

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLN. (F) NO.370 OF 2015

IN

FIRST APPEAL NO. 575 OF 2015

Indian Express Newspapers (Mumbai) Pvt. Ltd. and another

-vs-

Nareshchandra S/o Chunnilal Puglia and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. H.V.Thakur, counsel for the applicant-appellant.

Mr. A.S. Kilor, counsel for the respondent No.1.

Mr. A.K.Tripathi, counsel h/f Mr. S.K. Pardhy, counsel for the respondent
No.2.

CORAM : MOHIT S. SHAH, C.J. &
SMT.VASANTI A. NAIK , J.

DATE : 11.08.2015.

Heard the learned counsel for the parties.

Perused the judgment of the Extra Joint Civil Judge (Senior Division), Chandrapur, dated 27/08/2014. By the said judgment, i.e. assailed in this appeal, the trial Court has fastened the liability on the appellants (original defendant Nos.3 and 4) to pay damages of Rs.25,00,000/- jointly and severally to the respondent No.1 (original plaintiff) within a period of six months for the defamatory statement published by them against the respondent No.1 in their newspapers. On a reading of the judgment of the trial Court, it *prima facie* appears that the trial Court has declined to answer Issue No.9 by which burden was cast upon the original defendant Nos.1 and 2, who had called the Press Conference on 31/08/2001 to prove that they had not made any statement about the original plaintiff (respondent No.1) demanding money without granting an opportunity to the present appellants as also the original plaintiff to point out that the burden

would indeed lie on the original defendant Nos.1 and 2 to prove that they never made a statement in respect of the plaintiff demanding the money. It *prima facie* appears that the said issue was one of the relevant issues that should have been decided by the trial Court or at least an opportunity ought to have been granted to the original plaintiff and the present appellants before holding that the same was wrongly framed. Also, we find that the original plaintiff was successful in proving that the Press Conference was called by the defendant Nos.1 and 2. It appears from a reading of the plaint and on hearing the submissions made on behalf of the learned counsel for the original plaintiff (respondent No.1) that the plaintiff is more aggrieved by the levelling of the false allegations by the original defendant Nos.1 and 2 against him in the Press Conference, thereby allegedly dis-reputing the plaintiff in the society. We find that the original plaintiff has also filed a counter claim, challenging the finding of the trial Court that the plaintiff had been unsuccessful in proving that the original defendant Nos.1 and 2 had maliciously levelled false allegations against him in the Press Conference with a view to lower his image in the society. It *prima facie* appears that if Issue No.9 would have been answered against the defendant Nos.1 and 2, the appellants would not have been held liable.

In the circumstances of the case, we continue the interim stay to the judgment and decree of the trial Court as granted by this Court on 18/06/2015, during the pendency of the appeal. The civil application is allowed in terms of prayer clause (i) and disposed of.

CHIEF JUSTICE

SMT. VASANTI A. NAIK, J.