

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL JURISDICTION
NOTICE OF MOTION LOD. NO.2832 OF 2015
IN
SUIT LOD. NO.1071 OF 2015

Auto Hangar (India) Private Ltd. .. Plaintiffs
Versus
Pragnesh Podar and Ors. .. Defendats

Mr.Janak Dwarkadas, Senior Advocate with Rahul Dwarkadas,
Kunal Dwarkadas, Yuvraj Choksy i/b. Veritas Legal for plaintiffs
Mr.Harish Jagtiani, Senior Advocate with C.D.Mehta, Darshan
Mehta and Ms.Shreya Jha i/b. Dhruve Liladhar & Co. for defendant
No.1
Mr.Gaurav Mehta i/b. Ms.Sonu Tandon for defendant No.2
Mr.Sanjay Kothari with Avinash Joshi i/b. Mulla & Mulla & C.B.C. for
defendant Nos. 4 to 7

CORAM : S.C.GUPTE, J.

DATE : 27th October 2015

P.C.

1] This suit is filed in respect of certain statements and imputations made in the two articles appearing in the Mumbai edition and electronic edition of Mid-day on 1st October 2015 and also the Facebook post dated 1st October 2015, which are said to be defamatory to the plaintiffs. The suit seeks an appropriate declaration as well as perpetual injunction against the defendants

from publishing and/or re-publishing or disseminating in any manner the offending contents of these articles and posts. The suit also seeks a decree of damages against the defendants.

2] The plaintiffs have been in business of marketing and distributing premium luxury passenger vehicles. Plaintiffs' principals are Mercedes Benz, the world re-nowned German Automobile manufacturer. Defendant Nos. 1 and 2 had purchased a luxury vehicle of Mercedes brand from the plaintiffs. There were disputes between the parties concerning the quality of the vehicle which was delivered by the plaintiffs to defendant Nos. 1 and 2. The quality aspects pertained to the exterior of the vehicle as also some of its panels which were said to contain scratches. After certain correspondence between the parties, it is the case of the plaintiffs that defendant Nos. 1 and 2, through defendant Nos. 4 to 7, published the offending articles and also posted the same on the facebook account of the defendant Nos. 1 and 2, containing statements and imputations which are defamatory and which lower the plaintiff's reputation in the estimation of its customers and general public. The disputes between the parties viz., the defendant

Nos. 1 and 2, have since been settled, Learned Counsel for the parties have tendered minutes of order duly signed by respective Advocates of the plaintiffs and defendant Nos. 1 and 2. Defendant Nos.1 and 2 have in terms agreed to withdraw and remove the offending face book post from the face book profile and also confirm that they shall not publish or re-publish on any social media or platform or in any other manner the offending material. In view of these statements, the plaintiffs do not press their suit against the defendant Nos. 1 and 2. The suit, thus, as between the plaintiffs and defendant Nos. 1 and 2 has worked itself out. The minutes of the order tendered are taken on record and marked "X" for identification. Suit is disposed of in terms of the minutes against defendant Nos. 1 and 2.

3] As far as defendant No. 3 is concerned, plaintiffs do not wish to press the suit against him.

4] Defendant Nos. 4 to 7 do not submit to these minutes. The offending material which forms part of the article and which is posted on the face book profile, as noted above, in the first place,

arises out of allegations made by defendant Nos. 1 and 2 against the plaintiffs. Since these allegations are now withdrawn by means of withdrawal and revocation of their Advocate's notice by defendant Nos. 1 and 2 together with all claims arising out of and forming part of their notice, defendant Nos. 4 to 7 have no business now to retain the offending article on their website. Learned Counsel for defendant Nos. 4 to 7 states that his clients shall withdraw, remove and take down the offending article from the electronic edition (internet) by means of removal of the same from their website www.midday.com having Unique Resource Locator <http://www.midday.com/articles/clash> – over – scratch – south – mumbai – businessman – taken – on- mercedes – dealer/16574184 and any reference made thereto by defendant Nos. 4 to 7 on the same website. Learned Counsel for defendant Nos. 4 to 7 further states that his clients shall not republish or disseminate the offending contents of the original articles which appeared in the Mumbai and Electronic edition of Mid-day of 1st October 2015. The statements are accepted. Defendant Nos. 4 to 7 shall, accordingly, withdraw, remove and take down the article within 72 hours.

5] In view of these statements made by learned Counsel for defendant Nos. 4 to 7, the plaintiffs do not press the suit against the defendant Nos. 4 to 7 either. The suit is accordingly disposed of even as against these defendants.

(S.C.GUPTE, J.)