

DL. February
22. 2, 2022

Through Video Conference

F.M.A.T 31 of 2022

Naresh Kumar Agarwal HUF & anr.

Vs.

Ashok Kumar (John Doe) & ors.

Mr. Aniruddha Chatterjee,

Mr. Ankit Agarwal,

Mr. Nilay Sengupta,

Mr. Sujit Banerjee,

...for the appellants.

Mr. Aniruddha Chatterjee, learned advocate appearing on behalf of the appellants, submits that in the present suit for defamation, initially an ad interim order of injunction was passed against the defendants no. 2 to 4. The said ad interim order of injunction is still continuing. In the meantime, the plaintiffs/appellants had come across publication and uploading of further defamatory materials in the public domain, which is alleged to be controlled by the defendants/respondents no. 5, 6 and 7. In view thereof, the plaintiffs/appellants filed an application for addition of defendants no. 5, 6 and 7, namely, Facebook Inc (www.facebook.com), Instagram Inc (www.instagram.com) and Twitter Inc (www.twitter.com) and the same was allowed by the learned trial judge.

The learned trial judge, while allowing the application for addition of parties, refused to extend the said ad interim order of injunction on the defendants/respondents no. 5, 6 and 7, as the learned trial judge was of the view that the said defendants were

required to be heard.

We are of the opinion that the learned trial judge misappreciated the scope of the application filed by the plaintiffs/appellants as the plaintiffs have sought reliefs against the parties, who have already been added in the proceeding and if a case is made out against such parties, who have been added, the trial court is required to decide the same on the basis of the materials available on record and after hearing the parties.

We, also, agree with the submission of Mr. Chatterjee that the learned trial judge misdirected himself in observing that the prayer for ad interim order of injunction for second time is not maintainable. The prayer for injunction as against the added defendants/respondents is on set of facts on the basis of which such respondents were added. In the suit reliefs have been claimed against them.

It appears from the impugned order that the matter was fixed on January 10, 2022 for showing cause by the defendants no. 5, 6 and 7. We are informed by Mr. Chatterjee that the matter is fixed for hearing on February 11, 2022.

We, therefore, direct the learned Civil Judge (Senior Division) Additional Court at Purulia, to decide the application for injunction filed by the plaintiffs seeking reliefs against the defendants no. 5, 6 and 7 on the next date fixed, that is, on February 11, 2022, upon being satisfied that the defendants no. 5, 6 and 7 have been duly served. Hearing of the said application shall not be deferred if it is found that the defendants no. 5, 6 and 7 have failed to show cause as directed by the learned trial judge vide his

order dated December 3, 2021.

The injunction application shall be decided by the learned trial judge keeping in mind the observations, that we make in this order with regard to the maintainability of the injunction application against the added defendants.

This order shall be communicated to the respondents no. 5, 6 and 7 by e-mail as also by registered speed post with acknowledgment due and necessary proof of such service upon the said respondents shall be filed before the trial court on the next date fixed.

With the aforesaid directions, the appeal is disposed of even at the admission stage.

In view of disposal of the appeal, nothing remains in the application for interim relief filed under CAN 1 of 2022 and the same is also disposed of.

There will be no order as to costs.]

Photostat certified copy of this order, if applied for, will be made available to the applicant within a week from the date of putting in the requisites.

(Soumen Sen, J.)

(Ajoy Kumar Mukherjee, J.)

