

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SHOW CAUSE NOTICE NO. 787 OF 2014
IN
NOTICE OF MOTION NO. 313 OF 2014
IN
SUIT NO. 175 OF 2014

Sheikhah Fadiyah Saad Al-Abdullah Al-Sabah ...Plaintiff
Versus
Sanjay Mishrimal Punamiya & 2 Ors. ...Defendants

Mr. Sharan Jagtiani, *with Mr. Munir Merchant, Javed Dhorajiwala, Mr. Shadab Peerzade, Ravi Khillare, i/b M/s. MZM Legal & Munir Merchant, for the Plaintiff.*

Mr. Subhash Jha, *with Rushika Jain i/b Law Global Advocates, for Noticee No. 1.*

Mr. Ghanshyam Upadhyay, *i/b Law Juris, for Noticee No. 2.*

Mr. Nilesh Ojha, *present in person.*

CORAM: G.S. PATEL, J
DATED: 2nd February 2015

PC:-

1. This is a show-cause notice issued against two noticees. I have separately discharged the notice against Noticee No. 2 by a

speaking order passed some time ago. The Show Cause Notice remained pending against Noticee No. 1 because at the time when the matter was taken up against Noticee No. 2, Noticee No. 1 was unable to remain present on account of a bereavement in his family.

2. This matter has a long and convoluted history. There is no manner of doubt, as Mr. Jagtiani, learned Counsel for the Plaintiffs, says, that the initial actions taken by Noticee No. 1, and on account of which this show-cause notice came to be issued, were indeed serious. In and of themselves, these actions would have warranted extreme censure and perhaps an order to the fullest extent of the law, but for the fact that these are all subsequently been unconditionally withdrawn by Noticee No. 1. In fact, Noticee No. 1 has been at some pains not only to recant and withdraw those statements but also to repeatedly place on affidavit apologies to the Court. These are to be found not only in the affidavit to the present show-cause notice but also in certain proceedings before the Appeal Court. As Mr. Jha, learned Advocate for Noticee No.1 says, Noticee No. 1 has gone several steps further. He has also of his own volition and at some considerable cost, issued a public advertisement in a daily newspaper disassociating himself from all of his previous statements, expressing his apology in the clearest possible terms and also setting out his confidence in and regard for this Court.

3. So that there is no available ambiguity in this matter, Noticee No. 1 has today filed a further affidavit. I need not reproduce or even summarize its contents in this order. That affidavit speaks for itself. It is entirely satisfactory and there is no reason, regard being

had to the to the 1st Noticee's subsequent conduct, to disbelieve that the 1st Noticee's statements on affidavit are anything but genuine, *bona fide* and heartfelt.

4. Taking into account all these circumstances and especially the two affidavits filed in this show-cause notice, as also the third affidavit filed today, I do not believe any purpose will be served by pursuing the matter any further. I have very little doubt that the initial actions of Noticee No. 1 that are the subject matter of this show-cause notice were indeed wrong and even reprehensible in what they attempted and in what manner. But just as a Court must take such actions seriously, it must I think also demonstrate clemency and generosity of approach when a party before it candidly admits to having erred and seeks to make amends. Not to do so, especially in the face of the affidavits filed as they are today, would be both undignified and ungracious. Every mistaken action and misconceived step is not always or *per se* a threat to the dignity to this institution, one that has lasted for over a century and will likely endure for several more. Neither the majesty of the law nor the dignity of this institution are quite so fragile.

5. The Notice is discharged. There will be no order as to costs.

(G. S. PATEL, J.)