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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 533/2016**
INDIA SKILLS PVT LTD Plaintiff
Through: Ms. Krati Somvanshi, Adv.
versus
NEERAJ KUMAR PATHAK & ANR Defendants
Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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29.10.2018

1. The plaintiff instituted this suit for recovery of Rs.3 crores jointly and severally from the two defendants namely (i) Neeraj Kumar Pathak and (ii) Manoj Kumar on account of loss of reputation and for issuance of a direction to the defendants to issue an unconditional corrective retraction to the persons qua whom the defendants had defamed the plaintiff and to issue an apology to the plaintiff.
2. The suit was entertained and summons thereof ordered to be issued.
3. The defendant no.1 Neeraj Kumar Pathak did not appear despite service and also failed to file written statement within the prescribed time and vide order dated 3rd March, 2017, the right of the defendant no.1 to file written statement was closed and the defendant no.1 was proceeded against *ex parte*.
4. The defendant no.2 though appeared in response to the summons but also did not file written statement and the right of the defendant no.2 to file written statement was also closed vide order dated 29th May, 2017.

5. Though the counsel for the defendant no.1 as well as counsel for the defendants no.1&2 subsequently appeared and stated that they will be filing applications for setting aside of the orders proceeding against them *ex parte* but did not do so and on the contrary preferred chamber appeals against the orders closing their right to file written statement and which chamber appeals were dismissed vide order dated 27th November, 2017.

6. The plaintiff was relegated to *ex parte* evidence and has examined its Vice President Vibhas Kumar and its Director Pawanjit Singh Ahluwalia by tendering their affidavits by way of examination-in-chief and closed its *ex parte* evidence.

7. The counsel for the plaintiff has been heard.

8. The claim of the plaintiff is, that (i) the plaintiff is engaged in the business of providing Human Resource Assessment Solutions; (ii) the two defendants, vide Memorandums of Understanding (MoU) dated 12th March, 2015 and 7th August, 2015 executed by them respectively, were appointed as Co-ordinators with the plaintiff for conducting assessments as directed by the plaintiff; (iii) however the defendants, instead of doing the work for undertaking which the MOUs were executed with them, started defaming the plaintiff in the market by tarnishing the reputation and goodwill of the plaintiff, not only amongst the clients of the plaintiff but also amongst the employees of the plaintiff; and, (iv) the defendants thereby succeeded in destabilising the plaintiff.

9. The counsel for the plaintiff, on enquiry about the defamatory contents, has drawn attention to Ex.DW-1/5 being an email dated 16th July, 2016 sent by the defendant no.1 to a client of the plaintiff informing that the plaintiff

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had engaged defendant No.1 to provide qualified manpower and the defendant No.1 had so supplied manpower; though the plaintiff initially made payment as agreed on regular basis but thereafter slowed on payments and as on that date there was outstanding of Rs.15,00,000/- from the plaintiff to the defendant no.1 and the officers of the plaintiff, for clearing the subject payment, were asking for a kickback.

10. The counsel for the plaintiff has next drawn attention to Ex.DW-1/17 being the photostat of wall on the defendant no.1's facebook account where also the defendant no.1 has stated that the plaintiff is a fraud company and is unprofessional in its working and does not pay its assessor and cautioning others having access to the said wall about dealing with the plaintiff.

11. Attention is also drawn to other similar publications.

12. I have enquired from the counsel for the plaintiff to show me the evidence if any led by the plaintiff proving that as on date when the defendant no.1 and/or the defendant no.2 so made claims of the plaintiff having not paid the dues of the defendant no.1, there were no dues owed from the plaintiff to the defendant no.1 or to the defendant no.2.

13. The counsel for the plaintiff is unable to show any. A perusal of examination-in-chief by way of affidavit of neither of three witnesses of the plaintiff show the plaintiff to have even whispered that the statements made by the defendants alleged to be defamatory are false.

14. The suit is totally misconceived. No case for defamation by the defendants of the plaintiff is made out.

Dismissed.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J

OCTOBER 29, 2018/‘pp’.. CS(OS) 533/2016

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