

IN THE CITY CIVIL COURT FOR GREATER BOMBAY
AT MUMBAI.

ORDER ON AD INTERIM RELIEF IN
NOTICE OF MOTION NO.1492 OF 2020
(CNR no. MHCC01-004529-2020)
IN
SUIT NO. 1146 OF 2020
(CNR no. MHCC01-004445-2020)

Hansa Research Group Pvt. Ltd.]
a Company incorporated under the]
Companies Act, 1956 and having its office at]
first floor, Building-A, Sahney Business Centre,]
Kiro Road, Vidhyavihar (West), Mumbai-400086.]... **Plaintiff**

Versus

1. ARG Outlier Media Pvt. Ltd.]
a Company incorporated under the Companies Act,]
1956, and having its registered office at]
Bombay Dyeing Compound, Worli, Mumbai-400018.]

2. Arnab Ranjan Goswami,]
Age : Not known, Occupation : Journalist,]
having his office at Bombay Dyeing Compound,]
Worli, Mumbai-400018.]....**Defendants**

Appearances:-

Ld. Advocate Mr. N. D. Jaywant for the Plaintiff.

Ld. Advocate Mr. P. D. Gandhi I/b Phoenix Legal for the defendant.

**CORAM : HIS HONOUR JUDGE
SHRI C. V. MARATHE
(Court Room no. 4)**

DATED : 21st October, 2020

ORAL ORDER ON AD-INTERIM RELIEF

1. Being aggrieved by disclosure of its internal report in the telecasts of Republic TV news channel on 10.10.2020 and on

subsequent dates, the plaintiff Company has approached the Civil Court for grant of temporary injunction restraining the defendants no. 1 and 2 from referring in their broadcast, the internal document of the plaintiff termed by the defendants as “Hansa Report” or any other internal document of the plaintiff Company till final disposal of the suit.

2. Shorn of unnecessary details, the facts germane to decision of the instant application by Notice of Motion are as under:

The plaintiff is a Company incorporated under the Companies Act, 1956. The Broadcast Audience Research Council (hereinafter referred as “BARC”), the authority measuring the viewership data of various channels, commissioned the plaintiff in the year 2014 to be part of TV Audience Measurement Process by installing barometers to capture ‘what India watches’. Certain channels allegedly attempted to manipulate their viewership data which had large impact on the tariffs of television advertisements based on such viewership data. The vigilance Team of BARC with the help of plaintiff found that the ex-employee of the plaintiff Company was inducing the viewers to watch particular channels. Deputy General Manager of the plaintiff Company. Shri Nitin Kashinath Deokar filed report with Kandivali (West) Police Station and offence vide FIR No.843 of 2020 came to be registered on

06.10.2020. During the press conference on 08.10.2020 the Commissioner of Police, Mumbai named Republic TV, a news channel conducted by defendant no.1 under the editorship of the defendant no.2, as one of the channels who were trying to manipulate Television Rating Points (hereinafter referred as “TRP ratings”). In response to the said press conference, the Republic TV in its telecast on 10.10.2020 referred to the draft internal document of the plaintiff calling it as “Hansa Report” (hereinafter “Hansa Report”).

3. It is alleged in the plaint that Hansa Report was not shared by plaintiff with anybody except the Vigilance Team of BARC, due to disclosure of the Hansa Report in broadcast of Republic TV it is causing tremendous damage to the reputation of the plaintiff, the defendants had not obtained permission to use Hansa Report (internal report). Therefore, the plaintiff has prayed for temporary injunction restraining the defendants from referring in their broadcast to any internal document of the plaintiff termed to by defendants as “Hansa Report” or any other internal document of the plaintiff.

4. Ld. Advocate for the plaintiff submits that there exists contractual obligation on the plaintiff not to disclose any internal

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document to third party, the “Hansa Report” is an internal document exchanged between the plaintiff Company and BARC, the defendants were never authorised by the plaintiff Company to use Hansa Report for any purposes and, therefore, serious damage is caused to the reputation of the plaintiff after the defendant no.2 disclosed Hansa Report in the broadcast on Republic TV news channel. According to the Ld. Advocate for the plaintiff, the plaintiff has no concern with the defendants but the latter are jeopardising the plaintiff Company’s reputation unnecessarily and dragging it into controversy for no fault of it.

5. Ld. Advocate for the defendants has resisted the Notice of Motion contending that the suit itself is not maintainable. His arguments are multidimensional that is to say right to privacy is not available to the plaintiff Company in as much as it is the individual right, BARC is not made party to the suit, blanket injunction against the defendants can not be granted in terms of prayer clauses. He has further tendered relevant proof and highlighted that the Hansa Report is published/ available on several websites which are accessible to the public at large and the defendants only cannot be restrained as prayed in the Notice of Motion. Ld. Advocate for the defendants has also invited my attention to the fact that the plaintiff Company has not made

prayer for damages upon the allegation that the reference of the Hansa Report in the news channel broadcast resulted in serious damages to the reputation of plaintiff Company. Ld. Advocate for the defendants has also argued that freedom of press enshrined under Article 19 of the Constitution of India cannot be curtailed by granting injunction. Ld. Counsel for the defendants alleges that this is a shadow suit being filed at the behest of third party who is named in the Hansa Report and will be benefited if injunction is granted. Therefore, he claims that balance of convenience lies in favour of the defendants and plaintiff Company is not entitled for any ad-interim relief.

6. From the averments made in the plaint, it is apparent that the plaintiff is raising objection to reference of its internal report in the broadcast of the news channel of defendant no.1. It will be important to ascertain the character, classification and status of Hansa Report. In paragraph no.5 of the plaint, it is stated that it is an internal document as a draft detailing the facts of the investigation against Mr. Vishal Bhandari, ex-employee of the plaintiff Company for his alleged inducement to the viewers to watch particular channels and this document is exchanged between the Vigilance Team of BARC and plaintiff Company. In this regard, the relationship of the plaintiff

Company and BARC also assumes importance. In paragraph no. 3 of the plaint, it is stated that BARC commissioned the plaintiff Company in the year 2014 to be part of TV Audience Measurement Process by installing barometers. The dictionary meaning of word “Commission” is “to formally choose someone to do a special piece of work, or to formally ask for a special piece of work from someone”. This demonstrates that the plaintiff is not an agent of BARC meaning thereby it is not document exchanged between the agent and Principal. The plaintiff has not tendered any non disclosure agreement between itself and BARC about the confidentiality of the communications *inter se*. It is also interesting to note that the plaintiff has neither filed on record relevant excerpts of Republic TV news channel dated 10.10.2020 wherein Hansa Report was referred nor filed the said Hansa Report before the Court. The plaintiff has not quoted any law which bars use of such documents in the broadcast of news channels. From all the above, the plaintiff Company itself is not clear about the character, classification and status of purported internal document i.e. Hansa Report and it has not filed the relevant excerpts of news channel to know which report was disclosed by the defendants.

7. At this juncture, it is also to be noted that the plaintiff Company is not claiming manipulation of the Hansa Report by the defendants. The only grievance raised by the plaintiff Company is that due to frequent reference of Hansa Report by the defendants on its news channel Republic TV it is causing tremendous damage to the reputation of the plaintiff Company. Coming to the aspect of “damage to the reputation of the plaintiff”, there is a single line statement in the plaint about the same. From this mere statement one can not draw a conclusion about the quantum of damage, how the reputation of the plaintiff is damaged and which loss is caused to the plaintiff by reference of Hansa Report in the broadcast of news channel of defendants.

8. It is alleged in the plaint that the defendants were never authorized by the plaintiff to use Hansa Report for any purposes and it is also alleged that the said report could have been accessed by the defendants without permission or consent of the plaintiff. From this allegation it is clear that the plaintiff is not challenging veracity of Hansa Report shown on the news channel and if it is accessed by the defendants unauthorisedly plaintiff has to blame their employees and not the defendants for the same. From the plaint allegations it reveals

that after name of Republic TV was used by Commissioner of Police, Mumbai in his press conference dated 08.10.2020 for trying to manipulate TRP ratings, the defendants disclosed to Hansa Report on 10.10.2020 in response to the aforesaid allegations. It was natural for the media house to use its news channel to defend itself against the charge of manipulation of TRP ratings and disclosing the documents which support their case of innocence. As shown by the defendants learned counsel, the Hansa report is already in the public domain in as much as it is accessible to public on multiple websites, messaging applications. Therefore, it is not a case that the defendants only accessed, used and referred Hansa Report in their broadcast but multiple websites, social media applications have also disclosed the Hansa report. The plaintiff's action against the defendants only will not be prevent disclosure, circulation of Hansa Report. The supposition that disclosure of Hansa Report by the defendants in their broadcast will cause damage to the reputation of the plaintiff and use thereof by other websites and channels will not cause damage to reputation is not acceptable. Therefore, it cannot be said that reference of Hansa Report in broadcast of defendants no.1 and 2 was illegal.

9. The plaintiff has been unable to demonstrate even *prima facie* how irreparable loss and / or prejudice it causes by disclosure of Hansa report by the defendants. Once, the document/ matter is in public domain it becomes a legitimate subject of comment by the press and media house among others. Therefore, I do not find merit in the allegations against the defendants and ad-interim relief is rejected. Hence, order:

ORDER

1. Ad-interim relief is rejected.

sd/-

(C. V. Marathe)

Judge,

City Civil Court, Gr. Mumbai.

Date : 21.10.2020

Dictated on : 21.10.2020
Transcribed on : 21.10.2020
Signed by HHJ on : 22.10.2020

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”

UPLOAD DATE AND TIME : 22.10.2020 at 01.10 p.m.
NAME OF STENOGRAPHER : Mrs. Gayatri P Acharekar

Name of the Judge (With Court Room no.)	HHJ Shri. C. V. Marathe C.R. no.04
Date of Pronouncement of JUDGMENT/ORDER	21/10/2020
JUDGMENT/ORDER signed by P.O. on	22/10/2020
JUDGMENT/ORDER uploaded on	22/10/2020