

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

% Order delivered on: 15th January, 2015

+ **CS(OS) 2777/2014, I.A. Nos.17728/2014, 17729/2014
& 17730/2014**

SUBHASH CHANDRA & ANR Plaintiffs
Through: Mr.Aman Lekhi, Sr. Advocate for
Plaintiff No.1.
Mrs.Pratibha M.Singh, Sr.
Advocate with Mr.Tejeev Singh
Bhatia and Mr.Kapil Midha,
Advocates for Plaintiff No.2.

versus

POSITIV TELEVISION (P) LTD & ORS Defendants
Through: Mr.Rajiv Nayar, Sr. Advocate with
Ms.Ranjana Roy Gawai and
Mr.Kirish Gandhi, Advocates for D-1.
Dr.Abhishek Manu Singhvi, Sr.
Advocate with Ms.Anisha Somal
and Mr.Aakash Bajaj, Advocates
for D-5.

**CORAM:
HON'BLE MR.JUSTICE MANMOHAN SINGH**

MANMOHAN SINGH, J.

1. The plaintiffs namely Mr.Subhash Chandra and Zee Media Corporation Ltd. have filed the present suit for permanent and mandatory injunction and damages against five defendants. The grievance of the plaintiffs is about defamatory broadcast made by the

defendants against both the plaintiffs. The reliefs sought by the plaintiffs are as under:

- A. Restraining the defendants and its employees/agents from making any defamatory broadcast against the plaintiffs and/or its businesses.
- B. Mandatory injunction against the defendants its employees and/or agents directing them to forthwith remove from their website and from any other website defamatory material against the plaintiffs.
- C. Damages for the defamation already caused to the plaintiffs.

2. It is alleged in the plaint that the defendants have been telecasting news reports/stories by the defendant No. 1 channels against the plaintiffs which are defamatory *per se*. The defendants knew the fact that the news reports/stories they have been telecasting are false and *per se* defamatory but they continued to telecast it maliciously solely with a view to defame the plaintiffs and its officials. These programmes were repeatedly broadcasted by the defendants on various dates from 6th/7th January, 2014 and more particularly from 16th March, 2014 to 8th April, 2014 and also on 29th May, 2014 to 30th May, 2014 and thereafter on 4th September, 2014, 5th September, 2014 and on 9th September, 2014 with the sole intention to cause damage to the reputation and goodwill of the plaintiffs. The defendants have aired the defamatory programmes at least 223 number of times against the plaintiffs as on date of filing of the suit.

3. When the suit and interim application was listed before the Court first time, the order for issuance of summons and notice in the application was strongly opposed by the defendant Nos.1 and 5 mainly on the reasons that prior to filing of the present suit Essel Infraprojects Ltd. had filed suit No.645/2014 *inter alia* against few defendants which are dragged in the present suit with the same allegations and same cause of action. The fact of filing of the said suit has not been disclosed by the plaintiffs before this Court. It is alleged by learned Senior counsel appearing on behalf of defendant Nos.1 and 5 that in the said suit the interim order was not granted in favour of Essel Infraprojects Ltd. After few days by changing the name of the group company the present suit is filed and in fact Essel Infraprojects Ltd. is also owned by Subhash Chandra who is whole sole of plaintiff No.2 in the present suit.

4. Dr. A.M. Singhvi, learned Senior counsel appearing on behalf of defendant No.5 and Mr. Rajiv Nayar, learned Senior counsel appearing on behalf of defendant No.1 have read the prayer of the suit filed before Bombay High Court (Bombay Suit) wherein an injunction was sought from further uttering/ repeating/ writing/publishing/telecasting/airing any programme on news items thereby making defamatory allegations against Essel Infraprojects Ltd. Learned Senior counsel submit that in case the entire plaint of Bombay suit is read in meaningful manner, the character of the plaintiff i.e. Subhash Chandra herein would be revealed. Both learned Senior counsels state that it was the duty of the plaintiff to disclose said material fact. The plaintiffs have also suppressed a

criminal complaint bearing No.176/01 of 2014 which was filed before the Court of Chief Metropolitan Magistrate against the defendants for offences under Section 420, 499 and 500 read with Section 120 B and 34 of the Indian Penal Code, 1860. The plaintiffs have also not disclosed the order of this Court passed in Company Appeal No.25/2014 filed by defendant No.1 against the order dated 9th May, 2014 wherein the operation of the said order was stayed. Thus, it is stated by both the learned Senior counsels that the plaintiffs have not approached this Court with clean hands and in fact this court should not grant any indulgence as the plaintiffs have tried to overreach the Court and abuse the process of this law by concealing material facts. Even otherwise, it is stated that on merit the suit itself is not maintainable as the plaint has not been properly signed and verified and secondly the suit against the defendant No.5 is not maintainable as the said defendant No.5 Mr.Naveen Jindal has nothing to do with defendant No.1.

5. Mr.Rajiv Nayar, learned Senior counsel appearing on behalf of defendant No.1 has refuted the argument of the plaintiffs that since the cause of action was in both suits was different coupled with the fact that counsel who has prepared the present case is not aware about Bombay suit, thus, there is no legal harm if the factum of the earlier suit was not disclosed. Mr. Nayar says that the counsel who has prepared the second suit might be aware in view of the reason that the nature of drafting of the second plaint is similar and various paras are common in both the suits. He has referred to paragraph Nos. 9, 10 and 11 of the suit filed before this Court to show that the

same have been lifted from paragraph Nos. 14,15 and 16 of the suit filed before the Bombay High Court.

6. Dr. A.M. Singhvi says that the effect of the injunction sought by way of both the suits would be the same i.e. televising news programme and displaying information that furthers public interest. He has referred to the reliefs clause in both the matters for the purpose of comparison. The same are read as under :

Relief claimed in Suit No.645/2014, Before the Bombay High Court (Filed on 18.07.2014)	Relief claimed in Suit No.2777/2014, Before the Delhi High Court (Filed on 11.09.2014)
<p>(a) That this Hon'ble Court may be pleased to issue a permanent Order and Injunction restraining the Defendants and their servants and agents from further uttering/repeating/writing/publishing /telecasting / airing any programme or news item thereby making defamatory allegations against the Plaintiff or tending to defame or harm the Plaintiff business and its reputation;</p> <p>(b) That pending the hearing and final disposal of the Suit, this Hon'ble Court may be pleased to issue a temporary injunction restraining the Defendants and their servants and agents from further uttering/repeating/writing/publishing/ telecasting any programme or news item thereby making defamatory</p>	<p>(a) That this Hon'ble Court may be pleased to a decree of permanent injunction restraining the Defendants, their officers, employees, reporters, anchors, servants and agents from further uttering/repeating/writing/ publishing/ telecasting any programme or news item thereby making defamatory allegations against the Plaintiff, its officials, promoters or tending to defame or harm the Plaintiff business and its reputation and further from publishing any news story/ies without first obtaining the version of the Plaintiffs including in the print and electronic media, diffusion through internet, etc.;</p> <p>(b) Pass a decree of mandatory injunction in favour of the Plaintiffs and against the Defendants, its employee, agents, officers, assigns, representatives, group companies directing and/or commanding them to forthwith remove from their websites</p>

<p>allegations against the Plaintiff or tending to defame or harm the Plaintiff's business and its reputation in any manner whatsoever;</p>	<p>and/or from such other websites belonging to and / or controlled by the Defendant any material /article / story/ news/ views/ report etc. which are false and/or misleading and/or manipulative and / or vindictive and / or defamatory of reputation of the Plaintiffs and/or which relates to the election campaign of the Plaintiff No. 1 and / or causes impairment in the election process of the Plaintiff No. 1 and / or impacts and/or impairs the minds of the electorate and /or lowers the reputation of the Plaintiffs in the eyes of the general public.</p>
<p>(c) That pending the hearing and final disposal of the above Suit, this Hon'ble Court may be pleased to direct Defendant Nos. 1 and 2, their servants, agents and officers by a mandatory order to remove the Press Release or any other information / messages / articles relating to the Plaintiff and its Non-Executive Chairman / Directors or any other officers from their Website http://www.janadhikarmanch.com or any other Website or media of Defendant Nos. 1 and 2;</p>	<p>(c) That this Hon'ble Court may be pleased to a decree of interim injunction restraining the Defendants, their officers, employees, reporters, anchors, servants and agents from further uttering / repeating / writing / publishing / telecasting any programme or news item thereby making defamatory allegations against the Plaintiff, its officials, promoters or tending to defame or harm the Plaintiff business and its reputation and further from publishing any news story/ies without First obtaining the version of the Plaintiffs including in the print and electronic media, diffusion through internet, etc.;</p>
<p>(d) That pending the hearing and final disposal of the above Suit, the Defendant Nos. 1 and 2, their servants, agents and officers be restrained by an order & injunction of this Hon'ble Court from displaying</p>	<p>(d) Costs of this suit be awarded;</p> <p>(e) Pass such further orders or directions which this Hon'ble Court may deem fit and proper in</p>

<p>the press release or any defamatory information / messages / articles relating to the Plaintiff and their Non-Executive Chairman / Directors or any other officers on their Website http://www.janadhikarmanch.com or any other Website of the Defendant Nos. 1 and 2 or any other media;</p> <p>(e) For ad-interim reliefs in terms of prayers (b), (c), (d) and (e) above;</p> <p>(f) For costs of this suit;</p> <p>(g) For such further and other reliefs as this Hon'ble Court may deem fit in the circumstances of the case.</p>	<p>the facts and circumstances of the present case.</p>
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7. Mr. Singhvi has placed reliance on the case of **Satish Khosla v. Eli Lilly Ranbaxy**, 1998 (44) DRJ 109 (DB), wherein this Court compared the reliefs sought by way of two suits and observed as under :

“13. it is apparent that in the application in Suit No.261/97, the respondent is seeking the same relief of temporary injunction as had been sought in Suit No. 3064/96.

14. Was it not obligatory on the part of the respondent to disclose to the Court that in an earlier suit filed by it, the Court had not granted any stay in its favour and if on such a disclosure having been made the Court still granted stay in favour of the respondent, it could be said that the respondent had not concealed any material fact from the Court. But not mentioning anything about the Court having not granted any stay in similar circumstances in favour of the respondent in the earlier suit, it appears that the respondent had not only concealed material facts from the Court but had also tried to over reach the Court. Being unsuccessful in obtaining stay in Suit No. 3064/96, it was

not permissible to the respondent to file the subsequent suit and seek the same relief which was not granted to it in the earlier suit.”

8. Mr. Singhvi argued that the said decision applies to the facts of the present suit against the plaintiffs for the purpose of non disclosure of material information. It is argued by him that the plaintiffs have approached this Court after not being able to get an interim relief at the Bombay High Court. On account of the similarity between the two suits and the reliefs claimed there under, the factum of having filed the suit before the Bombay High Court, becomes a material fact.

9. Mr. Singhvi argued that the plaintiffs’ argument that non disclosure of the suit filed before the Bombay High Court does not amount to a material fact, has no force and does not hold good particularly since the relief(s) sought/effect of the prayer(s) sought in both the suits, is the same. He relied upon the case of ***M/s. Seemax Construction (P) Ltd. vs. State Bank of India***, AIR 1992 Del 197, wherein this Court was encountered with a similar situation of non disclosure of a material fact and it was observed as under :

“11. I have already noticed herein before the prayers made in the two earlier suits filed by the plaintiff as also the pleas taken in the plaint filed in court at Bikaner and the pleas taken in the present suit. Mr. Bhasin, learned counsel for plaintiff, submits that the two suits filed earlier were based on different cause of action whereas the present suit is based on a different cause of action and as such the filing of the said suits was not a material fact requiring disclosure and that being so there is -no suppression of material fact from this Hon'ble Court. Counsel contends that it is one thing to say that it would have been desirable to disclose

the filing of the earlier suits and it is altogether different to say that there was obligation on the part of the plaintiff to make a disclosure of the filing of the said suits. In so far as the present suit is concerned, Mr. Bhasin contends that, if at all, the present case falls in the former category. I do not agree. The contention that the filing of the said two earlier suits was not a material fact is misconceived.....

12. The tendency of the litigants to approach different courts to somehow or the other obtain interim orders without full disclosure of the earlier judicial proceedings and without full disclosure of all material facts is on constant increase and it is necessary for due administration of justice to reiterate the legal proposition that such a person may be refused a hearing- on merits. As the plaintiff, as noticed above, has suppressed material facts from this court, I would dismiss this application without going into the merits.”

It is submitted that a natural corollary that follows from non disclosure of a material fact is dismissal of the suit on merits.

10. Mr. Singhvi argues that even otherwise irrespective of whether it was material fact or not, it was the duty of the plaintiffs to disclose the said fact as the party who approaches the Court with unclean hands is not entitled to justice and the applicability of this principle has been unequivocally extended to the petitions filed under Articles 32, 226 and 126 of the Constitution, as well as cases instituted in other Courts and judicial fora, alike. Reliance in this regard is placed on the case of **Ramjas Foundation vs. UOI**, (2010) 14 SCC 38.

11. In **United India Insurance Co. Ltd. vs. Rajendra Singh**, (2000) 3 SCC 581, the Supreme Court observed that “*Fraud and justice can never dwell together*” (*fraus et just runquam cohabitant*)

and it is a pristine maxim which has never lost its temper over all these centuries.

The ratio laid down by the Supreme Court in various cases is that dishonesty should not be permitted to bear the fruit and benefit the persons who played fraud or made misrepresentation and in such circumstances the Court should not perpetuate the fraud.

12. In the case of **Meghmala v. G. Narsimha Reddy**, (2010) 8 SCC 383 it was observed that fraud is an intrinsic, collateral act, and fraud of an egregious nature would vitiate the most solemn proceedings of courts of justice. Fraud is an act of deliberate deception with a design to secure something, which is otherwise not due.

13. In **M/s Seemax Construction (P) Ltd.(supra)**, after finding non disclosure of material fact, this Court observed as follows :

“The suppression of material fact by itself is a sufficient ground to decline the discretionary relief of injunction. A party seeking discretionary relief has to approach the court with clean hands and is required to disclose all material facts which may, one way or the other, affect the decision. A person deliberately concealing material facts from court is not entitled to any discretionary relief. The court can refuse to hear such person on merits. A person seeking relief of injunction is required to make honest disclosure of all relevant statements of facts otherwise it would amount to an abuse of the process of the court.”

14. Similarly, in the case of **Satish Khosla (supra)**, reference was made to **S.P. Chengalvaraya Naidu v. Jagannath and Ors.**, AIR 1994 SC 853, wherein it was held that the Courts of law are meant for imparting justice between the parties. One who comes to the

Court, must come with clean hands. “It can be said without hesitation that a person whose case is based on falsehood has no right to approach the court. He can be summarily thrown out at any stage of the litigation. A litigant, who approaches the court, is bound to produce all documents executed by him which are relevant to the litigation. If he withholds a vital document in order to gain advantage on the other side then he would be guilty of playing fraud on the court as well as on the opposite party.”

15. Mr. Singhvi argues that the plaintiffs herein are not only trying to claim the same relief before two different fora, but is also trying their chances before the two different fora, at the same time. He referred the decision of this Court in **Sandeep Kumar vs. Nihal Chand**, (2014) 207 DLT 104, wherein it was observed as follows :

“30. Law mandates that when a party approaches the Court in order to seek relief, it is presumed that the party would always disclose the true facts. No litigant can derive benefit from a Court of law of his own wrongs. No litigant should be encouraged to invoke the jurisdiction of the Court by concealing material fact. If such attempt is made, normally such a party would not be entitled to relief as truth is an integral part of the justice delivery system.”

16. It is admitted position that the suit is at the admission stage, no written statement or reply has been filed, even few defendants are yet to be served. It is also admitted position in the present matter that the plaintiffs have not derived any benefit of injunction in their favour. Before passing any order for issuance of summons and notice, it is necessary to discuss the plaintiffs’ case.

17. It is submitted by Mr. Aman Lekhi and Ms. Pratibha M. Singh, learned Senior counsel that the suit in Bombay relates only to a Press Conference held on 9th of May, 2014 and the telecast of programme “Ajab M.P. Ghazab Ghotala” based on the said press conference. The said press conference was relating to some land deals in Madhya Pradesh, however, the present suit relates to programmes that were repeatedly broadcasted on 6th January, 2014 to 7th January, 2014 and thereafter from 16th March, 2014 to 8th April, 2014 and also on 29th May, 2014 to 30th May, 2014 and thereafter on 4th September, 2014, 5th September, 2014 and on 9th September, 2014 on the channels of defendant No. 1 wherein various defamatory remarks were made against the plaintiffs in relation to various judicial proceedings pending in various Courts in Delhi. The suit filed before the Bombay High Court relates to a completely different cause of action, unrelated programs and stories published and broadcasted by the defendants therein. Further the plaintiffs before this Court are not parties to the Bombay suit. The table of comparison between the Delhi suit and the Bombay suit filed by the defendants is nothing but an attempt to mislead this Court. The pleadings have to be read in its entirety and as a whole to ascertain its true import. It is not permissible to cull out a sentence or a passage and to read it out of context in isolation and the pleading has to be constructed as it stands and without any addition, subtraction or change of its apparent grammatical sense.

18. It is submitted on behalf of the plaintiffs that there is main distinction between a statement of facts disclosing cause of action

and the relief sought for. The reliefs claimed do not constitute a cause of action and on the contrary, the reliefs are entitlement on the basis of the facts pleaded. Reliance in this regard is placed on **Sopan Sukhdeo Sable & Ors. Vs. Assistant Charity Commissioner**, (2004) 3 SCC 137.

19. It is submitted by the learned Senior counsel appearing on behalf of plaintiffs that there is no suppression of material fact. The present suit and the suit in Bombay are not same, bearing different and distinct cause of action. It is submitted that the law provides that a party must include all the claims arising out of one cause of action in one suit. The proposition is not disputed by the plaintiffs however it is submitted that the same is relatable to a “cause of action” and not to the reliefs claimed in the suit. Therefore, precise facts are required to be included about whole claim arising from one and the same cause of action and not that every suit shall include every claim or every cause of action. The decisions referred by the learned Senior counsel on behalf of the plaintiffs are **Payana Reena Saminathan Vs. Pana Lana Palaniappa**, (1914) 41 IA 142 and **Sandeep Polymers Pvt. Ltd. Vs. Bajaj Auto Ltd. & Ors.**, (2007) 7 SCC 148.

20. It has been submitted that by way of abundant caution, the plaintiffs are trying to approach two different Courts for seeking the same reliefs and so an application praying to amend the prayers in the Bombay suit restricting the same only with respect to the subject matter as contained in the Press Conference dated 9th May, 2014

was filed in the Bombay suit. The said application was allowed by the Bombay High Court *vide* Order dated 1st December, 2014.

The Bombay suit has no effect whatsoever on the merits of the present case. The suppressed facts must be a material one in the sense that had it not been suppressed it would have had an effect on the merits of the case. The learned Senior counsel for the plaintiffs has relied upon the following judgments:

- A. ***S.J.S Business Enterprises Pvt. Ltd. Vs. State of Bihar & Ors.*** – (2004) 7 SCC 166.
- B. ***Institute of Inner Studies Vs. Charlotte Anderson*** – 2014 (57) PTC 228.

21. It has further been submitted that as the causes of action in both the suits are completely different and the reliefs claimed in the suit have to be viewed in the context of the subject matter of the suit. Even the subject matter of both the suits is completely distinct and different. Reliance in this regard is placed on the following judgments:-

- A. ***Vallabh Das Vs. Madan Lal & Ors.***, (1970) 1 SCC 761);
- B. ***State of Maharashtra Vs. National Construction Company, Bombay*** (1996) 1 SCC 735;
- C. ***Manjunath Hegde Vs. Jaypee Brothers Medical Publishers***, in FAO(OS) No. 68/2009) decided on 1st September, 2010;
- D. ***Bengal Waterproof Ltd. Vs. Bombay Waterproof Manufacturing Company***, (1997) 1 SCC 99.

22. It has been submitted by Mr. Lekhi, learned Senior counsel appearing on behalf of the plaintiffs that in the present case the defendants through their TV channels are broadcasting news reports/stories against the plaintiffs which are defamatory *per se*. One of such stories 'Salakhho Ke Peeche Honge Chandra?' with plaintiff No.1's photograph was telecasted by the Focus TV channel. It is contended by the plaintiffs that one of the channels is owned by the defendant No.5.

23. It is submitted that the decisions referred by defendants have no bearing as the same are out of context. The plaintiffs have tried to distinguish the said decisions. It is alleged that the judgment of **Seemax Constructions Pvt. Ltd.** (*supra*) is distinguishable on the facts. In fact, only the last portion of the judgment is reproduced while ignoring the facts of the said case. Similarly, in all the other judgments relied on by the defendants including **Ramjas Foundation** (*supra*), the facts are completely different from the facts in the present case. The case of **Ramjas Foundation** (*supra*) was pertaining to repeated challenge to the same acquisition proceedings at different stages.

24. With regard to other technical objections raised by the defendant No.1 that the plaint has not been instituted by an authorized person on behalf of the plaintiff against defendant No.1, it is stated that the present suit has been filed on behalf of plaintiff No.2 Company by Mr. Gulshan Sachdev by virtue of a Board Resolution authorizing him to represent plaintiff No.2 Company in any proceedings before any court of law. It is submitted that Mr. Gulshan

Sachdev had two board resolutions, one authorizing him specifically for cases against Mr. Naveen Jindal and another a general resolution for all legal matters, however, by an inadvertent error only one board resolution was filed along with the plaint. A copy of the board resolution authorizing Mr. Gulshan Sachdev to represent plaintiff No.2 in any legal proceedings has been filed now. It is submitted that in any case, plaintiff No.1, has also signed and verified the present plaint and has also filed an affidavit swearing to the contents of the plaint.

25. With regard to other objection raised by the defendant No.1 that Mr. Naveen Jindal is not a proper and necessary party as he has nothing to do with the defendant no.1 and the order of the Company Law Board has been stayed by this Court, it is submitted that the TV channels of defendant No.1 have been doing nothing but showing praises for Mr. Naveen Jindal and his family members on one hand and on the other hand is broadcasting defamatory programmes against the plaintiffs, therefore, defendant No.5 is a proper and necessary party. The stay granted by this Court against the order of the Company Law Board has no relevance to the merit of the present case.

26. As far as merit of the present case is concerned, I am not inclined to decide anything, however, the legal position of distinct causes of action is clear that in the case of continuous tort a fresh period of limitation begins to run at every moment of the time when such tortuous act is committed by the other side, the complainant get

a fresh cause of action to come to the Court by appropriate proceedings.

27. In case the plaint of the Bombay suit is read in a meaningful manner, prima facie it appears to the Court that the Bombay suit relates only to a press conference held on 9th May, 2014 with regard to the programme 'Ajab M.P. Ghazab Ghotale' based on such press conference.

28. The present suit relates to different programmes broadcasted by the defendant No.1 are prior to the first suit and substantially after filing of the Bombay suit. The said programmes and allegations with regard to plaintiff No.1 are different and on different date though in Bombay suit in the reliefs claimed, no doubt the prayer was also sought pertaining to further uttering/repeating/ writing/publishing /telecasting/airing. But it appears to the Court that the said expression in the prayer clause is with regard to the programme and press conference 'Ajab M.P. Ghazab Ghotale' and does not pertain to the subject matter of the second suit.

29. It is settled law that the subsequent developments that have an impact on the rights and obligations of the parties can be taken into consideration by the court while granting the relief prayed for. Reliance in this regard is placed upon the following judgments :

- ***Pasupuleti Venkateswarlu v. The Motor and General Traders***-(1975) 1 SCC 770
- ***Hasmat Rai v. Raghunath Prasad*** (1981) 3 SCC 103

- ***Baba Kashinath Bhinge v. Samast Lingayat Gavali*** 1994 (3) Suppl. SCC 698
- ***Sheshambal v. Chelur Corporation Chelur Building***, (2010) 3 SCC 470.

30. Mr. Lekhi, learned Senior counsel has rightly stated that the first case i.e. Bombay suit was pertaining to a press conference held on 9th May, 2014 and not pertaining to fresh cause of action which has occurred against the defendants whereby various defamatory remarks were made against the plaintiffs who are not the parties to the Bombay suit. He submits that the alleged act of the defendants in the present case is in the nature of tort and they are intentionally doing such act in order to make defamatory remarks against the plaintiffs. To this extent, there is a force in the submission of the learned Senior counsel for the plaintiffs. The plaintiffs' case is that it is a continuing wrong, a new and fresh case of action, therefore, the plaintiffs are entitled to choose to initiate the action against the defendants in the case of continuing torts. Therefore, prima facie this Court is of the view that the second suit in kind of circumstances is maintainable.

31. One of the stories gives an impression to the general public that the plaintiff No.1 has been sentenced for something which he has done. The telecasting of such stories would definitely give rise to a fresh cause of action as the said Focus channel has already pronounced a judgment when even the trial before court is yet to completed. In fact, it is in bad taste. The said story was telecasted when hearing in the matter was being conducted. No view/comments

were obtained from plaintiff No.1 (who was targeted in the said story) which is necessary.

It is very unfortunate that attacks and counter-attacks throughout campaign by the parties could have been avoided by settling the matter as both the parties have good status in the society. Even during hearing, the matter was discussed for settlement that from today onwards, parties to the suit should not make defamatory remarks against each other. With regard to previous litigations, the same may continue. However, the said proposal could not be materialised.

32. Admittedly in the plaint, the plaintiffs have not disclosed the following facts :

- a) about the pendency of Bombay suit bearing No.645/2014
- b) pendency of criminal complaint bearing No.176/01 of 2014
- c) the interim order dated 26th May, 2014 passed in Criminal Appeal No.25/2014 staying the operation of an order dated 9th May, 2014.

33. Whether these are material facts or not and these facts have any bearing in the order to decide the controversy raised in the present suit, I do not wish to decide the said issues. However, I am clear in my mind that these facts mentioned in preceding Paras ought to have been mentioned in the present suit even if these may not have been material facts. Under these circumstances, to my mind, the plaint lacks from certain facts which should have been disclosed in order to avoid any objection from the other side. As no benefit or advantage of any kind is granted to the plaintiffs till date, I

consider proper that one opportunity should be granted to the plaintiffs in the interest of justice, equity and fair-play either to amend the plaint or to file the fresh suit mentioning all the details on or before the next date. The defendants objections, if any, raised would be decided on merit by the Court.

34. List the matter before the Roster Bench on 2nd February, 2015 for directions.

(MANMOHAN SINGH)
JUDGE

JANUARY 15, 2015