

(NMS 133 of 2014)

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION No. 133 OF 2014
IN
SUIT No. 297 OF 2014

Hubtown Limited ...Applicant/Plaintiff
Vs.
IDBI Trusteeship Service Limited
and Ors. ...Defendants

WITH
NOTICE OF MOTION No. 755 OF 2014
IN
SUIT NO.297 OF 2014

Vinay Kumar ...Applicant

In the matter between

Hubtown Limited ...Plaintiff
Vs.
IDBI Trusteeship Service Limited
and Ors. ...Defendants

WITH
NOTICE OF MOTION No.756 OF 2014
IN
SUIT No. 297 OF 2014

Dilip Ticku ...Applicant

In the matter between

Hubtown Limited ...Plaintiff
Vs.
IDBI Trusteeship Service Limited
and Ors. ...Defendants

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WITH
NOTICE OF MOTION No.760 OF 2014
IN
SUIT No. 297 OF 2014

Ravi Chaudhary ...Applicant

In the matter between

Hubtown Limited ...Plaintiff

Vs.

IDBI Trusteeship Service Limited
and Ors. ...Defendants

WITH
NOTICE OF MOTION No. 761 OF 2014
IN
SUIT No.297 OF 2014

Mukkur S. Raghvan ...Applicant

In the matter between

Hubtown Limited ...Plaintiff

Vs.

IDBI Trusteeship Service Limited
and Ors. ...Defendants

WITH
NOTICE OF MOTION No. 763 OF 2014
IN
SUIT No.297 OF 2014

Hemant G. Rokade ...Applicant

In the matter between

Hubtown Limited ...Plaintiff

Vs.

IDBI Trusteeship Service Limited
and Ors. ...Defendants

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WITH
NOTICE OF MOTION No.764 OF 2014
IN
SUIT No. 297 OF 2014

Pankaj Kumr Gupta ...Applicant

In the matter between

Hubtown Limited ...Plaintiff

Vs.

IDBI Trusteeship Service Limited
and Ors. ...Defendants

Mr. Prakash Shinde i/b. MDP and Partners for Plaintiff/Applicant
Mr. Aditya Mehta a/w. Mr. Vineet Unnikrishnan and Ms. Aditi
Thakur i/b. Cyril Amarchand Mangaldas for Defendants

CORAM : K.R. SHRIRAM, J.

DATE : JULY 10, 2017

P.C. :

1. The suit is filed for defamation.
2. Mr. Shinde seeks an adjournment, stating that the counsel is not available.
3. I am not inclined to adjourn the matter, considering the reliefs as sought in the notice of motion and since it has been pending for almost three years.
4. The reliefs sought in the notice of motion are as under:
 - (a) That pending the hearing and disposal of this suit, this Hon'ble Court be pleased to order and direct Defendants to prominently issue a retraction and apology

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letter to the Plaintiff on such terms and conditions as this Hon'ble Court deems fit and proper in light of the facts and circumstances of the present case.

(b) That pending the final hearing and disposal of this suit, this Hon'ble Court be pleased to pass an order directing Defendants (whether by itself, or through its servants, agents, officers and/or subordinates) to refrain from addressing frivolous and vexatious letters to any of the bankers of the Plaintiff.

(c) For ad-interim and interim reliefs in terms of prayer (a) and (b) above.

(d) To pass such further reliefs as the nature and circumstances of the case may require, and

(e) Costs.

5. The Plaintiff primarily is claiming a sum of Rs.300 crores with interest as damages for defamation. When the plaintiff moved for ad-interim on 9th April 2014, the Court was pleased to reject the ad-interim relief for the reasons mentioned therein.

6. Prayer clause (a) in the notice of motion is similar to prayer clause (b), which is a final relief in the suit. It is settled position in law that interim reliefs are granted in aid of final reliefs and if prayer clause (a) as prayed in the notice of motion is granted, it would be in effect granting prayer clause (b) in the suit. So far as prayer clause (b) as prayed in the notice of motion is concerned,

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whether any correspondence addressed by Defendant No.1 is frivolous and vexatious, cannot be decided at the motion stage. Therefore, I cannot see any reason for grant of such reliefs at the motion stage. Notice of motion No. 133 of 2014 is dismissed.

7. So far as other notices of motion are concerned, at the request made by the counsel for the Plaintiff, stand over to 13th July, 2017.

[K.R. SHRIRAM, J.]

Vaishali Tikan