

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

+ CS(OS) 627/2022 & I.A. Nos. 16665/2022, 16666/2022,
16667/2022 & 16668/2022

ORAVEL STAYS LIMITED..... Plaintiff

Through: Mr. Jayant K. Mehta, Senior
Advocate with Mr. Raghav
Sabharwal and Mr. Raghav
Bhatia, Advocates.
(M): 9818844415

versus

NINE NETWORK PRIVATE LIMITED & ORS. Defendants

Through: None.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

% **14.10.2022**

I.A. No. 16668/2022 (Application seeking exemption from filing certified copies/typed copies and dim copies of the annexures filed with the accompanying suit)

1. This is an application seeking exemption from filing original and clear copies of documents.
2. Recording the plaintiff's undertaking that the inspection of original documents shall be given, if demanded, or that the original documents shall be filed prior to the stage of admission/denial, the exemption is allowed.
3. As prayed, the plaintiff is allowed to file clear copies and typed version of hand written documents within four weeks.
4. Application is disposed of.

I.A. No. 16667/2022 (Application under Section 149 read with Section 151 CPC seeking liberty to pay deficit court fee)

5. This is an application under Section 149 read with Section 151 CPC seeking liberty to pay deficit court fee.
6. Learned senior counsel for plaintiff submits that court fees shall be paid within a period of one week.
7. With the aforesaid undertaking, the present application is allowed. Liberty is granted.
8. Application is disposed of.

I.A. No. 16666/2022 (Application under Order II Rule 2 of CPC)

9. This is an application under Order II Rule 2 CPC.
10. By way of the present application, plaintiff is seeking liberty to approach this Court or any other appropriate Court of Law for making suitable amendments to the plaint or filing a fresh plaint or seeking other reliefs that plaintiff is entitled, based on cause of action specified in present plaint.
11. This Court shall consider applications that may be filed on behalf of plaintiff as per law.
12. With the aforesaid observations, the present application is disposed of.

CS(OS) 627/2022

13. Let the plaint be registered as a suit.
14. Issue summons to the defendants through all modes upon filing of process fee.

15. The summons to the defendants shall indicate that a written statement to the plaintiff shall be positively filed within 30 days from the date of receipt of summons. Along with the written statement, the defendants shall also file an affidavit of admission/denial of the documents of the plaintiff, without which the written statement shall not be taken on record.

16. Liberty is given to the plaintiff to file a replication within 15 days of receipt of the written statement. Along with the replication, if any, filed by the plaintiff, an affidavit of admission/denial of the documents of the defendants, be filed by the plaintiff, without which the replication shall not be taken on record.

17. List before the Joint Registrar for marking of exhibits on 16th November, 2022.

18. List before this Court on 06.02.2023.

I.A. No. 16665/2022 (Application under Order XXXIX Rule 1 & 2 read with Section 151 CPC seeking interim and/or ad-interim ex-parte orders/injunction)

19. This is an application under Order XXXIX Rule 1 and 2 read with Section 151 CPC seeking injunction against the defendants.

20. The present suit has been filed by plaintiff seeking damages and permanent and mandatory injunction with respect to the defamatory articles written and published by the defendants.

21. Learned Senior Counsel appearing for the plaintiff submits that plaintiff is aggrieved by the malicious propaganda of the defendants to malign and damage the credibility and the business reputation of plaintiff by resorting to persistent media campaign. It is submitted that

defendants are indulging in dissemination of false, derogatory, and defamatory statements and articles to the public through their website, namely, inventiva.co.in.

22. Learned senior counsel submits that plaintiff has a credible reputation as a business in the eyes of its investors, prospective investors and various stakeholders as well as general public.

23. It is submitted that the plaintiff is a well-known and reputed brand in the global hospitality space and the Indian startup ecosystem. It came to the plaintiff's attention that defendants in reckless disregard for the plaintiff's reputation and goodwill, have consistently published articles on their website which has mass viewership. The said articles that have been published contain false, unsubstantiated and disparaging claims against the plaintiff. It is submitted that these articles are freely available on the websites of the defendants and that they are gaining traction to the peril and prejudice of the plaintiff. In the said articles, it is submitted, there are libelous, scandalous and defamatory comments against the plaintiff.

24. It is submitted that these articles which are defamatory in nature make palpably false, untrue, bald and unverified allegations against the plaintiff and its founder, with a clear intent to damage the reputation of the plaintiff and its founder. Such statements apart from being malicious, cannot possibly be said to be in public interest. It is submitted that these articles are result of personal vendetta. There is no justification whatsoever to publish such false and untrue statements against plaintiff and the company. It is further submitted that these

articles are libelous, vilifying and slanderous in nature making slanderous remarks against the plaintiff and its founder.

25. Attention of this Court has been brought to various articles which are available on the websites of the defendants. It is submitted that disparaging statements have been made without verifying the true facts. The statements made in the articles are totally unverified statements. It is submitted that the articles pertaining to money laundering and other cases against the plaintiff company are totally false and no such money laundering cases are pending against the plaintiff or its founder.

26. It is further submitted that article pertaining to the proceedings pending in Karnataka, has also been written without verification of the actual facts. With respect to the proceedings pending in Karnataka, one proceeding has already been quashed and stay has been granted with respect to other proceeding by the Karnataka High Court.

27. As regards article pertaining to the FIR lodged in Chandigarh, it is submitted that the said article again does not reflect the true facts and the said article is also based on false allegations. It is submitted that settlement has already taken place between the parties in Chandigarh and that the plaintiff is in the process of filing proceedings for quashing of FIR in Chandigarh.

28. As regards article pertaining to insolvency proceedings against the plaintiff company, it is submitted that there are no insolvency proceedings pending against the plaintiff company. It is submitted that the insolvency proceedings against the plaintiff company have already been closed by NCLAT, New Delhi. However, it is submitted by

learned senior counsel for the plaintiff that an appeal is pending before Hon'ble Supreme Court but no substantive orders have been passed by the Supreme Court in the said proceedings. Thus, it is submitted that unverified statements have been made with a view to tarnish the reputation of the plaintiff company.

29. During the course of arguments, an article dated 13.10.2022 has also been handed over to this Court which has been published after the filing of the present suit. The said article again pertains to allegations of fraud and money laundering against the plaintiff company. It is the clear stand of the plaintiff that no such money laundering cases are pending against the plaintiff company or its founder. It is also submitted that no cases pertaining to tax evasion etc as alleged in the various articles published by defendants are pending against the plaintiff or its founder.

30. It is submitted that the defendants have attempted to increase its viewership by publishing sharply worded and controversial articles about the plaintiff and its founder. It is submitted that these articles blatantly misrepresent the correct facts about the plaintiff's finances and share valuation amongst other things. All allegations and accusations have been made in the said articles only with a view to hurt the plaintiff's reputation, goodwill and public image.

31. Attention of this Court has also been drawn to document no. 6 filed along with the plaint. This is a document which is available on the website of Ministry of Corporate Affairs, Government of India. The defendant company, on the website of the Ministry of Corporate Affairs, Government of India, is shown to have its Authorised Capital

as Rs. 10,00,000/- and paid up Capital as Rs. 2,00,000/-. Plaintiff has also handed over to this Court the balance sheets filed on behalf of the defendant company, which is stated to be a public document available on the website of Ministry of Corporate Affairs. As per the said document, the defendant has been shown to have profit of Rs. 16,012/- only as on 31.03.2021.

32. It is, thus, submitted that defendant Company being a small Company, is publishing these misleading articles to personally profit from the increased viewership of these controversial articles. The defendants have sought to harm the reputation and goodwill of the plaintiff by publishing defamatory articles.

33. This Court has heard the learned senior counsel for the plaintiff as well as has perused the documents on record as well as handed over to this Court during the course of arguments.

34. Attention of this Court has also been drawn to orders dated 27.07.2022 passed by Coordinate Bench of this Court in CS (OS) 403/2022 and order dated 24.02.2022 in CS (OS) No. 95/2022.

35. Coordinate bench of this Court by its order dated 27.07.2022 in CS (OS) No. 403/2022 noted that ordinarily an interim injunction order cannot be passed in a suit where there is a claim of damages, but it does not necessarily imply that a Court cannot grant pre-trial injunction or order removal of a published defamatory article, pending trial. Reference in the said case was also made to judgment of this Court in the case of *T.V. Today Network Limited vs. COGNATE and Ors.*, reported as (2021) 282 DLT 246.

36. Attention of this Court has also been drawn to ***GMR Infrastructure Ltd Vs Associate Broadcasting company Pvt. Ltd.*** reported as 2018 SCC OnLine Del 6866, wherein this Court had protected the plaintiff therein in a prima facie case of defamation and had directed the defendants therein to remove all its electronic/online content including website.

37. The plaintiff has been able to make a prima facie case in its favour for grant of ad-interim injunction in its favour. The balance of convenience is in favour of the plaintiff. Irreparable harm and injury would be caused to the plaintiff if an interim injunction is not granted. Learned senior counsel for the plaintiff has submitted that the defendants have not appeared before this Court despite service of advance copy to them. Thus, note is taken of the fact that the defendants have chosen not to appear before this Court despite service through email on the verified email account of the defendants.

38. Considering the documents on record as well as after hearing the learned senior counsel for the plaintiff, this Court hereby restrains defendants including their servants, agents, representatives, employees and other constituents from making, publishing and disseminating or publishing any false, defamatory, disparaging and misleading statements or articles pertaining to the plaintiff.

39. The defendants are also directed to immediately take down all the defamatory articles made and published and disseminated on their website i.e. inventiva.co.in, details of which are as follows:-

- "i. September 27, 2019 titled "The Jumbo Circus Going On In OYO With The Ring Master Ritesh Agarwal, OYO Has Become A Scam & Money Laundering Hub" (<https://www.inventiva.co.in/stories/the-jumbo-circus-going-on-in-oyo-with-the-ring-master-ritesh-agarwal/>);*
- ii. January 20, 2022 titled "Why OYO IPO Would be a Big Disaster like Paytm. Another Well-Planned move by OYO to scam retail investors, How will a loss making company provide profits to shareholders & retail investors?" (<https://www.inventiva.co.in/trends/oyo-ipo-a-big-disaster-like-paytm/>);*
- iii. March 25,2022 titled "OYO's Money Laundering Tactics Not Only Defrauded Partner Hotels But Gave Huge Losses To The Exchequer Through Tax Evasion" (<https://www.inventiva.co.in/trends/oyo-money-laundering-tax-evasion-fraud/>);*
- iv. October 8, 2022 titled "Why OYO IPO Would Be One Of The Biggest Ever Scam In The History of Indian Startup Ecosystem. OYO IPO Would Fail Badly Due To Scams & Money Laundering" (<https://www.inventiva.co.in/trends/why-oyo-ipo-would-be-one-of-the-biggest-ever-scam-in-the-history-of-indian-startup-eco-svstem-oyo-ipo-would-fail-badly-due-to-scams-money-laundering/>); and*
- v. October 11,2022 titled "IPO-bound Oyo valuation dips in the private market after reported markdown by investor Softbank" (<https://www.inventiva.co.in/trends/ipo-bound-oyo-valuation-dips/>).*
- vi. October 13,2022 titled "Why ED and CBI should raid OYO Offices and investigate for frauds, money laundering, IPO Bound OYO Dark History for inception till IPO in 2022"*

40. Issue notice to the defendants.

41. Reply be filed within four weeks. Rejoinder thereto, if any, be filed within two weeks thereafter.
42. Compliance affidavit under Order 39 Rule 3 CPC be filed within a week.
43. Re-notify the captioned application on 06.02.2023.

MINI PUSHKARNA, J

OCTOBER 14, 2022

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