

(2009) 08 MP CK 0040
In the Madhya Pradesh High Court

Dominique Lapierre and Others

APPELLANT

Vs

Swaraj Puri

RESPONDENT

Date of Decision : 07-08-2009

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1, Order 39 Rule 2, Order 39 Rule 3, Order 43 Rule 1

Constitution of India, 1950 — Article 104, 105, 21

Penal Code, 1860 (IPC) — Section 120B, 278, 304, 426, 429

Citation : AIR 2010 MP 121 : (2010) 4 MPJR 349

Hon'ble Judges : Rajendra Menon, J

Bench : Single Bench

Judgement

Rajendra Menon, J.

Heard.

This is an appeal under Order 43, Rule 1(r) of the CPC assailing the grant of temporary injunction made by the 14th Additional District Judge, Jabalpur on 13-7-2009, in Civil Suit No. 3-A/2009. The appeal was admitted for hearing on 31-7-2009 and it is listed today for consideration of I. A. No. 8213/2009, an application seeking stay of the impugned order of injunction, temporary in nature, granted under Order 39, Rules 1 and 2, CPC.

Suit in question was filed by the respondent plaintiff, who at the relevant time was said to be working as Additional Director General of Police (Intelligence), Government of Madhya Pradesh. The suit was filed for declaration and injunction for restraining the defendants, appellants herein, from publishing and circulating a book titled "It was Five Past Midnight in Bhopal". It is stated that the said book was authored by defendants 1 and 2 (appellants 1 and 2 herein) and was printed and published by defendant No. 3 (appellant No. 3 herein). The book pertained to an industrial disaster which took place at Bhopal in the night intervening 2nd and 3rd of March 1984, when certain poisonous gas from a plant owned by M/s. Union Carbide leaked, causing widespread damage to public property, human life

and destruction of animals. The tragedy is classified as one of the worst "industrial disasters" ever to have occurred in the world. Be that as it may at the relevant time when the aforesaid mishap occurred, plaintiff respondent was holding the post of Superintendent of Police in Bhopal city and in the book in question certain acts of the plaintiff in the discharge of his official duties as Superintendent of Police are criticized and he is shown to have not taken proper steps in the discharge of his duties.

Inter alia contending that the statement made relating to the plaintiff are false, distorted and presented in a manner which is defamatory in nature, lowers the dignity of the plaintiff and presents him before the society at large in a manner which would result in lowering his reputation and image before the general public, his friends, family and acquaintances. Claiming certain statements made in the book to be defamatory in nature, the suit in question was filed seeking declaration and injunction in the following manner:

(i) It is, therefore, most humbly prayed that this Hon"ble Court may kindly be pleased to declare that the afore-quoted portions of the book in question are false, baseless and defamatory.

(ii) That, this Hon"ble Court may kindly be pleased to grant a decree of permanent prohibitory injunction restraining the defendants from printing, publishing, selling or circulating the aforesaid book - "It was Five Past Midnight in Bhopal" in any manner either themselves or through their agents in any part of the world.

The defamatory statements used, are indicated in paragraphs 235, 316, 329, 336 and 337 of the book, which reads as under:

At Page 235 - "Don't you worry, I, could feed the whole city" he informed the Police Chief who had come to make sure that his troops would be adequately fed.

At Page 316 - Yet calls were coming in one after another without interruption in the command room on the second floor. One of them was from Arjun Singh, Chief Minister of Madhya Pradesh. Rumour had it that he had left his official residence and taken refuge outside the city. Arjun Singh was calling in the Radio to speak to the Police Chief Swaraj Puri.

"You must stop people leaving" the head of the Government intimated to him. "Put barricades across all the roads leading out of the city and make people go back to their homes."

The Chief Minister, it seemed had no idea of the chaos prevailing in Bhopal that night. In any case Puri had a good argument to put to him.

Sir, he answered - "how can I stop people leaving when my own policemen have disappeared along with the other fugitives?"

At Page 329 - Outside the situation was worsening. Swaraj Puri, the Police Chief who, during the previous night, had deplored the disappearance of his men,

feared violent action. With no means of opposing it, he decided to resort to a stratagem, he summoned a driver of the only vehicle left to him with a loud speaker.

"Drive all over town", he ordered him, "announcing that there's been another gas leak at Carbide."

The effect of the ruse was miraculous. The rioters who had been about to overrun the factory made off in disarray. In a matter of minutes the city was empty. Only the dead remained.

At Page 336 - "Ah, the wonders of Indian hospitality! Police Chief Swaraj Puri, who on the night of the tragedy had watched his policemen flee, was at the foot of the plane in the company of the city's Collector to welcome the visitors with warm handshakes. All that was missing was the traditional garland of flowers and a pretty hostess to give them a welcoming tilak. Anderson and his companions took their seats in an official Ambassador brought to the foot of the steps. The car took off like the wind and left the airport via a service gate to avoid the pack of journalists waiting in the arrivals hall. The police chief and the collector followed in a second car."

"Thank you for having gone to the trouble of fetching us," Anderson said to the uniformed inspector sitting beside the driver.

"It's standard procedure, sir. There's considerable tension in the city. It's our duty to look after your safety."

"The car climbed towards the Shyamla Hills, entered the grounds of the research center and stopped in front of the company's splendid guest house. Anderson was astonished to find two squads of policemen assembled on either side of the door to the establishment. An officer was waiting on the steps."

At Page 337 - At that moment the Police Chief and the Collector arrived. They were accompanied by a Magistrate in the distinctive black robe. The American felt reassured; certainly, there had been some understanding. They were coming to set them free. In fact the Magistrate had been summoned to notify the, three visitors of the reasons for their arrest. He informed them that by virtue of Article 92, 120B, 278, 304, 426 and 429 of the Indian Penal Code, they were defendant of "culpable homicide causing death by negligence making the atmosphere noxious to health, negligent conduct with respect to poisonous substances, and mischief in the killing of livestock." The first charge was punishable with life-imprisonment the others carried sentences of between three and six months.

"Naturally, all those charges carry the right to bail," intervened Keshub Mahindra, the president of Carbide's Indian subsidiary.

"I'm afraid that is, unfortunately, not the case," replied the magistrate.

"So what about our meeting with Chief Minister Arun Singh?" asked the American anxiously.

"You will be notified about that as soon as possible," the Police Chief informed him."

It is stated by the plaintiff that the aforesaid statements made in the book are not true, they are not based on correct facts and they are the imagination of the authors and have been made deliberately to malign the reputation of the plaintiff. Accordingly the suit in question was filed before the learned Court in February, 2005. Along with the suit an application for temporary injunction under Order 39, Rule 3 was filed. Defendants/appellants appeared, filed their statement vide Annexure A/6 and stated that the book merely highlighted the negligent manner in which the Union Carbide Limited had discharged their functions, which resulted in one of the worst "industrial disaster" ever witnessed and what has been referred to in the entire book with regard to the respondent is only a fair criticism of the author with regard to the official functions discharged by the plaintiff and a critical analysis. It was stated that a fair criticism of an individual, public officer, in the discharge of his official duties does not amount to defamation. Finally, in the written statement, justification of the statements made in the book were indicated in the following manner, in paragraph 7 of the written statement:

(i) The narration at page, 23,5 in no way can be said to be defamatory as the same is based on interviews carried out by the defendants with the persons present at the time of incident, the manuscript of which are true and not imaginary and also the fact that the plaintiff had met up with Shyam Babu, owner of Shyam Poori Bhandar or that the plaintiff asked Shyam Babu to feed his troops is true to the defendants' knowledge. In any event, as already submitted that abovesaid information by no stretch of imagination can be said to be defamatory. The plaintiff be put to strict proof in this regard.

The incident which took place had been narrated to the defendants by Shyam Babu amongst other, which by no means suggests that the Police Chief/Plaintiff was not performing his duties or was not worried about the well being of the general public. In this regard, it is respectfully submitted that it is the part of the plaintiff's duties to watch over the interests of his own policemen also and caring about them in no way conveys the impression that he is an unprincipled police officer, as alleged.

(ii) It is denied that the information at page 316 quoted in the paragraph are by any stretch of imagination defamatory and disparaging. It is also denied that the incidents are absolutely false, incorrect and illusory. The defendants reiterate that what has been mentioned at page 316 of the book the defendants in their research had found the role of the police at the time of tragedy wanting in certain regard which was observed and collected from newspapers, magazine, and other publications on the subject and nowhere has the author contended that he found any proof or evidence of the role played by the police in general and the plaintiff in particular during that night. Since the book was with reference to the positive report and to expose the real culprit which was the management

of Union Carbide, the question of making any imputation on the plaintiff as alleged or the policemen in this regard does not arise. The defendants during their research had found and as has been recorded in other communications that the policemen also fearing for their lives had run away. The incidents at page 316 were narrated to the authors by Mr. Ranjit Singh, the then Commissioner of Bhopal in an interview to the author and according to him, he was present in the control room when the Chief Minister had spoken to the plaintiff, it is denied that any wrong imputations on the basis of the above have been created about the police force being irresponsible or that they had tried to engender a feeling of distrust as alleged.

(iii) In reply to sub-para (iii) it is submitted that the incident is based on the information that have been derived from the interview with Mr. Jagan Nath Mukund, manuscript of which is available with the defendants. It is denied that the said incident is false and incorrect or that when the plaintiff came to know of the rumour of the another gas leak, he in order to dispel the fear among people, walked on foot with policemen towards Carbide to show that there is no leak is denied.

(iv) The defendants reiterate the incidents narrated at page 336, the same is based on the incidents as reported by Dan Kurztuman's book "A killing wind" (McGraw-Hill) 1987, p. 116, Mr. V.J. Gokhale resident of Bhopal, Dr. Nagu, Secretary of Health Department, Mr. Rajkumar Deswani, Journalist, Mr. Iswhar Das the then Health Minister, Mr. Kamlesh Jamani, Official photographer of Union Carbide, Dr. N. P. Mishra, Dean of Hamidia Medical School, Prof. Heeresh Chandra, Head of Forensic Department in Hamidia Hospital, as well as from a newspaper, reporting during that period and have also based their information on the excerpts from some earlier publication being "the Poison Cloud" by Larry Everest (Banner Press, Chicago, 1985, p. 14). The incident is in fact only a simple narration of events. It is denied that the manner in which it has been narrated is derogatory, it is denied that the incidents about the hospitality extended to Anderson are all completely false as alleged. It is further denied that the same conveyed any impression of the responsible officers including the plaintiff being uncaring and unprincipled or that they displayed unwarranted pride in welcoming Anderson. It is, denied that the policemen's action reflects on the lack of control of the plaintiff or his subordinates or that he has been made a subject of hatred in the eyes and opinion of the people especially in Bhopal, as alleged.

(v) The incidents narrated at page 337 are reiterated. It is incorrect to say that it is inconceivable and impossible for a Judicial Magistrate to visit an accused instead of the accused being presented in the Court. Under the Indian Judiciary, Magistrate can and does exercise all or any of the powers with which he is vested within the justified limit of local area jurisdiction. It is not uncommon for the Magistrate to have held the remand proceedings at the place other than their Courts which normally is done in the cases where there is risk of law and order.

It is denied that any disrepute was caused to the judiciary also, which succumbed to the influence of the main accused of the gas tragedy as alleged by plaintiff in the said paragraph. It is denied that any impressions of judiciary of having helped and comforted the accused have been made. It is denied that the statement is very obnoxious and tantamount to demeaning judiciary or that it is contemptuous as alleged. The defendants have considerable regard of the judiciary and under no circumstances could have even imagined making and/or insinuating such allegations and imputation on the judiciary. It is denied that the incidents mentioned in the paragraph disclose malicious pleasure in making mockery of the Indian system of public judicial administration and judiciary of India, as alleged. It is respectfully submitted that defendants 1 and 2 are reputed authors and world renowned for their published works. The defendants 1 and 2 have great love and affection for India and have closely contributed to its society by carrying out charitable work in India and any question of their being indifferent to social justice and portraying in a derogatory light Indian Institutions, does not arise.

Accordingly, prayer made was to dismiss the plaint.

Apart from the aforesaid written statement, reply to the application under Order 39, Rules 1 and 2, CPC was also filed and as temporary injunction has been granted by the impugned order, this appeal is filed.

The appeal is already admitted for hearing and by this order, the only question being considered and determined is the question of staying the impugned order.

Shri Pradeep Bakshi, learned Counsel for the appellants, submitted that assessment of prima facie case made, is totally perverse and illegal and temporary injunction has been granted without evaluating the three ingredients necessary for grant of injunction namely; a prima facie, balance of convenience and irreparable loss, in a proper perspective. It was emphasized by him that the law laid down by the Supreme Court in the case of R. Rajagopal alias R.R. Gopal and Another Vs. State of Tamil Nadu and Others, , is totally misread and without considering the principles laid down with regard to granting temporary injunction for restraining publication of a book or written material in case of libel or defamation, the impugned order passed is liable to be stayed. The judgments relied upon in this regard by Shri Bakshi are, judgment's of the Delhi High Court in the case of Khushwant Singh and Another Vs. Maneka Gandhi, ; Indian Express Newspapers (Bombay) Pvt. Ltd. and Another Vs. Jagmohan Mundhara and Another, ; Mother Dairy Foods and Processing Ltd. Vs. Zee Telefilms Ltd., and the principles laid down in the case Fraser v. Evans and Ors. (1969)1 All ER 8.

Shri Pradeep Bakshi, learned Counsel for the appellants, further submitted that apart from the fact that truth as justification for the fair and reasonable criticism is put forth by the appellants as defence, without considering the same and the law governing grant of injunction, grant of the same is not proper and the same is liable to be stayed. Learned Counsel further pointed out that the book was

published in the year 2001, notice from the plaintiff was received by the defendants in December 2002, it was replied on 15-4-2003 and it was only after about four years of the publication of the book that the suit was filed in February 2005 and now injunction is granted after a further period of four years i.e. after eight years of the publication of the book, which in the light of the principles laid down by the Bombay High Court in the case of Dr. Jagmohan Mundhara (supra) does not warrant grant of interlocutory injunction. Accordingly submitting that injunction has been granted without following the principle of law, in its right perspective, Shri Pradeep Bakshi assisted by Shri Sidharth Gulati prays for stay of the impugned order.

Shri Rajesh Pancholi, learned Counsel for the respondent, refused the aforesaid and by taking me through the reply submitted by the plaintiff/respondent, argued that the criticism made in the book are all false, plaintiff is a Senior IPS Officer, who has received a President's Gold Medal for his services rendered in the incident that took place in Bhopal, the statements made are defamatory in nature and by refusing to the principles governing the law of defamation and libel and the judgments rendered in the case of Abdul Gani v. Chhaikodi 1971 MPLJSN 23; Hari Shankar Vs. Kailash Narayan and Others, and so also referring to certain observations made in the case of R. Rajagopal alias R.R. Gopal and Another Vs. State of Tamil Nadu and Others, , Shri Pancholi emphasized that in granting injunction the court below has not committed any error. Shri Pancholi dealt with the aspects of the meritorious services rendered by the plaintiff, his distinguished career and the fact that the statements made in the book are false and fabricated and is made intentionally to defame the plaintiff. Taking me through the averments made in the pleadings and documents filed on record, Shri Pancholi emphasized that defendants 1 and 2 are in the habit of defaming eminent personalities and in the past also they have indulged in such activities. Referring to certain incidents with regard to deleting of some material by the same authors in the previous book titled "Freedom at Midnight", Shri Pancholi tried to emphasize that in the facts and circumstances of the case when false and baseless allegations are levelled against a Senior Police Officer, who has been rewarded by the President's Gold Medal, the consideration of prima facie case made, balance of convenience and irreparable loss assessed by the learned court below is just and fair, which does not warrant any interference at this stage.

I have heard learned Counsel for the parties at length. As the appeal is already admitted, for the present this Court is only required to consider as to whether stay of the impugned order has to be granted pending final adjudication of this appeal. If the pleadings of the parties are scrutinized meticulously, it would be seen that the five statements made in the book, as referred to here-inabove in pages 329, 336, 337, 316 and 235, are the ones which are said to be imaginary, false and made with a view to lower the esteem of the plaintiff in the eyes of the others. Appellants have given justification for each and every assertion made and it is their case that it is done after research and interview from eminent persons and victims of the tragedy and the records of the interview and the data

collected are available with them. It is, therefore, a case where the defendants are justifying their comments and assertions by pleading truth as a defence.

In the case of *Mother Dairy Foods and Processing Ltd. Vs. Zee Telefilms Ltd.*, , the Delhi High Court has dealt with the matter in paragraphs 25 to 27, as under:

25. On the question of restraint on telecast or publication, the legal position is fairly well settled. This Court in *Sardar Charanjit Singh v. Aroon Purie* 1983 (4) DRJ 86, declined to stay the publication of an article in the magazine "India Today" on the plaintiffs submissions that the questionnaire sent to him was per se defamatory and the article which was proposed to be written based on the per se defamatory questionnaire would also be defamatory. This Court has negated allegation of malice and animosity. Taking note of defendant's plea that it would justify the article, that would be published, the Court declined interim injunction holding:

But as the defendants state that they would plead justification and fair comment for publishing the article pertaining to the plaintiff, I am of the opinion that injunction should not issue.

The Supreme Court also dismissed the SLP preferred against the judgment of the learned single Judge of this Court.

Supreme Court in the case of *Odyssey Communications Pvt. Ltd. Vs. Lokvidayan Sanghatana and Others*, , vacated the interim order of injunction of the film "Honi-Anhoni". The plaintiff had sought and obtained an injunction pleading that the film was likely to spread false or blind belief amongst members of the public which was not in public interest. The Supreme Court vacated injunction holding that the serial was being telecast after following prescribed procedure and taking necessary precautions and reservations. Reference may also be usefully made to *Fraser v. Evans* (1969) 1 All ER 8:

The Court will not restrain the publication of an article, even though it is defamatory, when the defendant say that he intends to justify it or to make fair comment on a matter of public interest.

There are some things which are of such public concern that the newspapers, the press and indeed, everyone is entitled to make known the truth and to make fair comment on it. This is an integral part of the right of free speech and expression. It must not be whittled away.

Reference may also be made to *Bonnard v. Perryman* (1891) 4 All ER Rep 965 wherein it has been held as under:

The Court has jurisdiction in an action of libel to grant an injunction at any stage of the case restraining the publication of the libel, but this jurisdiction be exercised with great caution. Although the publication, if untrue, would clearly be libelous, an interlocutory injunction will not be granted where the defendant pleads justification unless the Court can be sure that his defence cannot be

sustained at the trial and that the plaintiff will receive more than nominal damages....

In the present case also the defendants are seeking to justify every assertions made by them and are only contending that it is done with a view to bring before the public correct facts and is in public interest.

In the case of R. Rajagopal alias R.R. Gopal and Another Vs. State of Tamil Nadu and Others, , in paragraph 28, the broad principles for restraining publications of the nature as done in the present case is taken note of and in sub-para 3, certain exceptions to the general rule of protecting the rights available to a citizen under Article 21 in the matter of safeguarding his privacy is carved out and it is so held by the Supreme Court:

28(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 the Parliament and Legislatures protected as their privileges are by Articles 105 and 104 respectively of the Constitution of India, represent exceptions to this rule.

It is, therefore, clear that the Supreme Court has laid down the principle that if the publication is based on statements which are not even true then also until it is established that the publication was made with reckless disregard to truth, no restraint can be made on such a publication.

In the case of Indian Express Newspapers (Bombay) Pvt. Ltd. and Another Vs. Jagmohan Mundhara and Another, , the Bombay High Court has held that if injunction is sought for after some delay, injunction should not be granted restraining publication of certain materials.

Question of granting injunction in cases of Tort and Libel is considered by the Bombay High Court in the case of Shree Maheshwar Hydel Power Corporation Ltd. Vs. Chitroopa Palit and Another, , and it is after considering various judgments on the question, in paragraph 49 the principle is crystallized in the following manner:

49. After having heard the learned Counsel for both the parties at length and after perusal of the impugned judgment and order and also the various judgments cited by both the parties, it is clear that in any event, the principles of law in England and in India with regard to grant of interlocutory reliefs in a civil action for Libel are different. In England, the principle of law is that in case of an action for defamation, once the defendants raise the plea of justification at the interim stage, the plaintiff will not be entitled to an interlocutory injunction. To put in other words in England, a mere plea of justification by the defendant would be sufficient to deny the plaintiff any interim relief. As far as India is concerned, as has been clearly held by this Court in the judgments referred to herein-above, specially the judgment of this Court in the case of Dr. Yashwant Trivedi v. Indian Express Newspapers (Bombay) Private Limited, dated 21st March, 1989 and the judgment of the appellate Bench dated 29th June, 1989 with regard to the same matter in appeal, the judgment of this Court Purshottam Odhnvji Solanki v. Sheela Bhatia dated 3rd December, 1990, judgment of this Court in the case of Mrs. Betty Kapadia v. Magna Publishing Co. Ltd. dated 22nd July, 1991 and the judgment in the case of Indian Express Newspapers (Bombay) Ltd. v. Magna Publishing Co. Ltd., dated 21st July, 1995, it is clear that in India, a mere plea of justification would not be sufficient for denial of interim relief. The defendants, apart from taking a plea of justification will have to show that the statements were made bona fide and were in public interest and that the defendants had taken reasonable precaution to ascertain the truth, and that the statements were based on sufficient material which could be tested for its veracity. Therefore, in India, the Court is very much entitled to scrutinize the material tendered by the defendants so as to test its veracity and to find out whether the said statements were made bona fide and that whether they were in public interest. Therefore, in India, even at the interlocutory stage, the Court is very much entitled to look into the material produced by the defendants for the plea of justification, so as to test its veracity with regard to the allegations, alleged to be defamatory.

(Emphasis supplied)

What is laid down in the aforesaid case is that the Courts in India should scrutinize the material tendered by the defendants to test its veracity and find out whether it is made bona fide and in public interest. If the case in hand is scrutinized in the backdrop of the principles laid down in the cases as referred to hereinabove, it would be seen that for each and every statement made in the book in question, appellants have given their justification and have also disclosed the source of information, based on which the statement is made and are trying to justify their action by contending that they have only put forth the facts, which has come to their knowledge on the basis of interviews with various persons, data collected and are willing to share it with the plaintiff and have further stated that they want to justify it before the Court. It is, therefore, a case where sufficient prima facie material is available to hold that the defendants may have justification to substantiate the so-called defamatory statements made and in

that view of the matter injunction could not be granted.

The cases relied upon by Hari Shankar Vs. Kailash Narayan and Others, and Abdul Gani (supra) are based on the general principle governing law of Tort in matters of defamation, they do not deal with the question of granting temporary injunction, restraining a publication and the principles governing the grant of injunction in such matters.

The Supreme Court having laid down the principle in the case of R. Rajagopal alias R.R. Gopal and Another Vs. State of Tamil Nadu and Others, and when truth is put forth as a justification for the publication and when it is the case of the defendants that the averments made by them are based on data collected and research done on the basis of interview of affected persons and various other eminent personalities and particulars of such persons are given, this Court is of the considered view that it was not a fit case where temporary injunction should have been granted. If the order granting temporary injunction is perused and if the assessment of prima facie case made is taken note of, it would be seen in paragraphs 6 and 7, the learned Court has taken note of the pleadings and the allegations and has simply stated that defendants 1 and 2, authors of the book, have not filed an affidavit to say that what they have stated is a true fact. However, the publisher and seller of the book has stated so in the affidavit. Assessment of prima facie is made in paragraph 9, by only pointing out that the right available to the plaintiff under Article 21 would be violated and, therefore, a prima facie case is made out. This in the considered view of this Court is not the correct position and even in paragraph 9, while assessing the prima facie case the observations of the Supreme Court in paragraph 28(3) in the case of R. Rajagopal (supra) is not taken note of in its proper perspective.

It is a case where injunction, temporary in nature has been granted without evaluating the principles properly and without taking note of the fact that the injunction is being granted after more than 9 years after the defamatory statement has been published. Even though Shri Pancholi tried to emphasize that the delay was occasioned because of the stay granted by the Supreme Court for more than 2 years and the time taken for service of notice on the defendants, who were staying in France, the fact remains that while granting injunction the principles governing grant of same as has been indicated by the Supreme Court, the Bombay High Court and the Delhi High Court are not taken note of and, therefore, it is a fit case where pending final adjudication of this appeal, there should be stay of the operation of the impugned judgment.

Accordingly, LA. No. 8213/2009 is allowed and it is directed that pending final disposal of this appeal, there shall be stay of the impugned order dated 13-7-2009 passed in Civil Suit No. 3-A/2009 by the 14th Additional District Judge, Jabalpur.

It is the considered view of this Court that in the facts and circumstances of this case interest of justice requires that the appeal should be heard and decided at

an early date. Respondent plaintiff herein is granted four weeks time to file his reply or additional documents, if any, in support of his contention and office is directed to list the appeal for final hearing immediately thereafter.

LA. No. 8213/2009 stands allowed and disposed of.