

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2019

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.S.No.958 of 2015

M/s.Caplin Point Laboratories Ltd.,
No.3, "Narbhavi" Lakshmanan Street,
T.Nagar,
Chennai - 600 017.
Rep. by its Managing Director.

... Plaintiff

Vs

A.G.Panneerselvam,
New No.7, Old No.32,
Iyyalu Street, Vettry Nagar,
Peravallur,
Chennai - 600 082.

... Defendant

Plaint filed under order IV Rule 1 of O.S. Rules read with Order VII Rule 1 of C.P.C., praying for judgment and decree (a) for a permanent injunction restraining the defendant from writing or publishing any letters either in print or in electronic form to any Statutory Authorities, persons holding any high public officers and/or to any third parties on the basis of the defendant's false and fraudulent claim containing false and/or defamatory allegations against the plaintiff company, its Directors and its present / past employees; (b) for a permanent injunction restraining the Defendant from sending and/or writing any messages, or holding out threats by way of letters, WhatsApp and/or in any other electronic form whatsoever to the plaintiff Company's Directors, present and ex-employees; (c) for damages of a sum of

Rs.2,00,00,000/- (Rupees Two Crores only) towards the plaintiff's Company's loss of its name, reputation and goodwill caused on account of the Defendant's wilful acts in publishing letters not only to various statutory authorities and persons holding high public offices which are *pre se* false, defamatory and derogatory against the plaintiff Company; (d) to pay the costs of this suit; (e) to pass such or other orders;

For Plaintiff : M/s.T.Poornam

For Defendant : Set ex-parte on 09.07.2019

J U D G M E N T

The reliefs sought for in the suit are as follows:-

a) For a permanent injunction restraining the defendant from writing or publishing any letters either in print or in electronic form to any Statutory Authorities, persons holding any high public offices and/or to any third parties on the basis of the defendant's false and fraudulent claim containing false and/or defamatory allegations against the plaintiff company, its Directors and its present / past employees;

(b) for a permanent injunction restraining the Defendant from sending and/or writing any messages, or holding out threats by way of letters, WhatsApp and/or in any other electronic form whatsoever to the plaintiff Company's Directors, present and ex-employees;

(c) for damages of a sum of Rs.2,00,00,000/- (Rupees Two Crores only) towards the plaintiff's Company's loss of its name, reputation and goodwill caused on account of the Defendant's wilful acts in publishing letters not only to various statutory authorities and persons holding high public offices which are *pre se* false, defamatory and derogatory against the plaintiff Company;

(d) To pay the costs of the suit.

2. The plaintiff's case in brief is as follows:

The plaintiff is a Private Limited Company and it was incorporated on 16.04.1990 under the provisions of the Companies Act, 1956 and from 23.04.1993, it became a Public Limited Company. The plaintiff engages in manufacture, sale and export of pharmaceutical products and formulations to several countries all over the world and thereby enjoys goodwill and reputation, not only in India, but in several foreign countries. Therefore , the plaintiff is required at all time to ensure its name and goodwill are preserved and protected and it is not tarnished in any manner.

3. The plaintiff would state that in the year 1994, it came with an Initial Public Offer and offered its shares to the public at the rate of Rs.10/- per equity share. The shares of the plaintiff was traded in the Stock Exchange at Rs.1,366/- at the time of filing of the suit. The earning of the plaintiff in the financial year was Rs.224.14 Crores and in the financial year 2018-19, it was Rs.572.30 Crores.

4. The plaintiff would further state that the defendant was a former employee of the plaintiff for the period between 1993 and 1995. In the year 1995, the defendant was assigned the task of overseeing the construction of a compound wall in the plaintiff's factory at Puducherry. However, owing to improper supervision coupled with his negligence, a portion of the compound wall collapsed, resulting serious injury being caused to one of the workers in the construction and from the date of the incident, the defendant absconded from the construction site.

5. It is further stated that while the defendant was in employment of the plaintiff, he was allotted 15,000 equity shares at a par value of Rs.10/-, and his wife was allotted 100 equity shares of Rs.10/- each. On 3rd April 2003, the defendant sold his shares to M/s.May India Laboratories Private Limited by

way of a private arrangement at Rs.10/- per share, while per share of the Company was sold in the stock market at Rs.1.25/- to Rs.1.50/-. The defendant transferred the said shares by executing three share transfer forms and received the sale consideration from the transferee, vide cheques drawn in his favour and in favour of his wife.

6. It is further stated that the defendant had also handed over the original share certificates, but after lapse of 12 years, the defendant on 18.08.2015 wrote a letter to M/s.Karvy Computer Shares Pvt. Ltd., falsely alleging that the said shares have been stolen and claimed a sum of Rs.2,00,00,000/- [Rupees Two Crores only] on the basis of the price at which the said shares were being traded in the market and on 03.10.2015, he wrote a letter to the plaintiff's Company falsely stating that he has not sold the said shares to any person. A similar complaints were written to the National Stock Exchange, SEBI Grievance Cell and to the Registrar of Companies on various dates, making false allegations.

7. According to the plaintiff, the defendant having sold the shares, made false complaints solely for the purpose of making wrongful gain for himself and for causing wrongful loss to the plaintiff Company. Though the

actual loss caused to the plaintiff Company could not be estimated, the plaintiff Company has estimated and quantified at Rs.2,00,00,000/-[Rupees Two Crores only] for the purpose of Court fee and jurisdiction.

8. Despite service of summons, the sole defendant has neither entered appearance nor filed written statement through counsel or in person. Hence, he set ex-parte.

9. The Company Secretary of the plaintiff-Company, viz., S.Vinod Kumar was examined as P.W.1 and marked the following documents as Exs.P1 to P30 as documentary evidence:-

Exs	Documents	Dated
P1	Original Board Resolution	05.02.2016
P2	Attested photocopy of the Share Transfer Forms	03.04.2003 & 22.06.2003
P3	Attested photocopy of the Cheque payment voucher	08.04.2003
P4	Attested photocopy of the Cheque payment voucher	07.08.2003
P5	Attested photocopy Cheque payment voucher	09.12.2003
P6	Attested photocopy of the Statement of Accounts for the period between 01.01.2003 and 31.03.2004 of M/s.May India Laboratories Pvt. Ltd.,	-
P7	Attested photocopy of the letter from the defendant to M/s.Karvy Computer Share Pvt. Ltd.,	18.08.2015

Exs	Documents	Dated
P8	Attested photocopy of the letter addressed by the defendant to the plaintiff and 09.09.2015 from the plaintiff to the defendant	-
P9	Attested photocopy of the letter from the defendant to the plaintiff	22.09.2015
P10	Attested photocopy of the letter from the defendant to the SEBI	26.09.2015
P11	Attested photocopy of the complaint against the plaintiff to the SEBI and the Registrar of Company	26.09.2015
P12	Attested photocopy of the online complaint filed by the defendant in SEBI's website	28.09.2015
P13	Attested photocopy of the letter from the defendant to National Stock Exchange	28.09.2015
P14	Attested photocopy of the letter from the plaintiff to defendant	01.10.2015
P15	Attested photocopy of the letter from SEBI to defendant	05.10.2015
P16	Attested photocopy of the letter from the defendant to the plaintiff	07.10.2015
P17	Attested photocopy of the letter from the defendant to M/s.May Laboratories	12.10.2015
P18	Attested photocopy of the letter from the ROC to the plaintiff	09.10.2015
P19	Attested photocopy of the letter from SEBI to plaintiff	12.10.2015
P20	Attested photocopy of the letter from plaintiff to the defendant	20.10.2015
P21	Attested photocopy of the letter from plaintiff to the SEBI	20.10.2015
P22	Attested photocopy of the letter from the plaintiff to ROC	20.10.2015
P23	Attested photocopy of the letter from the plaintiff to NSE	20.10.2015

Exs	Documents	Dated
P24	Attested photocopy of an extract of an Action history addressed by SEBI to the plaintiff	29.10.2015
P25	Original notice issued by the counsel for the plaintiff to the defendant along with acknowledgement card	02.11.2015
P26	Letter from the defendant to the plaintiff	11.11.2015
P27	Original letter from the defendant to the plaintiff counsel	11.11.2015
P28	Web copy of Whatsapp Messages	-
P29	Annual report of the plaintiff company	-
P30	Copy of the petition filed in W.C.No.14 of 1997	09.07.1997

10. The learned counsel for the plaintiff submitted that the plaintiff-Company has proved its case by producing the oral and documentary evidence and it is entitled for decree sought for in the suit.

11. The defendant was set ex-parte on 09.07.2019. The said position continued as of now. Taking into consideration, the pleadings, the evidence of P.W.1 and Exs.P1 to P30, this Court is of the view that the plaintiff Company has proved its case and entitled to decree sought for in the suit. Accordingly, the Suit stands decreed as prayed for. There is no order as to costs.

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Speaking Order / Non Speaking Order

Index : Yes/ No.

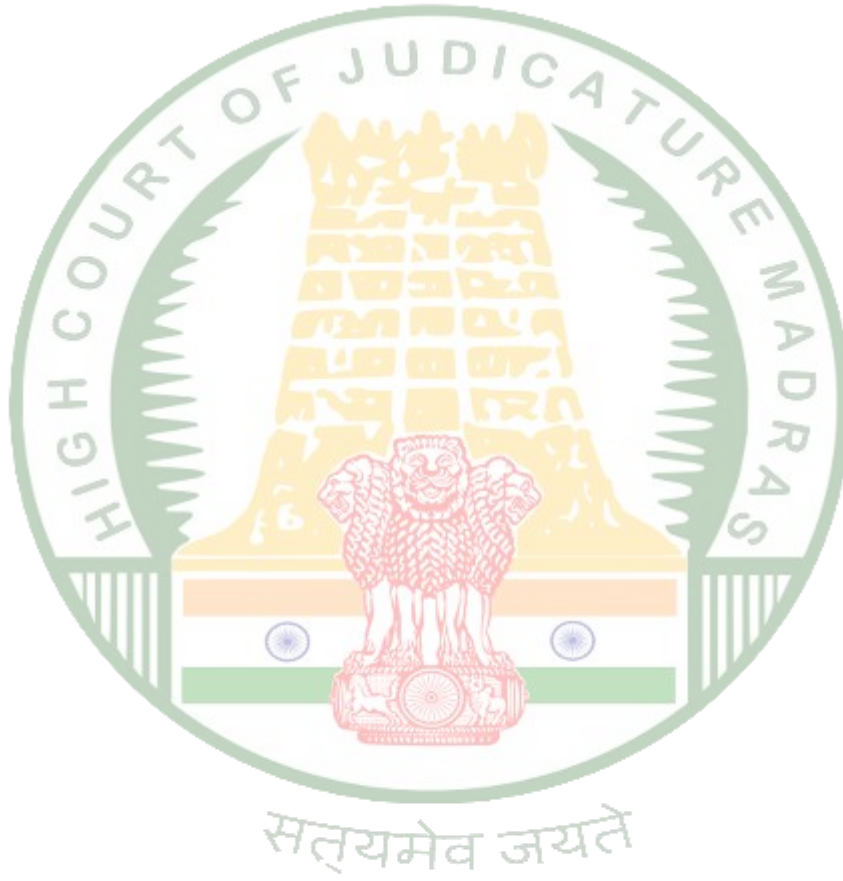
Internet : Yes /No.

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To

The Sub Assistant Registrar,
Original Side,
High Court, Madras.



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