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

% *Date of Decision : March 27, 2014*

+ **CS(OS) 2234/2011**

NITIN PURI

..... Plaintiff

Through: Mr.Pradeep Norula, Adv.

versus

POOJA PURI

..... Defendant

Through:

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

G.S.SISTANI, J. (Oral)

1. Plaintiff has filed the present suit praying for a decree of permanent injunction restraining the defendant, who is his wife, from visiting the office premises of the plaintiff situated at U 321, Rear Side, Ground Floor, Chirag Dilli, New Delhi.
2. Summons in the suit and notice in the application under Order XXXIX Rules 1 and 2 CPC were issued on 13.09.2011 and on the same day an *ex parte ad interim injunction* was also granted in favour of the plaintiff whereby the defendant was restrained from visiting the office of the plaintiff situated at U-321, Rear Side, Ground Floor, Chirag Dilli, New Delhi. Counsel for the defendant entered appearance on 17.10.2011 and sought time to file written statement and reply to the application filed under order XXXIX Rules 1 & 2. Written statement and reply to the application were filed by the defendant on 17.12.2011. Pleadings were completed on 30.03.2012. Thereafter, the plaintiff filed an application (I.A. 18075/2013) under order VI Rule 17 for amendment of plaint which was allowed vide

order dated 31.10.2013. Despite opportunity granted to the defendant to file written statement to the amended plaint, the same was not filed. Subsequently, none appeared on behalf of the defendant on 24.02.2014 and again on 07.03.2014, on which date the defendant was proceeded ex parte.

3. Affidavit by way of evidence of Nitin Puri, the sole proprietor of the plaintiff and husband of the defendant has been handed over in Court by learned counsel for the plaintiff, the same is taken on record and is exhibited as Ex.PW-1/A.
4. Nitin Puri in his affidavit by way of evidence has deposed on the lines of the plaint. He has deposed that he is the sole proprietor of M/s.V.N.Agencies and is running the business with his father since 2004 from U-321, Rear Side, Ground Floor, Chirag Dilli, New Delhi. The certificate of the registration is exhibited as Ex.PW-1/1. The certificate of M/s.Axis Bank is exhibited as Ex.PW-1/2. He has deposed that he is in the business of trading of imported commodity food products and supplies imported food commodity products and is the authorized agent of M/s.Suresh Kumar & Co. in South Delhi Region and some other institutions and the business of the plaintiff enjoys a good reputation in India. He has further deposed that M/s.Suresh Kumar & Co. is the agent of a few foreign companies in India and he is responsible for trading and distributing their products.
5. He has further deposed that the defendant is his estranged wife and is currently residing in the house which is solely owned by him and that the defendant has no right, title or interest in the said property. He has further deposed that out of the compulsion on account of the physical and mental cruelties meted out by the defendant, he had filed a petition for divorce in HMA No.1323/2010 which is pending in the Family Court, Saket. He has deposed that he has resided in the same premises with the defendant i.e. his

wife in separate rooms till 11.8.2011 after which the defendant threatened him to falsely implicate him and his family members by pouring kerosene oil on herself. He has further deposed that he was physically abused and a medical examination had to be done on him, however, the police did not lodge a complaint against the defendant i.e. his wife.

6. He has further deposed that he got married to the defendant on 3rd December 1999 and one daughter Etiva was born out of the wedlock on 3rd October 2000. He has further deposed that the parties had problems within the first few days of their marriage due to the behaviour of the defendant which was abusive and violent. He has further deposed that he had duly intimated the parents of the defendant about the behaviour of the defendant on which the defendant's parents assured him that the defendant was immature and that with the passage of time she will get mature and the additional responsibility of daughter would make the defendant adjust better. He has further deposed that the defendant would often neglect their child, leaving her with dirty nappies and diapers causing allergies to the child. He has further deposed that their second child Pratha was born on 2nd May 2004 which also did not change the defendant. He has further deposed that the defendant continued to be violent and abusive due to which his father asked him and the defendant to leave the house.
7. He has further deposed that upon asking of his father, he left the house of his father with the defendant and took a house on rent in Khirki Extension area. In the rented accommodation too his miseries did not come to an end as there also the defendant continued with her violent behaviour. He has further deposed that the defendant even quarrelled with the maids and part time helpers engaged by him. He has further deposed that due to violent and abusive behaviour of his wife, the landlord of their Khirki Extension house evicted them.

8. He has further deposed that in September 2007, he and the defendant returned back to the house of his father in Malviya Nagar. On one occasion due to the negligence of the defendant, one of his daughter was molested by a domestic help and that his wife was unperturbed by this incident of molestation of her daughter. Moreover, he had started to get calls from the school of his children complaining about their attendance, homework and hygiene. He has further deposed that she also started quarrelling with his mother and that due to her violent behaviour his mother left the home in September 2007.
9. He has further deposed that the defendant started beating his father also for which they lodged a complaint with police. Moreover, around January 2010 he hired a 45 year old lady as domestic help to take care of children who was also ill treated by the defendant by not giving her proper meal and regular beatings were given to her. He has further deposed that once it happened that when the defendant was beating the domestic help and he intervened, the defendant hit him and got into a fist fight with him and the police had to be called to control the situation.
10. It has further been deposed that the defendant started demanding luxurious life stating that if her demands are not met she would become more aggressive and assertive with physical violence. Furthermore, on 15.05.2011 when he was in office the defendant came over and on the pretext of having seen him talking to a girl started throwing items kept on the desk and on being asked to stop, the defendant got angry and started slapping him and also pulled his hair. He has further deposed that he called on No.100 to save himself from his wife and then the defendant fled from the spot. It has also been deposed that once the defendant tried to cut her wrist to implicate him and his family members under false allegations and that he had to file a police complaint seeking directions to his wife to

restrain herself from coming to his office which has been exhibited as Ex. PW-1/3.

11. He has further deposed that due to the violent and abusive scene created in the tenanted premises on 15.5.2011, his landlord on 18.5.2011 wrote to him asking him to stop such violent incidents in their premises lest he would have to vacate the house at that very moment. The letter of the landlord dated 18.5.2011 written to him is exhibited as Ex.PW-1/4. He has further deposed that he also received a letter from Suresh Kumar & Co. (Impex) Pvt. Ltd. exhibited as Ex. PW-1/5, expressing their displeasure to him and saying that his personal life was overlapping with his professional life at the work premises and it was also pointed out that on various occasions sales representative had been badly treated by the defendant and that the defendant has also many a times torn Purchase Orders, cheques and government documents and that he was running the risk of losing the business activities.
12. He has further deposed that on 06.06.2011, the defendant once again barged into his office and started hurling loud abuses. On hearing the abusive voice of the defendant the landlady of the premises intervened and tried to pacify her, but instead the defendant got violent with her also and started abusing her. The defendant threw a lot of stuff out of the cartons and broke the bottles, damaging the property which was on rent. On calling No.100 the defendant left the spot threatening to kill his 70 year old father. He has taken photographs of the damage done to the property by the defendant which is exhibited as Ex.PW-1/6/1 to Ex.PW-1/6/12. He has further deposed that the landlady of the rented premises also lodged a complaint against the defendant for the incident of 06.06.2011 of entering into premises, creating nuisance and then breaking things in the shop and abusing her which is exhibited as Ex. PW-1/7.

13. He has further deposed that on 6.8.2011 the defendant once again visited the premises and around 12:15 pm took the car keys and went home. On enquiring about the car keys, the defendant started abusing him and demanded money and on refusal, the defendant came to the office premises at around 2:15 pm and started honking and hurling abuses at the staff who were working there and even called names to the workers. Once again he had to lodge a complaint with the SHO Malaviya Nagar which is exhibited as ex. PW-1/8.
14. He has further deposed that on another occasion, defendant started asking for more money and when he refused the same, defendant threatened to douse herself in kerosene oil and burn herself. A complaint to this effect was lodged with SHO Malviya nagar which has been exhibited as Ex. PW-1/9. He has further deposed that on 10.8.2011, after taking money again, the defendant hit him with the Set Top Box of Tata Sky resulting in injuries behind his ears and stabbed him three times, resulting in cuts on the wrists. The defendant also tried to throw TV on him but due to its heavy weight the defendant was not able to lift it. He has further deposed that he called the police and the police helped him in leaving his own house. Thereafter, he got his medical done at Gujar Mal Modi Hospital, Saket New Delhi and the MLC is exhibited as Ex PW1/10.
15. He has further deposed that the defendant once again visited his office on 23/8/2011 in his absence and threatened one Mr.Vijay Kumar Puri, and stole the accountancy software of the plaintiff's company which resulted in great loss to the company as important data pertaining to the company was lost. He has further deposed that Mr.Vijay Kumar Puri was compelled to lodge a complaint with the DCP Hauz Khas which is exhibited as Ex.PW-1/11.
16. It has further been deposed that as he had filed a Divorce Petition which

was pending, as a counter blast to the said petition, the defendant filed a complaint under the Domestic Violence Act, 2005, and that vide order dated 11.7.2011, he and his father were restrained from dispossessing the defendant. He has further deposed that he has a legal right to carry out the business from the rented premises and that the defendant has no right to create an ugly scene and fight in the office and damage property of his company. He cannot be verbally and physically abused by the defendant. He has further deposed that he has been in use, occupation and enjoyment of the rented premises for the last 4 years, however, from May 2011, the defendant has started to visit the premises and create nuisance at the premises, as a result of which the landlady and M/s. Suresh Kumar & Co. have already warned him that if the fights continue and any damage to the property is caused, he will have to vacate the premises and the agency would be withdrawn. He has further deposed that in spite of repeated requests, the defendant is hell bent on visiting the office and creating ugly scenes. Moreover, the police have failed to act on the complaints of destruction of property and papers.

17. He has further deposed that vide order dated September 13, 2011 this Hon'ble Court was pleased to pass an ex parte order against the defendant restraining her from visiting the premises. He has further deposed that damage has been caused to the rented property and if the defendant is not permanently restrained it would cause further damage to the property. Also, the custody of the three children Etiva, Pratha and Suryansh has been handed over to him from Monday to Friday and the responsibility of sending the children to school is his responsibility. He has further deposed that despite orders of the Family Court the defendant has failed to comply with the order and not handed over Suryansh to him for which an application is pending in the Family Court at Saket. He has further deposed

that if the defendant is not restrained by way of a Permanent Injunction, his business would virtually come to a standstill and financial losses would be caused to him and he would not be able to support his children.

18. I have heard counsel for the plaintiff and carefully perused the documents which have been placed on record along with the affidavit by way of evidence filed by the plaintiff, which is unrebutted. Taking into consideration the Police complaint dated 15.5.2011, Ex.PW-1/3, wherein plaintiff had informed the police that the defendant had visited the suit premises and she started abusing and threatening him, and further that she slapped him and also tried to cut her wrist in order to implicate the plaintiff and his family members; the letter dated 18.05.2011, Ex.PW-1/4, received from the landlady with respect to the unpleasant acts of the defendant in their premises; also considering the details of visit of the defendant on 06.06.2011, which have been stated in para 17 of the affidavit by way of evidence of Nitin Puri; the photographs, Ex.PW-1/6/1 to Ex.PW-1/6/12, showing damages caused to the property in question; the complaint of the landlady, Ex.PW-1/7, regarding repeated nuisance being created by the wife of Nitin Puri; and the subsequent police complaints filed by Nitin Puri, which have been exhibited as Ex.PW-1/8 and Ex.PW-1/9 respectively, the present suit is decreed in favour of the Plaintiff and against the Defendant and the defendant is restrained from visiting the office premises of the plaintiff situated at U-321, Rear Side, Ground Floor, Chirag Dilli, New Delhi. Decree sheet be drawn up accordingly.

(G.S.SISTANI)
JUDGE

MARCH 27, 2014
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