

Court No. - 19

Case :- MATTERS UNDER ARTICLE 227 No. - 4825 of 2024

Petitioner :- Awanish Kumar Awasthi

Respondent :- Amitabh Thakur

Counsel for Petitioner :- Abhinav Bhattacharya, Aishvarya Mathur, Dhruv Duggal, Pramod Kumar Dwivedi, Utkarsh Vardhan Singh

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Jaideep Narain Mathur, the learned Senior Advocate assisted by Sri Abhinav Bhattacharya, Ms. Aishvarya Mathur, Ms. Zubeida Sahanshah, Sri Dhruv Duggal, Sri Pramod Kumar Dwivedi, Sri Utkarsh Vardhan Singh, Sri Abeer Mishra and Sri Amber Lal Gupta, advocates for the petitioner.

2. By means of the instant petition filed under Article 227 of the Constitution of India, the petitioner has challenged validity of an order dated 30.09.2024 passed by the Civil Judge (Sr. Div.), Lucknow in R.S. No. 2967 of 2024, whereby the trial court has declined to pass an ex parte ad interim order of temporary injunction while issuing notice to the defendants.

3. The aforesaid suit has been filed for a relief of perpetual and mandatory injunction wherein an application for temporary injunction has been filed by the plaintiff for restraining the defendants from speaking, printing, publishing, selling and/or exhibiting, circulating, streaming and sharing any information, video, contents, etc., in spoken words or in writing, in any newspaper or any public platform or any social media platform, etc., in public domain with respect to the plaintiff which may tantamount to defamation of the plaintiff's reputation and good name, or from making defamatory statements against the plaintiff while the matter is subjudice before the trial court.

4. The petitioner prayed for an ad interim injunction to this effect till the disposal of application for temporary injunction.

5. The plaintiff is a former bureaucrat and the defendant is a former police officer who has formed a political party. The defendant has published a series of statements on social media platform as well as on digital news platforms stating that huge sum of cash was stolen from a bungalow of the petitioner in State of Uttarakhand. The petitioner sent a notice dated 25.09.2024 through his counsel to the defendant calling upon him to restrain from publishing any further information or statements against the petitioner failing which appropriate legal proceedings both civil and criminal shall be instituted against the petitioner.

6. Upon this the defendant sent an e-mail to the plaintiff-petitioner stating that upon perusal of the notice, he realized that he should tender unconditional apology to the petitioner. He further stated that he has deleted the offending post from the social media platform and he has posted a message on the social media platform that he has deleted the post and he publicly apologizes from the petitioner for the agony caused to him. However, even after tendering the apology the defendant-opposite party is continuing to make further statements which are derogatory to the petitioner's reputation and are defamatory.

7. The submission of the learned Senior Advocate for the petitioner is that in these circumstances, it was necessary that the civil court should have passed an order of ad interim temporary injunction pending disposal of the application for temporary injunction. He has further submitted that after the trial court passed an order dated 30.09.2024 issuing notice to the opposite party-defendant, the latter has posted some more messages/ statements which are defamatory against the

petitioner and which justify the grant of an ad interim order of temporary injunction in favour of the petitioner.

8. Order 39 Rule 2 CPC provides that in any suit for restraining the defendant from committing any injury of any kind, whether compensation is claimed in the suit or not, the plaintiff may, at any time after the commencement of suit, apply to the court for a temporary injunction to restrain the defendant from committing injury complained of.

9. As the posts published by the opposite party prima facie appear to be defamatory and prejudicial to the reputation of the petitioner and the opposite party has himself apologized to the petitioner for his earlier posts, a prima facie case for grant of interim relief is made out in favour of the petitioner. The balance of convenience also tilts in favour of the petitioner as he will suffer a greater inconvenience by refusal of grant of temporary injunction than the likely inconvenience that may be caused to the opposite party by grant of injunction. The petitioner is likely to suffer irreparable loss and injury by the defamatory statement been published by the opposite party which cannot be compensated in terms of money.

10. The matter requires consideration.

11. Issue notice to the opposite party returnable an early date.

12. Learned counsel for the petitioner shall take necessary steps within 24 hours.

13. The opposite party may file counter affidavit, if any, within a period of three weeks.

14. List this case in the week commencing 18.11.2024.

15. Keeping in view the aforesaid facts, an interim order is passed restraining the opposite party from publishing any information, video, contents, etc. with respect to the plaintiff which may be damaging to the plaintiff's reputation, till the next date of listing.

16. It is clarified that this interim order or the pendency of the petition will not be treated as an order staying proceedings of the trial court and the trial court shall proceed with the suit expeditiously.

Order Date :- 4.10.2024

Pradeep/-