which is based upon the incident of actor late Mr. Sushant Singh Rajput. According to the plaintiff, as per the information received by him, by virtue of the said film, the defendants are trying to malign the reputation of the present Government of Maharashtra by way of mentioning that the Government has failed to take any steps in respect of death of actor late Mr. Sushant Singh Rajput. According to the plaintiff, since he is emotionally attached with actor late Mr. Sushant Singh Rajput and as also to the present Government which is ruling State of Maharashtra, he is affected person. According to the plaintiff, he has made

out a prima facie case, balance of convenience also lies in his favour and if the film is released, he would suffer irreparable loss. If injunction as prayed is granted, no loss would be caused to the defendants. Lastly, plaintiff prayed to grant temporary injunction, restraining the defendants from releasing, exhibiting, displaying, broadcasting any such film and /or programme in respect of life of actor late Mr. Sushant Singh Rajput by presenting discarded facts including by virtue of film titled "Nyay, the Justice" in any manner.

3. Defendants have opposed the Notice of Motion by filing reply / Written Statement. It is submitted by the defendants that plaintiff does not have locus-standy to file present suit. It is further submitted that entire contentions raised by the plaintiff are contrary to the Provision of law. It is further case of the defendants that the suit is prematurated. The plaintiff has not made out a prima facie case, the balance of convenience also does not lie in his favour and no irreparable loss would be caused to the plaintiff, if temporary injunction as prayed is refused.

4. The points for determination along with my findings with reasons thereon are as follows:-

Sr.No.	POINTS	FINDINGS
1)	Whether plaintiff has made out a prima facie case in his favour?	No
2)	Whether the balance of convenience lies in favour of plaintiff?	No
3)	Whether plaintiff would suffer	

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	irreparable loss, if injunction as prayed is refused?	No
4)	What order?	Notice of Motion is dismissed.

REASONS

Point Nos.1 to 3:-

5. I have heard the Learned Advocate for the plaintiff and the Learned Advocate for the defendants at length.

6. I have gone through the Notice of Motion, affidavit filed in support thereof, reply tendered by the defendants and documents placed on record.

7. By way of present Notice of Motion, the plaintiff is seeking injunction restraining the defendant Nos. 1 and 2 from releasing, exhibiting, displaying, broadcasting any such film and /or programme in respect of life of actor late Mr. Sushant Singh Rajput by presenting discarded facts including by virtue of film titled "Nyay, the Justice" in any manner. It is pertinent to point out that grant or refusal of injunction is a discretionary relief. Grant or refusal of injunction is regulated by Section 38 to 41 of Specific Relief Act, 1963. Section 41 of Specific Relief Act is prescribed circumstances when injunction can be refused. Sub clause (a) of Section 41 of the Specific Relief Act, 1963 is relevant which reads as follows:

Section 41-Injunction when refused- An Injunction
cannot be granted.

(a) xxx

(b) xxx

(c) xxx

(d) xxx

(e) xxx

(f) xxx

(g) xxx

(h) xxx

(I) xxx

(j) when the plaintiff has no personal interest in the matter.

8. From the plaint reading of the aforesaid Provision, it is very clear that the plaintiff has no personal interest in the matter, injunction cannot be granted.

9. In the present case, the plaintiff has merely stated he is immotionally attached with the late actor Mr. Suhshant Singh Rajput . However, he has failed to show his personal interest in the present matter. Under these circumstances, injunction as sought cannot be granted. Moreover, plaintiff is seeking injunction on the ground that the contents of the film malign the reputation of late actor Mr. Sushant Singh Rajput of the present Government. It is pertinent to point out here that as per the case of the plaintiff that the said film is yet to be released. Unless, the contents of the film are watched, it is difficult to hold that the contents of

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2/12/2020

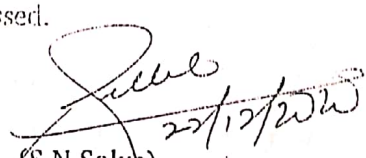
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the said film malign the reputation of actor late Mr. Sushant Singh Rajput and the present State Government. The plaintiff has failed to make out a prima facie case and balance of convenience in his favour. Further, the plaintiff has failed to establish that he would suffer irreparable loss in case of refusal of injunction as prayed. I, therefore, hold that plaintiff is not entitled to seek injunction as prayed. Accordingly, I answer point Nos. 1 to 3 in the negative and in answer to point No.4, I proceed to pass following order:

ORDER

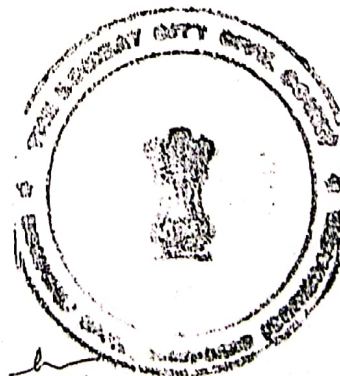
Draft Notice of Motion is dismissed.


(S.N. Salve)
Ad-hoc Judge, City Civil Court,
Borivali Div. Dindoshi, Mumbai.

Date of dictation on computer : 22/12/2020
Date of order signed by HHJ : 23/12/2020
Date of delivery to CC

check by R.R. Kotkar

RECEIVED
This 30 DEC 2020
At 12:45 PM
City Civil Court, Bombay
Borivali Division at
Dindoshi (Goregaon)



30 DEC 2020
This 30 DEC day of 13

Deputy Registrar
City Civil Court, Bombay
Borivali Division at
Dindoshi (Goregaon)