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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Decision dated: 4th February, 2019

+ **CS(OS) 1006/2015 & I.As. 7612/2015, 16813/2015, 19265/2015, 20026/2015**
INDIABULLS REAL ESTATE LTD Plaintiff
Through: Ms. Mumtaz Bhalla, Mr. Aayush Malhotra & Ms. Abhilasha Vij, Advocates (M-9560703760)

versus

GEETA ANAND & ORS Defendants
Through: Mr. Amit Dube & Mr. Rajul Shrivastava, Advs. (M-9891860220)
Mr. Abhinav Vashisht, Sr. Advocate with Ms. Mamta Tiwari & Ms. Charu Ambwani, Advs. for D-4 (M-7838683884)

AND

+ **CS(OS) 1016/2015 & I.As. 7682/2015, 16808/2015**
INDIABULLS HOUSING FINANCE LIMITED Plaintiff
Through: Ms. Mamta Tiwari & Ms. Charu Ambwani, Advocates

versus

VERITAS INVESTMENT RESEARCH CORPORATION & ORS Defendants
Through: Mr. Amit Dube & Mr. Rajul Shrivastava, Advocates
Ms. Mumtaz Bhalla, Mr. Aayush Malhotra & Ms. Abhilasha Vij, Advocates for D-4

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh (Oral)

1. The Plaintiff, India Bulls Real Estate Limited and India Bulls Housing Finance Limited, (*hereinafter*, 'Plaintiffs') are engaged in the business of

real estate development and housing finance. The Defendant No.1, M/s Veritas Investment Research Corporation and Ors (*hereinafter*, ‘*Defendant No.1*’) is a company incorporated in Canada, and is engaged in the business of equity research. Defendant No.2, Mr. Neeraj Monga, used to be the Executive Vice-President of Defendant No.1 company, and Defendant No.3, Mr. Nitin Mangal, is an accountant who authored the report titled ‘*Bilking India*’ dated 1st August, 2014, along with Defendant No.1 and 2.

2. The report ‘*Bilking India*’ was published by the Defendants on 8th August, 2012, via Bloomberg and the website of Defendant No.1. It was published by the India Research Team of Defendant No.1. On the day when the report was published, the Plaintiff moved an FIR under Section 499 of the Indian Penal Code, 1860. Plaintiff also gave out a Press Release against the report on its website, <http://www.indiabulls.com/pdf/Announcement.pdf>, as well as the Delhi edition of Business Standard and Hindustan Times, stating that the averments made in the ‘*Bilking Report*’ were factually incorrect. Thereafter, in the month of July/August, 2014, Defendant Nos.1 and 2 filed a case for damages in the Superior Court of Justice in Ontario, Canada, assailing the press release published by the Plaintiff.

3. The Plaintiffs have filed CS(OS) 2919/2014 and CS(OS) 3199/2014 seeking anti-suit injunctions restraining the Defendants from proceeding with the suits in Ontario. In the said proceedings in Ontario, the Defendants filed affidavits which according to the Plaintiffs contained various averments against the Plaintiff and its businesses.

4. CS(OS) 1006/2015 has been filed by India Bulls Real Estate Ltd seeking the following reliefs.

“(a) *Pass a decree of Permanent Injunction restraining*

CS(OS) 1006/2015 & 1016/2015

Page 2 of 7

the Defendants, its associates, sister concerns, agents, officers, representatives, correspondents, employees and/or any other person, entity, in print or electronic media, via internet, or otherwise, from publishing, re-publishing, carrying out any reports or articles or telecasts or programs or debates or any discussion or reporting or publicising in any other manner, any other matter of any kind, directly or indirectly pertaining to the affidavits filed by the Defendants No. 3 to 5 in February, 2015, before the Superior Court of Justice at Ontario or any matter incidental thereto, except the publication or news of the exact judicial order;

(b) Pass a decree restraining the Defendants from disseminating the affidavits filed by the Defendants No. 3 to 5 in any form whatsoever;

(c) Pass such other, further orders, directions and decree, as this Hon'ble Court may deem fit in the facts and circumstances of this case and in the interest of justice.”

5. In CS(OS) 1016/2015, the Plaintiff therein, seeks the following reliefs:

“i. Pass a decree of Permanent Injunction restraining the Defendant Nos.1-5, its associates, sister concerns, agents, officers, representatives, correspondents, employees and/or any other person, entity in general in print or electronic media, via internet, otherwise, from publishing, re-publishing, carrying out any reports or articles or telecasts or programs or debates or any discussion or reporting or publicising in any other manner, any other matter of any kind, directly or indirectly pertaining to the affidavits filed by the Defendants No.1 to 3 in February, 2015, before the Superior Court of Justice at Ontario or any other matter incidental thereto, except the publication of news of the exact judicial order;

ii. Pass a decree restraining the Defendant Nos. 1-5 from disseminating the affidavits filed by the Defendants No.1 to 3 in any form whatsoever;

iii. *Pass any such further order or direction as this Hon'ble Court may deem necessary in the interests of justice and equity."*

6. The Defendants No.1 and 2 vide affidavit dated 2nd October, 2018 have given undertakings before this Court in the following terms:

"1. *That, the Defendants No. 1 and 2 i.e. Veritas Investment Research Corporation and Neeraj Monga had instituted a suit in Canada before the Superior Court of Ontario bearing number CV-14-50907 against the Plaintiff Indiabulls Real Estate Limited in CS (OS) 1006 of 2015 and the Plaintiff Indiabulls Housing Finance Limited in CS (OS) 1006 of 2015 pending before this Hon'ble Court.*

2. *That, in response to the Notice of Motion moved in the aforesaid Canadian suit by the aforesaid Plaintiffs before this court who are Defendants in the abovementioned Canadian suit, Mr. Anthony Scilipoti, the CEO of the Veritas Investment Research Corporation, Mr. Neeraj Monga and Mr. Nitin Mangal, who was co-author of report Bilking India, had filed three separate affidavits. These affidavits of Mr. Scilipoti, who is President and CEO of Veritas Investment Research Corporation, dated March, 2015, of Mr. Neeraj Monga dated April, 2015 and of Mr. Nitin Mangal dated February, 2015 are part of the record of this Hon'ble Court. These affidavits that were filed as against the Notice of Motion in the Canadian suit moved by the Defendants therein seeking dismissal of the Canadian suit were only meant for use in court proceedings pending before the Superior Court of Ontario bearing number CV-14-50907 as evidence of the deponents and/or any proceeding or proceedings incidental and/or to the Canadian suit. The Defendants i.e. Veritas Investment Research Corporation, Mr. Neeraj Monga and Mr. Nitin Mangal never had any intention of publishing these affidavits elsewhere except for the purpose of relying on them in court proceedings pending before the Superior Court of Ontario bearing*

number CV-14-50907 as evidence of the deponents and/or any proceeding or proceedings incidental and/or related to the Canadian suit. The Defendants categorically submit that they have never published these affidavits, directed or requested any third party to publish these affidavits or their content. The Defendants submit that, to the extent that these affidavits have been filed, or will be filed, in the Canadian proceedings, they are, or become, part of a court file which is available and accessible to all members of the public, including parties unrelated to and unaffiliated with the Defendants.

3. That, the Defendants, without formally attorning to the jurisdiction of this Hon'ble Court, and without prejudice to the defence challenging this Hon'ble Court's jurisdiction advanced by the Defendants before this Hon'ble Court, undertake not to use the aforesaid three affidavits, except in court proceedings pending before the Superior Court of Ontario bearing number CV-14-50907 and in any proceeding or proceedings incidental and/or related to then Canadian suit, within or outside of Canada, or as otherwise may be ordered by a court in which any such proceedings have been instituted. The Defendants also undertake that they shall use these affidavits, if necessary, in any judicial or other proceedings related to the criminal cases filed against them by the Indiabulls Real Estate Limited bearing FIR No. 99/2012 dated 08.08.2012 registered with PS Udyog Vihar, Gurugram, Haryana and CR No. 20/2012 dated 09.08.2012 registered with PS Cyber, Mumbai. The Defendants also undertake not to republish, nor direct or request any third party to publish these affidavits anywhere else apart from the proceedings mentioned above, provided, however, that, due to the fact that these affidavits are, or will become, part of a publicly available and accessible court file in Ontario, any third-party publication of these affidavits, or any of the content of these affidavits, which was not directed or requested by the Defendants, shall constitute, or be deemed to constitute, a breach of this undertaking. For the avoidance of doubt, this undertaking provided by the

Defendants does not encompass the Defendants preventing, or taking any active steps to prevent any such third-party publication of the three affidavits, or their content, which arises from, or is incidental to, these affidavits being, or becoming, part of a court file which is publicly available and accessible in Canada.”

7. The undertaking given by Defendant No.3 dated 8th October, 2018, is identical to the undertakings given by Defendant Nos.1 and 2, except the fact that Defendant No.3 acknowledges that prior to filing of his affidavit, he was interviewed by various media organisations in relation to his arrest at Gurugram in relation to the report ‘*Bilking India*’. Thus, he states, Wall Street Journal had carried news reports in that regard. The relevant portion of the affidavit given by Defendant No.3 is as under:

“The Defendant No. 3 prior to filing of his affidavit was interviewed by many media organisations since his arrest over police case at Gurugram over research report ‘Bilking India’ and some organisations including the Wall Street Journal had carried news reports in that regard.”

The rest of the affidavit of Defendant no.3 is not being reproduced for the sake of brevity, being identical to the undertakings given by Defendant Nos. 1 and 2.

8. From a perusal of the affidavits filed before this Court, it is clear that the Defendants have undertaken to this Court that the affidavits filed by them in response to the notice of motion filed by the Plaintiff in the Superior Court Justice of Ontario were meant only for use for Court proceedings as evidence of the said deponents, and that they had no intention of publishing these affidavits anywhere else, except for the purpose of relying upon them in Court proceedings. A categorical statement has also been made that the

contents of the said affidavits have never been published or got published by the deponents. The said deponents have also undertaken not to use the said affidavits except in Court proceedings pending in the Superior Court of Justice at Ontario, Canada or in other related proceedings within and outside Canada as also in legal proceedings filed by the Plaintiff against the said Defendants. The Defendants have clarified that if the records of these proceedings become publicly available, due to any reason which is not attributable to the Defendants, the same ought not to be construed as a breach of the undertaking.

9. The Court has perused the undertakings. The said undertakings satisfy the prayers in the plaint which seek a permanent injunction. Accordingly, accepting the undertakings given by the Defendants, a decree of permanent injunction is granted restraining the Defendants, their associates or anyone acting on their behalf from publishing and re-publishing or getting published any reports or articles or any program in the print and electronic media, based on the contents of the affidavits filed by the Defendants before the Superior Court Justice of Ontario, except publication as part of the Court orders or official records of the Court or use in legal proceedings, in terms of the affidavits of undertaking given before this Court.

10. The undertakings of the Defendants are accepted. Both suits are decreed in terms of paragraph 7 above. All pending applications also stand disposed of.

PRATHIBA M. SINGH
JUDGE

FEBRUARY 04, 2019

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