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

Judgment pronounced on: 22.11.2023

+ CS(OS) 749/2023

SHRI NARESH KUMAR

..... Plaintiff

Through: Mr. Maninder Singh, Sr. Adv. and Mr. Rajshekhar Rao, Sr. Adv. along with Ms. Bani Dikshit, Mr. Uddhav Khanna, Mr. Krishan Kumar, Mr. Rohan Jaitley, Mr. Arkraj Kumar, Mr. Rishab Aggarwal and Ms. Tanya Aggarwal, Ms. Ashita Chawla and Mr. Ajay Sabharwal, Advs.

versus

THE WIRE & ORS.

..... Defendants

Through: Mr. Sarim Naved and Mr. Harsh Kumar, Advs. for D-1 & D-2. Mr. Neel Mason, Mr. Vihan Dang, Ms. Aditi Umapathy and Ms. Pragya Jain, Advs. for D-4.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

JUDGMENT

I.A. No. 22961/2023 (U/O XXXIX Rule 1 & 2 r/w Section 151 of CPC, 1908)

1. The present suit has been filed by the plaintiff, seeking permanent injunction, along with damages and compensation from the defendant nos. 1 & 2 on account of defamation.
2. The plaintiff is stated to be a highly reputed and admired civil servant,



currently serving as the Chief Secretary of the Government of National Capital Territory of Delhi since 21.04.2023.

3. It is averred in the plaint that the defendant nos. 1 & 2 have made, published, circulated (or cause to be made/published/circulated) the article titled 'Links of Son of Delhi Chief Secretary to Beneficiary's Family in Land Over-Valuation Case Raise Questions' dated 09.11.2023 (hereinafter referred to as the impugned article), available at <https://thewire.in/government/delhi-chief-secretary-nhai-land-compensation>, containing libellous allegations and insinuations against the plaintiff, all which are false, malicious, motivated, tainted with collateral objectives, unfounded and misconceived, having been made knowingly and deliberately, calculated to harm the dignity and reputation of the plaintiff. The defendant no. 2, who is the correspondent of defendant no. 1 and the author for the Article dated 09.11.2023 have hosted these false insinuations on the website of the <https://thewire.in/>, defendant no. 1, and further circulated the same on various social media outlets such as that of Twitter, as well as Google, and other media platforms, to defame the plaintiff and cause disrepute to his reputation.

4. It is further averred that the malicious, false and defamatory statement made, published and circulated against the plaintiff, have caused immense damage to the reputation and goodwill of the plaintiff that has been built over a period of several decades. It is stated that the plaintiff is a 1987 AGMUT Cadre, Indian Administrative Service Officer and that during the expansive career which extends over 36 years, the plaintiff has served on various key position in Centre, State and Union Territory of India and served the public interest at large.



5. The defendant no. 1/The Wire is a media organization having its registered office at the address mentioned in the memo of the plaint and which comes under the jurisdiction of this Court. The defendant no. 2 is the correspondent of defendant no.1 who writes for the defendant no.1. The defendant no. 3/X Corp. (formerly, Twitter) is a social media platform wherein alleged defamatory content against the plaintiff have been published and circulated by the defendant nos.1 and 2 and others, enclosing/sharing the link to the impugned article. The defendant no. 4/Google LLC is a search engine wherein link of the impugned article is appearing.

6. The impugned article, which is filed as Document no.1 alongwith the documents filed with the plaint, concerns the quantum of compensation paid for acquisition of certain land for the purposes of undertaking construction activities in respect of the Dwarka Expressway of NHAI. It has sought to be brought out in the impugned article that the compensation in respect of the said acquired land was enhanced to Rs. 353 crores from the previously determined compensation of Rs. 41.52 crores by the concerned District Magistrate (South-West Delhi). For the purposes of the present suit, it is relevant to note that the impugned article seeks to link the plaintiff with the said enhancement of compensation.

7. To put it succinctly, the impugned article suggests that:-

- (i) The enhancement of the compensation was linked to the plaintiff's "handling" of the matter.
- (ii) The beneficiary of the enhanced compensation was an individual who happened to be the father-in-law of the promoter of another realty firm with which the son of the plaintiff has business/employment links.



- (iii) It is alleged that the plaintiff may have a conflict of interest in the matter.
- (iv) The article suggests that as regards the departmental action sought to be taken against the delinquent officer who passed the arbitral award, the matter ought to have been placed before the National Capital Civil Service Authority (NCCSA); however, it is insinuated that the same was not done.

8. Learned senior counsel for the plaintiff and the learned counsel for the defendant nos. 1 & 2 have been heard on the aspect of the grant of ad-interim injunction.

9. It has been strenuously contended by the learned senior counsel for the plaintiff that the defendant nos. 1 & 2 have launched a personal attack on plaintiff with an oblique motive to malign, defame and injure the plaintiff's reputation based on series of blatant falsehoods and gross misrepresentation. It is contended that the well-earned reputation of an individual cannot be allowed to be eroded in the manner sought to be done and that the defendant nos. 1 & 2 ought not to be permitted to disseminate falsities without proper due diligence, only with an oblique motive to achieve cheap publicity while acting as mouthpieces of person/s who may have personal/political agenda against the plaintiff. He submits that a decorated public officer cannot be used as bait for publicity and defamation in the name of free speech and journalism. He submits that the malicious, false & defamatory statements have caused immense damage to the reputation and goodwill of the plaintiff that has been built over a period of several decades and that further irreparable damage will be caused to the plaintiff, unless injunctive orders are passed against the defendants.



10. On the other hand, learned counsel for defendant nos. 1 & 2 has sought to controvert the contentions made by the plaintiff. It is sought to be refuted that the impugned article/publication contains any defamatory imputation as alleged. He further sought to place reliance upon a “Preliminary Report submitted to the Chief Minister of Delhi on 14.11.2023 by Ms. Atishi, Minister of Vigilance and Revenue, Government of NCT of Delhi” as a justification for the contents of the article. He further seeks some time to reply to the present application to deal with the contentions made on behalf of the plaintiff.

11. Having carefully perused the article/publication dated 09.11.2023, I find merit in the contentions made by learned senior counsel for the plaintiff that the impugned article contains defamatory and libellous allegations and insinuations, made in a reckless manner without regard to the truth, in order to cause injury to the reputation of the plaintiff.

12. The impugned article proceeds on the basis that the enhanced compensation in respect of the concerned land acquired for the purpose of Dwarka Expressway, was linked to plaintiff’s “handling” of the matter. This is completely misconceived inasmuch as the enhancement was pursuant to an arbitral award dated 15.05.2023 which was rendered in terms of Section 3G of the National Highways Act, 1956. The said award was passed by another IAS Officer in his capacity as arbitrator. It cannot be said, by any stretch of imagination, that the plaintiff could have interfered with the discharge of quasi-judicial functions entrusted to another officer.

13. Yet, the impugned article/publication seeks to castigate the plaintiff as to how he “may have handled the matter”. The article/defamatory publication further proceeds to suggest that plaintiff has a potential “conflict



of interest in the matter”. Again, this insinuation is thoroughly misconceived inasmuch as enhancement of compensation was an outcome of arbitration proceedings, in which the plaintiff was clearly not involved.

14. Moreover, the arbitral award dated 15.05.2023 whereby the compensation stated to have been excessively enhanced to Rs. 353 crores is stated to have been the subject matter of a petition under Section 34 of the Arbitration and Conciliation Act, 1996 which came to be allowed by this Court vide order dated 31.10.2023 passed in O.M.P. (COMM) 388/2023. Vide the said order dated 31.10.2023, the impugned award came to be set aside by this Court. As such, the award having been set aside, the issue of enhancement of compensation did not survive.

15. It was only in the aftermath of the award dated 15.05.2023 that the plaintiff is stated to have participated in the decision making process for the purpose of taking disciplinary action against the concerned officer who passed the arbitral award. In para 33.15 of the plaint it has been specifically averred as under:

“...On 20.09.2023, in the NCCSA meeting chaired by the Hon'ble Chief Minister, Delhi, it was proposed to transfer the Delinquent Officer as Special Secretary (Administrative Reforms). Upon being asked during the meeting as to why his transfer is proposed, it was duly informed to the Hon'ble Chief Minister about the serious financial irregularity done by him in this land acquisition matter. After considering the same, NCCSA chaired by the Hon'ble Chief Minister agreed to recommend transfer of the Delinquent Officer...”

16. The minutes of the meeting of NCCSA chaired by the Chief Minister of Delhi on 20.09.2023 has also been filed by the plaintiff as Document no. 12 of the documents filed along with the plaint.

17. Contrary thereto, the impugned article states as under :-



“If the DM’s decision to raise compensation was “suspect”, as his immediate superior, the divisional commissioner, made it out to be, then the matter should have gone to the National Capital Civil Services Authority (NCCSA) headed by chief minister Arvind Kejriwal.”

18. It appears evident that contrary to what has been suggested in the impugned article, the matter concerning the proposed transfer of the delinquent officer was evidently placed before NCCSA.

19. The fact that the plaintiff was involved in the decision to transfer/taking action against the delinquent officer (in the aftermath of the rendering the aforesaid arbitral award dated 15.05.2023), can hardly be said to involve any impropriety or any conflict of interest. If anything, the same is demonstrative of departmental resolve to take action against the delinquent officer.

20. Further, the nexus sought to be drawn between the person which was the beneficiary of the arbitral award dated 15.05.2023 and the son of the plaintiff is also quite far-fetched, to say the least, contrary to what has been sought to be projected in the title/caption of the impugned article.

21. In any event, as already stated hereinabove, the arbitral award dated 15.05.2023 was an outcome of arbitration proceedings under a statutory framework and pursuant to discharge of quasi-judicial responsibility by another IAS Officer, and which has already been set aside by this Court.

22. It is thus, *prima facie*, evident that the impugned article is a litany of misrepresentations and convoluted insinuations made in a reckless manner, without any regard for the truth, and with a view to inflict damage on the reputation of the plaintiff.

23. In *Institute of Chartered Accountants of India v. L.K. Ratna*, (1986) 4 SCC 537, while emphasizing the irreparable loss caused to a person on



account of loss of reputation, it was observed by the Supreme Court as under:

“18. But perhaps another way of looking at the matter lies in examining the consequences of the initial order as soon as it is passed. There are cases where an order may cause serious injury as soon as it is made, an injury not capable of being entirely erased when the error is corrected on subsequent appeal. For instance, as in the present case, where a member of a highly respected and publicly trusted profession is found guilty of misconduct and suffers penalty, the damage to his professional reputation can be immediate and far-reaching. “Not all the King's horses and all the King's men” can ever salvage the situation completely, notwithstanding the widest scope provided to an appeal. To many a man, his professional reputation is his most valuable possession. It affects his standing and dignity among his fellow members in the profession, and guarantees the esteem of his clientele. It is often the carefully garnered fruit of a long period of scrupulous, conscientious and diligent industry. It is the portrait of his professional honour. In a world said to be notorious for its blase attitude towards the noble values of an earlier generation, a man's professional reputation is still his most sensitive pride. In such a case, after the blow suffered by the initial decision, it is difficult to contemplate complete restitution through an appellate decision. Such a case is unlike an action for money or recovery of property, where the execution of the trial decree may be stayed pending appeal, or a successful appeal may result in refund of the money or restitution of the property, with appropriate compensation by way of interest or mesne profits for the period of deprivation. And, therefore, it seems to us, there is manifest need to ensure that there is no breach of fundamental procedure in the original proceeding, and to avoid treating an appeal as an overall substitute for the original proceeding.”

24. In **Lakshmi Murdeshwar Puri v. Saket Gokhale**, (2021) 3 HCC (Del)

23, it has been held as under:-

“29. Reputations, nourished and nurtured over years of selfless service and toil, may crumble in an instant; one thoughtless barb is sufficient. It has been held, by the Supreme Court, that the right to life, consecrated by Article 21 of the Constitution of India, infuses the reputation of the individual. [Mehmood Nayyar Azam v. State of Chhattisgarh, (2012) 8 SCC 1; Kiran Bedi v. Committee of Inquiry, (1989) 1 SCC 494; Port of Bombay v. Dilipkumar Raghavendranath Nadkarni, (1983) 1 SCC 124] Reputation, it is well settled, precedes the man. In a similar vein, para 18 of the report in Institute of Chartered Accountants of India v. L.K.



Ratna [Institute of Chartered Accountants of India v. L.K. Ratna, (1986) 4 SCC 537] observes thus :

“For instance, as in the present case, where a member of a highly respected an (sic) publicly trusted profession is found guilty of misconduct and suffers penalty, the damage to his professional reputation can be immediate and far-reaching. ‘Not all the King’s horses and all the King’s men’ can ever salvage the situation completely, notwithstanding the widest scope provided to an appeal. To many a man, his professional reputation is his most valuable possession. It affects his standing and dignity among his fellow members in the profession, and guarantees the esteem of his clientele. It is often the carefully garnered fruit of a long period of scrupulous, conscientious and diligent industry. It is the portrait of his professional honour. In a world said to be notorious for its blasé attitude towards the noble values of an earlier generation, a man’s professional reputation is still his most sensitive pride. In such a case, after the blow suffered by the initial decision, it is difficult to contemplate complete restitution through an appellate decision.”

30. In the age of social media, desecration of the reputation of a public figure has become child’s play. All that is needed is the opening of a social media account and, thereafter, the posting of messages on the account. Thousands of responses are received and, in the process, the reputation of the man, who is targeted, becomes mud...”

25. In ***Vinai Kumar Saxena v. Aam Aadmi Party***, (2022) 5 HCC (Del) 662, it has been held as under:-

“25. On behalf of the defendants, it has also been vehemently contended that in cases of defamation, so long as some material has been placed on record, the veracity of the allegations can only be tested in trial and the adequate remedy would be damages, not interim injunction. I do not agree with the said submission. In appropriate cases where the court is of the view that statements are unsubstantiated and have been made in a reckless manner without regard to the truth, in order to cause injury to the reputation of the plaintiff, the court would be justified in granting an interim injunction. If the aforesaid submission of the defendants is accepted, it would give the defendant a free reign to continue making defamatory statements against the plaintiff and continue to tarnish his reputation. Therefore, the court cannot be powerless in such a situation. After suffering the brunt of such defamatory content, it is difficult to contemplate a complete restitution through damages. Such cases demand immediate injunctive relief and the court cannot wait for the defendants to



place their response on record.”

26. In ***Hanuman Beniwal v. Vinay Mishra***, 2022 SCC OnLine Del 4882, it has been held as under:-

“29. It has been well recognized that in case of libel and slander, interim injunction may be granted in case (i) the statement is unarguably defamatory; (ii) there are no grounds for concluding that the statement may be true; (iii) there is no other defence which might succeed; and (iv) there is evidence of an intention to repeat or publish the defamatory statement.”

In that case the Court also noticed the judgment of the Supreme Court in ***R. Rajagopal v. State of T.N.***, (1994) 6 SCC 632, wherein it has been held as under:-

“26. We may now summarise the broad principles flowing from the above discussion:

(1) The right to privacy is implicit in the right to life and liberty guaranteed to the citizens of this country by Article 21. It is a “right to be let alone”. A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child-bearing and education among other matters. None can publish anything concerning the above matters without his consent — whether truthful or otherwise and whether laudatory or critical. If he does so, he would be violating the right to privacy of the person concerned and would be liable in an action for damages. Position may, however, be different, if a person voluntarily thrusts himself into controversy or voluntarily invites or raises a controversy.

(2) The rule aforesaid is subject to the exception, that any publication concerning the aforesaid aspects becomes unobjectionable if such publication is based upon public records including court records. This is for the reason that once a matter becomes a matter of public record, the right to privacy no longer subsists and it becomes a legitimate subject for comment by press and media among others. We are, however, of the opinion that in the interests of decency [Article 19(2)] an exception must be carved out to this rule, viz., a female who is the victim of a sexual assault, kidnap, abduction or a like offence should not further be subjected to the indignity of her name and the incident being publicised in press/media.

(3) There is yet another exception to the rule in (1) above — indeed, this is not an exception but an independent rule. In the case of public officials, it



is obvious, right to privacy, or for that matter, the remedy of action for damages is simply not available with respect to their acts and conduct relevant to the discharge of their official duties. This is so even where the publication is based upon facts and statements which are not true, unless the official establishes that the publication was made (by the defendant) with reckless disregard for truth. In such a case, it would be enough for the defendant (member of the press or media) to prove that he acted after a reasonable verification of the facts; it is not necessary for him to prove that what he has written is true. Of course, where the publication is proved to be false and actuated by malice or personal animosity, the defendant would have no defence and would be liable for damages. It is equally obvious that in matters not relevant to the discharge of his duties, the public official enjoys the same protection as any other citizen, as explained in (1) and (2) above. It needs no reiteration that judiciary, which is protected by the power to punish for contempt of court and Parliament and legislatures protected as their privileges are by Articles 105 and 104 respectively of the Constitution of India, represent exceptions to this rule.

(4) So far as the Government, local authority and other organs and institutions exercising governmental power are concerned, they cannot maintain a suit for damages for defaming them.

(5) Rules 3 and 4 do not, however, mean that Official Secrets Act, 1923, or any similar enactment or provision having the force of law does not bind the press or media.

(6) There is no law empowering the State or its officials to prohibit, or to impose a prior restraint upon the press/media.”

27. In ***Subramanian Swamy v. Union of India***, (2016) 7 SCC 221, it was observed as under :-

“144... We are in respectful agreement with the aforesaid enunciation of law. Reputation being an inherent component of Article 21, we do not think it should be allowed to be sullied solely because another individual can have its freedom. It is not a restriction that has an inevitable consequence which impairs circulation of thought and ideas. In fact, it is control regard being had to another person's right to go to court and state that he has been wronged and abused. He can take recourse to a procedure recognised and accepted in law to retrieve and redeem his reputation. Therefore, the balance between the two rights needs to be struck. “Reputation” of one cannot be allowed to be crucified at the altar of the other's right of free speech. The legislature in its wisdom has not thought it appropriate to abolish criminality of defamation in the obtaining social climate.”



28. Considering all the above aspects, there is merit in the contentions of the learned senior counsel for the plaintiff that a grave and irreparable damage will be caused to the plaintiff if ad-interim injunctive orders are not passed. As stated by the Supreme Court in *L. K. Ratna* (supra), “*not all the King's horses and all the King's men*” would be able to remedy the prejudice and harm to the plaintiff’s reputation, if the impugned article and the offending social media posts, are allowed to be propagated/circulated during the pendency of this application, and while the defendants exercise their right to file a reply to the instant application.

29. Undoubtedly, while freedom of speech and expression is sacrosanct, the reputation of a person earned over several decades, cannot be sacrificed at the altar of such freedom, when the impugned publication, *ex-facie*, contains unsubstantiated allegations and defamatory imputations, regardless of the truth. In the present case, the Court has also taken note of the crescendo of politically motivated tweets/posts/comments, virtually in sync with the publication of the aforesaid article/publication dated 09.11.2023, which further validate the necessity of urgent injunctive order/s. Incidentally, one such tweet is by the author of the “preliminary report” sought to be relied upon by the learned counsel for defendant nos. 1 and 2. The said report, which is dated 14.11.2023, *ex-facie*, cannot afford any justification for the impugned article dated 09.11.2023.

30. In the circumstances, following ad-interim directions are passed:-

- (i) the defendant nos. 1 & 2 are directed to remove/take down the impugned article titled ‘Links of Son of Delhi Chief Secretary to Beneficiary’s Family in Land Over-Valuation Case Raise



Questions' dated 09.11.2023, available at <https://thewire.in/government/delhi-chief-secretary-nhai-land-compensation>.

- (ii) the defendant nos. 1 & 2 are directed to remove/take down the tweets/posts circulated and published on defendant no.3, available at https://twitter.com/thewire_in/status/1722624013942636890 and <https://twitter.com/meetujain/status/1722921620522860765>, images of which are filed as Document nos. 4 & 5 of the documents accompanying with the plaint.
- (iii) the defendant nos. 1 and 2 are further directed to not post, circulate or publish any similar defamatory content against the plaintiff as set out in the impugned article/publication dated 09.11.2023.

31. In the event that defendant nos. 1 & 2 fail to comply with the aforesaid directions within 48 hours of the pronouncement of this judgment, the defendant no. 3 is directed to take down the tweets/posts filed as Document nos. 4 & 5 of the documents filed alongwith the plaint, and the defendant no. 4 is directed to remove search result/s and/or de-index the web link of the article/publication dated 09.11.2023.

32. Compliance affidavit under Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 be filed within a period of one week.

33. Reply to the application be filed by the defendants within a period of four weeks from today. Rejoinder thereto, if any, be filed within a period of two weeks thereafter.

34. List before the concerned Joint Registrar (Judicial) on 21.12.2023.

35. List before the court on 14.03.2024.



36. Needless to say, all observations contained in this order are based on a *prima facie* consideration, and subject to further order/s in this IA and in the suit.

SACHIN DATTA, J

NOVEMBER 22, 2023/at&hg