

\$~13.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) No.188/2016, IA No.4901/2016 (u/O 39 R-1&2 CPC), IA No.8988/2016 (of D-2 u/O 7 R-11 CPC) IA No.9553/2016 (of defendants no.1 and 3 under Order VII Rule 11 CPC), IA No.9554/2016 (of defendant no.6 under order VII Rule 11 CPC) and IA No.11830/2016 (under Order I Rule 10 CPC).

ASHISH BHALLA

..... Plaintiff

Through: Mr. Krishnendu Datta, Mr. Shaunak Kashyap, Mr. Rahul Mukherjee and Ms. Sriyanka Gangopadhyay, Advs.

versus

SURESH CHAUDHARY & ORS.

..... Defendants

Through: Mr. Rajesh Kalia and Mr. Sayed Aqueel Ali, Advs. for D-1&3.
Mr. Rajat Navet, Adv. for D-2.
Mr. Shailesh K. Kapoor with Ms. Suruchi Thapar and Mr. Ajay Kumar, Advs. for D-4.
Mr. Abhishek Bhardwaj, Adv. for D-6.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

%

29.11.2016

1. The plaintiff in this suit for permanent injunction and damages qua defamation states that the plaintiff has settled with the defendant no.5 Spire Woods Buyers Association and withdraws the suit against the defendant no.5.

2. The defendant no.2 Mr. Rajesh Bhagat has filed IA No.8988/2016 (under Order VII Rule 11 CPC for rejection of the plaint) and IA No.11830/2016 under Order I Rule 10 CPC for deletion of his name from

the array of defendants.

3. The counsel for the plaintiff states that the defendant no.2 was also mistakenly impleaded. He drops defendant no.2 also from the array of defendants.

4. In view of the same, IA No.8988/2016 and IA No.11830/2016 have become infructuous and are disposed of.

IA No.9554/2016 (of defendant no.6 Spirewoods Resident Association, under Order VII Rule 11 CPC).

5. After some hearing the counsel for the plaintiff gives up defendant no.6 as well.

6. In view thereof, IA No.9554/2016 has also become infructuous and is disposed of.

IA No.9953/2016 (of the defendants no.1&3 under Order VII Rule 11 CPC).

7. The counsel for the plaintiff states that he has not received the copy of this application.

8. However the counsel for the plaintiff has been asked to show the defamatory statements attributable to the defendants no.1&3 namely Mr. Suresh Chawdhary and Mr. Vishal Dubey.

9. The counsel for the plaintiff at the outset states that defamatory statements attributed to them are contained in the documents.

10. However, in a suit for damages for defamatory, the defamatory words uttered or written are required to be pleaded and if the plaintiff has not pleaded the same, the plaintiff cannot rely on the documents.

11. It is also not as if the plaintiff in the plaint has not pleaded the

defamatory words as large parts of the plaint are found to contain allegedly defamatory words that are attributed to the other defendants.

12. All that the plaintiff can show against the defendants no.1&3 is the following:-

“Suresh Chowdhary: include bhalla as the prominent person as he is one with resources who can build this project. Let’s not forget this fact.”

13. With respect to defendant no.3 Mr. Vishal Dubey it is stated that he is the Administrator of a Telegram and Google Group on which the allegedly defamatory statements were made.

14. The statement attributed to the defendant no.1 Mr. Suresh Chawdhary and as recorded hereinabove is not found to be defamatory at all; rather the said statement is found to be complimentary to the plaintiff Mr. Ashish Bhalla inasmuch as the defendant no.1 Mr. Suresh Chawdhary has described him as the “prominent person” and “one with resources who can build this project”.

15. On enquiry, the counsel for the plaintiff states that the project referred to is a housing project.

16. When the statement attributed to the defendant no.1 is *per se* not found to be defamatory, the question of keeping the suit pending against him does not arise.

17. Similarly, I am unable to understand as to how the Administrator of a Group can be held liable for defamation even if any, by the statements made by a member of the Group. To make an Administrator of an online platform liable for defamation would be like making the manufacturer of the newsprint

on which defamatory statements are published liable for defamation. When an online platform is created, the creator thereof cannot expect any of the members thereof to indulge in defamation and defamatory statements made by any member of the group cannot make the Administrator liable therefor. It is not as if without the Administrator's approval of each of the statements, the statements cannot be posted by any of the members of the Group on the said platform.

18. The counsel for the plaintiff states that the Administrator has power to add or remove people from the group/platform as well as to filter.

19. However that is not the pleaded case of the plaintiff.

20. Thus, without going into the application, the plaint does not disclose any cause of action against the defendants no.1&3 and the plaint against the defendants no.1&3 is rejected.

21. IA No. 9953/2016 is disposed of.

CS(OS) No.188/2016.

22. Amended memo of parties with defendant no.4 as sole defendant be filed within one week.

23. The counsel for the plaintiff seeks time to file replication to the written statement of the said sole defendant no.4 Mr. Anil Sharda.

24. The same be filed within one month.

25. The parties to file affidavits of admission/denial of each other's documents within further two weeks thereafter.

26. List for framing of issues if any and for consideration of the application for interim relief, on 21st February, 2017.

RAJIV SAHAI ENDLAW, J

NOVEMBER 29, 2016/ 'pp' ..

CS(OS) No.188/2016

page 4 of 4