

**IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE**

Present:

The Hon'ble Justice Sugato Majumdar

CS/212/2007

**NILANCHAL GRIH NIRMAN LIMITED & ANOTHER
VS
SUSOVAN BANERJEE & OTHERS**

For the Plaintiff : Mr. Arjun Mookerjee, Adv.
Ms. Paramita Banerjee, Adv.
Ms. Amrita Das, Adv.

Hearing concluded on : 13.12.2023

Judgment on : 19.12.2023

Sugato Majumdar, J.:

This is a suit for defamation.

The plaint case in nutshell is that the Plaintiffs are companies registered under Companies Act 1956. The Plaintiffs as members of a consortium lead by the Plaintiff No.1 have acquired goodwill and reputation as promoters and developers. They have completed various projects in or around the city of Kolkata. For the purpose of developing and promoting a housing project the Plaintiffs acquired along with its associated group of companies, ownership and possession of premises no. 7D/1, 7D/2 and 7D/3, Anil Moitra Sarani, Kolkata in terms of registered deed of

conveyances. Names of the Plaintiffs were also mutated as co-owners of the said premises in the records of Kolkata Municipal Corporation. Sanctioned plans were also obtained from Kolkata Municipal Corporation for construction of building.

It is averred in the plaint that the Defendants with intent to affect the reputation and goodwill of the Plaintiffs sent a letter dated 21/05/2007 to the Municipal Commissioner, Kolkata Municipal Corporation with copies to various other authorities and also circulated the letter to the members of public as well as to the intending buyers of the flats. The Defendants intended to injure reputation and business goodwill of the Plaintiffs, to expose the Plaintiffs to contempt and public ridicule and to lower the estimation of the Plaintiffs. On being aggrieved, the Plaintiffs instituted the instant suit praying for decree of Rs.50,000,000/- as damages for defamation alternatively to make an enquiry to assess damage suffered; decree for perpetual injunction restraining the Defendants from publishing/causing to be published/circulating any defamatory words along with other reliefs.

The Defendants appeared in the suit and contested the same by filling written statement denying all allegations. Apart from challenging the jurisdiction of this Court, the Defendants raised pleas that the Plaintiffs, in attempt to start business, tried to evict all the occupiers in order to construct a multi-storied building. The Plaintiffs also tried to evict the Defendants illegally. In order to prevent illegal activities of the Plaintiffs, the Defendants issued the letter to Kolkata Municipal Corporation with object that necessary steps may be taken by the Corporation. Again, one of the Defendants Susovan Banerjee wrote a letter to Kolkata Municipal Corporation on 24/02/2007 to initiate immediate action against the Plaintiffs. But Kolkata Municipal Corporation did not take any step. As a result, the Defendants

were constrained to file a suit in the court of Civil Judge, Senior Division, 10th Court, Alipore which was registered as Title Suit No.26 of 2006. In spite of that the Plaintiffs continued their, illegal activities. It is further averred that the Defendants had no intention to injure the reputation or business goodwill of the Plaintiffs; the letter dated 21/05/2007 has been misconstrued. Nowhere in the letter any direct remark was made. The letter was not circulated among the members of public but were addressed to the authorities only. Even assuming but not admitting that the statements, as have been alleged to be defamatory, there must be in fact an interest or duty in the person to whom the libel is published. The principle is that, as averred in the written statement, either must be interest in the recipient and a duty to protect it in the recipient. Such communications are protected from the common convenience and welfare of the society. Circumstances were such that the Defendants were under duty of making communication to third person who had a corresponding interest in receiving it. The Defendants had an interest to protect and the third persons had a duty to protect interest. According to the Defendants, the suit is liable to be dismissed.

On the basis of rival pleadings following issues were framed:

- 1. Whether the suit is maintainable?*
- 2. Whether the suit discloses any cause of action?*
- 3. Whether the Defendants did any act of defamation of the Plaintiff either by words or by imputation or by publication?*
- 4. Whether the Plaintiffs were defamed by the Defendants?*

5. Whether the Plaintiffs are entitled to the relief prayed for.

6. What other relief or reliefs the Plaintiffs are entitled to?

Oral as well documentary evidences were adduced on behalf of the Plaintiffs. The Defendants did not appear to adduce evidence. Newspaper publication was made on 18/04/2023 for intimation to the Defendants.

Issue No.1 & 2 are taken up together.

The suit, on examination of plaint and material evidences, appears to be maintainable in form and substance.

The letter, containing alleged defamatory statements was submitted to the Kolkata Municipal Corporation within jurisdiction of this Court. As such, part of cause of action arose here. It is not a suit for land. It is suit for defamation. Situs of properties is not material to decide on jurisdiction. Since part of cause of action arose within jurisdiction of this Court, this suit is maintainable from jurisdictional point of view.

It is alleged in the plaint that the Defendants published defamatory letter and prayed for damages as well as injunction. Therefore, the suit discloses cause of action.

Issue No.1 & 2 are decided in favour of the Plaintiffs.

Issues No.3, 4, 5 and 6 are taken up together since all are related.

A copy of the alleged letter dated 21/05/07 is adduced in evidence (Ext. E) since the original had been submitted to the office of the Municipal Commissioner.

In the written statement it is not denied that the Defendant No.1 written the letter. It is admitted that the letter was submitted to Kolkata Municipal Corporation and other authorities. Although the Defendants did not adduce evidence, plea was taken in the written statement that it was submitted to protect the interests of the Defendants and for redressal of their grievances against the Plaintiffs. But use of words like “land grabbers”, “black marketeers”, “anti-social elements” are not incidental or essential for grievance redressal. No explanation is there why these words were used. Plaintiff No.2 is specifically mentioned therein. Use of these words are not in tune with the purpose of the letter. It is stated by P.W.1 in evidence that there are many developers who are interested to work in the development of the project. They often visit Kolkata Municipal Corporation. From there they came to know about this letter causing the reputation of the Plaintiffs maligned. It is also stated by him that among the circle of promoters, reputation of the Plaintiffs was maligned and jeopardised. As a result, the project was delayed. He could not state about any financial loss.

Uncontroverted evidence of P.W.1 as well as documentary evidences establish clearly that the Defendant No.1 circulated defamatory letter against the Plaintiff No.2 without reason, causing harm and injury to reputation and good will. In absence of any evidence of special damage and financial loss this Court is inclined to allow the Plaintiff No.2 nominal damages. The Plaintiffs are entitled to permanent injunction as prayed for. Thus Issue No.3, 4, 5 and 6 are decided in favour of the Plaintiffs.

In nutshell, the instant suit is allowed.

It is ordered that the Plaintiff No.2 do get a decree of Rs.1000/- as nominal damages. The Defendants, their men, servants and agents are permanently restrained from publishing any defamatory material or uttering any defamatory

statement against the Plaintiffs, or publishing/circulating any libellous words/statement/comments or otherwise against the Plaintiffs.

The instant suit is disposed of along with the pending applications, if any.

Let decree be drawn up.

(Sugato Majumdar, J.)