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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO(OS) 107/2024 & CM APPL. 43939/2024, CM APPL. 43940/2024, CM APPL. 43941/2024**

SANJAY SHARMA

.....Appellant

Through: Mr. Talha Abdul Rahman and Mr. M. Shaz Khan and Mr. Adnan Yousuf, Advs.

versus

RAJATARANGINI INDIA (MEDIA) PRIVATE LIMITED

.....Respondent

Through: Mr. Raghav Awasthi & Mr. Mukesh Sharma, Advocates

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **02.08.2024**

1. Present appeal has been filed by the appellant-defendant no. 1, challenging the order dated 22nd July, 2024 passed by the learned Single Judge in CS (OS) 558/2024, whereby an ad interim ex parte injunction was passed against the appellant-defendant no.1, restraining him from posting any defamatory material against the respondent nos. 1 and 2 on "X" or any other media platform and directing him to delete/ remove all the defamatory link as mentioned in paragraph 32 of the plaint.

2. It is pertinent to mention that CS(OS) 558/2024 has been filed by the respondent nos. 1 and 2, seeking permanent and mandatory injunction and damages, alleging that the appellants-defendants have uploaded various posts on the micro blogging website 'X' containing defamatory allegations against the plaintiffs.



3. Learned counsel for the appellant-defendant no.1 states that the impugned order has been passed without hearing the appellant-defendant no.1. He also submits that the impugned order is untenable in law inasmuch as, a pre-publication injunction has been passed.

4. At the outset, this Court has asked the learned counsel for the appellant-defendant no.1 as to why this Court should entertain the present appeal when he has an alternative effective remedy of filing an application under Order 39 Rule 4 CPC for vacation/ modification of the impugned order. However, learned counsel for the appellant-defendant no.1 refers to and relies upon the judgment in ***Bloomberg Television Production Services India Private Limited and Others v. Zee Entertainment Enterprises Limited, 2024 SCC OnLine SC 426***, wherein it has been held that though the grant of an interim injunction is an exercise of discretionary power and the appellate court will usually not interfere with the same yet, if the order is arbitrary or perverse or in ignorance of the settled principles of law, the same shall be examined by the Appellate Court.

5. Needless to state that there can be no dispute with regard to the aforesaid legal proposition, but as the appellant-defendant no.1 has an alternative effective remedy which is much wider in scope, this Court is of the view that the appellant-defendant no.1 should first exercise its remedy of filing an application under Order 39 Rule 4 CPC and thereafter, if he is aggrieved by the order passed by the learned Single Judge he can exercise his remedy of filing an appeal.

6. The judgment in ***Bloomberg Television Production Services India Private Limited and Others***, (supra) has no application to the present case as the impugned order is not an unreasoned order. Further, in the present case,



the learned Single Judge while passing the impugned order has specifically given liberty to the appellant-defendant no.1 to apply for vacation, variation or modification of the order, if necessary.

7. Consequently, the present appeal stands disposed of, with the liberty to the appellant-defendant no.1 to file an application for vacation, variation or modification of the impugned order dated 22nd July, 2024. The rights and contentions of all the parties are left open.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

AUGUST 2, 2024

N.Khanna