

(2019) 05 DEL CK 0580

In the Delhi High Court

Case No : Civil Suits (OS) No. 655 Of 2018, Miscellaneous Application No. 17577 Of 2018

Surabhi Das Sharma And Anr

APPELLANT

Vs

Ajay Gajanan Joshi

RESPONDENT

Date of Decision : 01-05-2019

Acts Referred:

Code Of Civil Procedure, 1908 — Order 39 Rule 3

Citation : (2019) 05 DEL CK 0580

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : Mishal Johari

Final Decision : Disposed Of

Judgement

Prathiba M. Singh, J

1. The Defendant has not appeared despite service. No written statement has been filed. It is clear that the Defendant does not wish to defend the present suit.
2. The Plaintiffs have filed the present suit for damages and for permanent and mandatory injunction. The Plaintiff No. 2 company is engaged in the manufacturing of medical devices and have alliances with various multi-national companies. They are also involved in exporting of products to various countries.
3. The various clients of the Plaintiff No. 2 include Defence forces, Para-Military Forces and well-known corporations of India such as Indian Airlines, PSUs, as well as ambulance services, etc. The Plaintiff No. 2's products are also certified by the US FDA, by the WHO and various other quality certification organisations. It is stated that the Plaintiff No. 2's medical devices and other products are used extensively by army personnel and are used in the areas of orthopaedic surgery, plastic surgery, burns and physiotherapy, etc.
4. The Defendant, Sh. Ajay Gajanan Joshi was appointed as the General Manager

(Accounts) of the Plaintiff No. 2 company vide appointment letter dated 2nd June, 2014. A copy of the appointment letter is placed on record. The Defendant resigned from the company on the ground that he wished to take care of his daughter, who was suffering from some medical ailments. Vide e-mails dated 19th April, 2016, he informed the Plaintiff No.2 company as under:

"Dear Sir,

As discussed due to medical treatment of daughter I am unable to join Surat as well as to continue work for further few days. Please consider my last day of working 30.04.2016. I am thankful to you and management for kindness & support. Sincerely,

Ajay Gajanan Joshi

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On Tue, Apr 19, 2016 at 1:29 PM, Ajay Joshi ajay.joshi@mgrm.com wrote: Dear Sir,

As discussed with you I am planning to go to Maharashtra - Aurangabad for medical treatment of my daughter within 2 days. I need money for her treatment.

Sir, I humbly request to you please consider my request & release my variable payment amount RS.54180/-Sincerely, Ajay Gajanan Joshi"

5. Accordingly, the Plaintiff No. 2 replied to the Defendant vide e-mail dated 19th April, 2016 that it has sympathetically considered the Defendant's request and accepted that the last date of employment would be 30th April, 2016. Thereafter, the full and final settlement was also made and the accounts were cleared with the Defendant. This is clear from e-mail dated 20th April, 2016 written by the Defendant, which is at page 157 of the documents file.

6. However, the Plaintiffs' case is that after a lapse of almost two years, the Defendant started writing various e-mails to the police authorities, governmental authorities and US governmental agencies, etc. alleging that the Plaintiffs were involved in some kind of irregularities and were not even paying the proper settlement dues of the employees. The said e-mails have been placed on record from page 121 onwards. Under these circumstances, the present suit was filed and on 20th December, 2018, an interim injunction was granted protecting the interests of the Plaintiffs in the following terms:

"8. Plaintiffs have filed the present suit seeking recovery of damages and for permanent and mandatory injunction. The case of the Plaintiffs is that the Plaintiff No.2 is engaged in the manufacturing of medical devices and has partnership with various multinational companies. Products manufactured by the Plaintiff No.2 are used in various hospitals etc. It is the case of the Plaintiffs that the Defendant was the General Manager (Accounts) of the Plaintiff No.2 and he resigned on 19th April, 2016. The Defendant has accepted the full and final settlement vide email dated 20th April, 2016.

9. Ld. Counsel for the Plaintiffs submits that despite the full and final settlement having been accepted, the Defendant has started writing several defamatory and derogatory emails to various governmental authorities, media houses, as also to the Plaintiffs' foreign partners and business associates, making reckless allegations against the Plaintiffs. It is further submitted that the said emails are having a negative impact on its business and goodwill. The said emails have been placed on record. A perusal of the emails shows that the Defendant does appear to be writing emails making a large number of allegations only to vent out his own personal grievances against the Plaintiffs.

10. Accordingly, till the next date, the Defendant is restrained from making defamatory, reckless and derogatory allegations against the Plaintiffs and their business to any authorities, business associates as also to the media, in the manner as has been done in the emails placed on record. However, this shall not prevent the governmental authorities from looking into any of the allegations, if there is violation of any law. Compliance of Order XXXIX Rule 3 CPC be made within one week."

7. Subsequent to the ad-interim order of injunction being passed, summons were issued to the Defendant. The Registry has reported that the Defendant has been served with the summons. However, on 5th March, 2019 and on 15th April, 2019, it was noticed that none had appeared for the Defendant, despite service. Today, Court has perused the report of the Registry which shows that the Defendant was served with the summons both through ordinary process. The process server's report is on record, which shows that Defendant himself has personally received the summons at his address, H. No. 23-6-9/10, Hari Bowli, Sha Ali Banda, Hyderabad - 500065. The Defendant has now failed to appear before the Court or put forth any defence.

8. The Court has perused the e-mails which are written by the Defendant. The same contain several allegations against the Plaintiffs. In fact, it is surprising that despite the Defendant having himself resigned from the services of the Plaintiff No. 2 and having accepted the full and final settlement, has alleged that the Plaintiffs are not paying the dues of their employees. There are several e-mails written by the Defendant that some harassment has been caused to him due to the Plaintiffs. The e-mails on record also show that there are several allegations being made against the Plaintiff No. 2 company and its promoters. Be that as it may, since the Defendant had already accepted the full and final settlement of his dues with the Plaintiff No. 2 company, the Defendant is restrained by permanent injunction as under:-

"The Defendant is restrained by a permanent injunction from making defamatory, reckless and derogatory allegations against the Plaintiffs and their business to any authorities, business associates as also to the media, in the manner as has been done in the emails placed on record. However, this shall not prevent the governmental authorities from looking into any of the allegations, if there is violation of any law."

9. In addition, Mr. Vineet Sharma the Authorised Representative of the Plaintiffs, who is present in Court today undertakes to the Court that the Plaintiff No. 2 or its promoters/employees would not in any manner cause any harassment to the Defendant or his family. The said undertaking is accepted and the Plaintiffs shall be bound by the same.

10. The suit is disposed of /decreed in the above terms. Decree sheet be drawn accordingly. All pending IAs stand disposed of.

11. Order dasti.