



A.No.2058 of 2021 in C.S.No.72 of 2021
&
A.No.2059 of 2021 in C.S.No.22 of 2021
and
A.No. 3384 of 2021 in C.S.No.150 of 2021

P.VELMURUGAN, J.

The defendants in the suits in C.S.No.22, 72, 150 of 2021, and in which, the applicants have filed the original application in A.Nos.2058, 2059 and 3384 of 2021 for rejection of the claim made in the said suits on the ground that civil suits are barred by limitation from the date of publication of the article and the suits had to be filed within one year from the date of uploading in the website and since the articles are defamatory statement and whatever it may be existing in the website or Internet, does not come under multiple cause of action and it is only a single cause of action. Therefore, the suits have not been filed within one year from the date of publication of the article. Since, the Suits have been filed after one year from the date of publication of the article, the Suits are barred by limitation.

2. The learned counsel for the applicants/defendants placed a reliance upon the judgment of the Delhi High Court reported in 2013 (139) DRJ 157 [*Khawar Butt Vs. Asif Nazir Mir & Others*]. Therefore, they prayed for the Suits may be



WEB COPY

3. The learned counsel for the respondents/plaintiffs submitted that the article published and uploaded in the website and as long as it exists, if any new person open the website, it will give fresh cause of action. It does not come under single cause of action, and it is only a multiple cause of action. The judgement relied upon by the learned counsel for the applicants/defendants are not applicable to the present case at hand.

4. Heard both sides and perused the materials available on record.

5. Admittedly, the plaintiffs filed the suit for:

(a) granting a permanent injunction, restraining the defendants by itself, their servants, agents, distributors;

(b) directing the defendants to take down or block or remove all the online posts or links;

(c) directing the defendants to furnish the details including the name and address of the parties who are defaming the reputation of the plaintiff;

(d) directing the defendants to pay damages for a sum of Rs.1,02,00,000.00/- (Rupees One Crore and Two Lakhs only) for the malicious and defamatory acts in the course of their business;

The defendants have filed the present applications in the above said suits.



WEB COPY

6. Admittedly, if an article was published and uploaded in the website and also in the Internet, it clearly shows the continuance cause of action and it is not a single cause of action.

7. The learned counsel for the applicants vehemently contented that it is only a single cause of action since, it is published after some time the person sees the website and it will not give a fresh cause of action or the publications in the newspapers are entirely different from the article published and uploaded in the website or in the Internet and now there is a globalization and anybody can easily see and access the Internet or website and if the publication exists, it will give a fresh cause of action.

8. Whether the suits are barred by limitation or not, is a mixed question of law and it has to be decided only in trial and this Court takes a different view from the decision of the Delhi High Court and this Court does not agree on the same. This Court feels that as long as the publication exists or continuing in the website, any new persons are seeing this publication, naturally, it will give fresh cause of action or continuance cause of action or multiple cause of action and it is not a single cause of action and whether it is single cause of action or continuing cause of action itself is a matter of fact which depends upon circumstances of each case, therefore it has to be decided only after the trial, and not at this stage.



WEB COPY

9. Therefore, it is well settled proposition of law, that at the time of deciding the application under Order 7 Rule 11 of C.P.C., the Court has to see the averments in the plaint and not the defence taken by the defendant.

10. Therefore, in the above circumstances, this Court does not find any reason to allow the applications and reject the plaints. Therefore, these applications fails as devoid of merits. Hence, the applications are dismissed. Since, the applications are dismissed, the defendants are directed to file the written statement in all the above suits in C.S.No.22, 72, 150 of 2021 on or before 17.03.2022.

11. List the suits on 18.03.2022.

15.02.2022

mfa/jd



WEB COPY



P.VELMURUGAN, J.

mfa/jd

A.No.2058 of 2021 in C.S.No.72 of 2021
&
A.No.2059 of 2021 in C.S.No.22 of 2021
and
A.No. 3384 of 2021 in C.S.No.150 of 2021

15.02.2022