IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

AND

THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

O.S.A.No.50 of 2023
and
C.M.P.No.4661 of 2023

Zee Media Corporation Limited
(Zee News Channel)
Essel Studio FC-19, Sector 16-A
Noida – 201 301, Uttar Pradhesh

Also at

Alpha Centre, Essel House
Third Floor, No.150 &152
North Usman Road
T.Nagar, Chennai – 600 017 .. Appellant

Versus

1.Mahendra Singh Dhoni
2.Sudhir Chaudhary
3.G.Sampath Kumar, IPS

4.News National Network Pvt Ltd
(News Nation Channel)
Plot No.14, Sector 126, Noida
Uttar Pradesh 201 301 .. Respondents

Prayer: Original Side Appeal is filed under Order 36 Rule 1 of O.S. Rules r/w Clause 15 of the Letters Patent to set aside the Order dated 11.11.2022 passed in Application No.4299 of 2022 in Appln.No.2713 of 2022 in C.S.No.185 of 2014.

For Appellant : Mr.Jose John
for M/s.King and Patridge

For Respondents : Mr.P.R.Raman, Senior Counsel
for M/s.Raman and Associates (R1)

JUDGMENT

(Judgment of the Court was delivered by **R. MAHADEVAN, J**.)

The appellant / applicant / 1st defendant has preferred this Original Side Appeal against the Order dated 11.11.2022 passed by the learned Judge in Application No.4299 of 2022 in Application No.2713 of 2022 in C.S.No.185 of 2014.

2. It is the case of the appellant that the first respondent instituted the aforesaid suit viz., C.S.No.185 of 2014 against the appellant and the respondents 2 to 4 herein seeking permanent injunction restraining them and their parties from publishing/ republishing, carrying out any reports or

articles or telecasts or repeat telecasts or programs or debates or any discussion or reporting or publishing in any other manner, any other matter of any kind directly or indirectly pertaining to the alleged report of the third defendant or any other matter related to the said alleged statement and / or any news content relating to the plaintiff to acts of betting, spot fixing and match fixing of cricket matches or in any manner insinuating about the integrity and honesty of the plaintiff as a cricketer except the publication or news of the exact judicial order, if any, passed by this Court; and to pass a decree of damages in favour of the plaintiff against the defendants 1 to 4 jointly and severally, for an amount of Rs.100 Crores or for any higher amount as this court may be pleased to determine; and to award costs.

3.This Court, by order dated 08.09.2021 framed issues for consideration of the suit. When the suit was pending, the first respondent / plaintiff filed an application in Application No.2713 of 2022 seeking leave of this Court to deliver interrogatories to the appellant / first defendant to answer and to issue Sub-Poena in the above suit. This Court, by order dated 22.07.2022, allowed the said application as prayed for.

4.Aggrieved by the aforesaid order passed by the learned Judge, the first defendant / appellant herein filed an Application in Application No.4299 of 2022 under Order XI Rule 7 of CPC seeking to set aside the interrogatories delivered to them, on the ground of illegality and not exhibited bonafide. It was also stated therein that the interrogatories are in the nature of cross examination and an attempt to prepare the first respondent's chief examination. This Court, after considering the submissions, observed that the interrogatories are raised only with a view to gather further information on the basis of the allegations made in the written statement and that the pleadings must contain material facts. It was further observed that based on the judgment of the Hon'ble Supreme Court in ***Maria Margarida Sequeira Fernandes v. Erasmo Jack de Sequeira [2012 5 SCC 370]***, adherence to Section 30 CPC will help in ascertaining the proof. Observing so, the said application was dismissed *vide* order dated 11.11.2022. Challenging the same, the present appeal has been filed by the applicant / first defendant.

5.The learned counsel for the appellant has submitted that the impugned order shows total non-appreciation of the issue on hand. According to him, the learned Judge has allowed the interrogatories without weighing it on the balance of unreasonableness, vexatiousness, prolixity, oppression etc., thereby causing prejudice to the appellant. The learned counsel further submitted that the order has resulted in miscarriage of justice to the appellant by failure of due process which is the main ingredient of fair disposal of the suit. That apart, it is submitted that the learned Judge has failed to appreciate the provisions of Order XI Rule 7 of CPC by holding that the appellant cannot ask this Court to set aside its own order dated 22.07.2022; that the learned Judge has also failed to appreciate the objections raised by the appellant that interrogatories delivered amounted to cross examination of the first defendant before the plaintiff. It is the further submission of the learned counsel that the learned Judge has erred in accepting the reasoning of the first respondent / plaintiff that no details / materials are available on record, while ignoring the details / documents filed by the appellant. Thus, the impugned order does not show as to how all the interrogatories are relevant to the issues framed in the suit,

according to the learned counsel. Finally stating that the impugned order is against the well settled principles that interrogatories are not to be allowed at the trial stage as it would prejudice the cross examination of the defendant and confer an undue advantage on the plaintiff, the learned counsel prayed for setting aside the impugned order passed by the learned Judge.

6.Per contra, the learned senior counsel appearing for the first respondent / plaintiff has submitted that the impugned order passed by the learned Judge is a well-reasoned one and it has been passed only after hearing both the parties thoroughly and hence the same does not require any interference in the hands of this Court. He further submitted that the interrogatories are connected with the matter in dispute and that answering the interrogatories will only pave the way for effective adjudication of the rights of the parties. The written statement filed by the appellant herein in the suit did not contain specific responses to the allegations raised by the first respondent. Since the written statement is bereft of any details supporting the allegations made against the first respondent, the answer to

the interrogatories will assist this Court in arriving at the truth. According to the learned senior counsel, it is not correct to state that the interrogatories are in the nature of cross examination and that the interrogatories are neither unreasonable nor vexatious. Stating that the parties to the suit can serve interrogatories to the other party for answering the interrogatories in respect of matters where the facts are in dispute and that objections to the same can be taken only on the ground that interrogatories are scandalous or irrelevant or not exhibited bonafide, the learned senior counsel prayed for dismissal of this appeal.

7.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

8.The appellant / first defendant has sought to set aside the interrogatories served on them, on the grounds of not exhibiting bonafide and being in the nature of cross examination. However, the said relief was rejected by the learned Judge, after having dealt with Order XI Rules 1, 2, 4, 6, 7, 9, 11, 21 and 22 of CPC to elicit that the parties to the suit can serve

interrogatories to the other party for answering to the same in respect of matters where the facts are in dispute, for fair disposal of the case. Listing out the objections raised by the appellant against each and every interrogatory and taking note of the submission of the learned counsel for the first respondent / plaintiff that the written statement filed by the appellant has no details with regard to the allegations / averments, the learned Judge has given a finding that the interrogatories have been raised only with a view to elicit / gather further information on the basis of allegations made in the written statement. It was the specific finding of the learned Judge that the details / material facts required in the interrogatories are not dealt with in the written statement. It was also observed by he learned Judge that Section 30 CPC would help in ascertaining the proof and this provision is to be frequently used, relying upon the judgment of the Supreme Court in ***Maria Margarida Sequeira Fernandes's case (cited supra)***. Feeling aggrieved, the appellant / first defendant is before this court with the present appeal.

9. First of all, the dispute arose when the appellant – News Channel started telecasting and broadcasting news reports that the plaintiff / first respondent herein was involved in the alleged illegal activities of betting, match fixing and spot fixing and further spreading the news that the first respondent was summoned by the Tamil Nadu Police. The first respondent is a cricketer of world repute and a dedicated person who represented our Country at the highest levels of international cricket with sincerity and devotion. When an allegation is made against such an international personality, the News Channel like that of the appellant herein, has to be cautious in telecasting news reports against such person. The truth with regard to the allegations have to be properly ascertained without there being any iota of doubt. Order XI of the Civil Procedure Code enables the parties of a suit or a case to exchange information about the witnesses or the evidence. Interrogatories are covered under Section 30 and Order XI, Rules 1 to 11, 21, and 22 of the CPC. They are the formal written questions that are administered by the parties to the opposite party with the leave of the Court. The objective of such a provision in the CPC is, the parties have to disclose their case and to ascertain the truth in a fair manner.

10. According to the appellant / first defendant, the interrogatories cannot be considered as they are in the nature of questions of cross examination and that they sought to gather evidence on the side of the plaintiff / first respondent. It is apposite to note that the interrogatories, which were sought, may not be about the facts constituting the evidence, those are the facts in issue constituting the plaintiff's case. No doubt, the plaintiff's case must stand or fall on its own pleading and evidence, but at the same time, in the case on hand, it is to be noted that it is the case of the first respondent/plaintiff that various frivolous and unfounded allegations were made against him that he was involved in betting, match fixing and spot fixing in IPL matches, which are false and without any basis. Justice Mudgal Committee appointed to go into the allegations of betting spot fixing in the Indian Premiere League Matches, has not given any report about the alleged involvement of the first respondent/plaintiff in betting, spot fixing and match fixing in IPL matches. Despite this, the appellant, without any foundation or substantiation, expressed their opinion in the media, making scandalous and grave accusations against the first respondent / plaintiff.

11. It is also to be noted that only for understanding the case of the opposite party and to strengthen their own case, a party will send interrogatories to the opposite party. Of course, the interrogatories should be used liberally whenever it can shorten the litigation and serve the interest of justice. Power of interrogatories is not be confined to narrow technical limits, but to be exercised liberally to achieve the end of shortening litigation, reduction of expenses and serve the ends of justice [***Ramlalasao v. Tansingh, AIR 1952 Nag 1350]***. The set of questions provided can only be 'question of fact' and not 'question of law'. In other words, interrogatories are confined to facts and it will not be conclusions of law. This provision grants a party "right to information" from the adversary. The process of interrogatories narrows the issues and makes the trial less time-consuming. The object of trial is to discern the truth. The truth that is sought to be discerned is primarily about the correctness of the allegation against the 1st respondent/plaintiff. It will be useful to refer to the judgment of the Supreme Court in ***A. Shanmugam v. Ariya Kshatriya Rajakula Vamsathu Madalaya Nandhavana Paripalanai Sangam*, *[(2012) 6 SCC 430 : (2012) 3 SCC (Civ) 735 : 2012 SCC OnLine SC 384 at page 444]*** relied on the

side of the plaintiff. The relevant passage of the said judgment is extracted below:

> "***Entire journey of a Judge is to discern the truth***
>
> ***24.*** *The entire journey of a Judge is to discern the truth from the pleadings, documents and arguments of the parties. Truth is the basis of the justice delivery system. This Court in Dalip Singhv. State of U.P. [(2010) 2 SCC 114 : (2010) 1 SCC (Civ) 324] observed that: (SCC p. 116, para 1)*
>
> "*1. ... Truth constituted an integral part of the justice delivery system which was in vogue in the pre-Independence era and the people used to feel proud to tell the truth in the courts irrespective of the consequences. However, post-Independence period has seen drastic changes in our value system."*
>
> ***25.*** *This Court in Maria Margarida Sequeria Fernandes [(2012) 5 SCC 370 : (2012) 3 SCC (Civ) 126] had an occasion to deal with the same aspect. According to us, observations in paras 32 to 52 are absolutely germane as these paragraphs deal with relevant cases which have enormous bearing on the facts of this case, so these paragraphs are reproduced hereunder: (SCC pp. 383-88)*
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> "*32. In this unfortunate litigation, the Court's serious endeavour has to be to find out where in fact the truth lies.*
>
> *33. The truth should be the guiding star in the entire judicial process. Truth alone has to be the foundation of justice. The entire judicial system has been created only to discern and find out the real truth. Judges at all levels have to seriously engage themselves in the journey of discovering the truth. That is their mandate, obligation and bounden duty. Justice system will acquire credibility only when people will be convinced that justice is based on the foundation of the truth.*
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> *34. In Mohanlal Shamji Soni v. Union of India [1991 Supp (1) SCC 271 : 1991 SCC (Cri) 595] , this Court observed that in such a situation a question that arises for consideration is whether the Presiding Officer of a court should simply sit as a mere umpire at a contest between two parties and declare at the end of the combat who has won and who has lost or is there not any legal duty of his*

own, independent of the parties, to take an active role in the proceedings in finding out the truth and administering justice? It is a well-accepted and settled principle that a court must discharge its statutory functions—whether discretionary or obligatory—according to law in dispensing justice because it is the duty of a court not only to do justice but also to ensure that justice is being done.

35. What people expect is that the court should discharge its obligation to find out where in fact the truth lies. Right from inception of the judicial system it has been accepted that discovery, vindication and establishment of truth are the main purposes underlying the existence of the courts of justice.

36. In Ritesh Tewari v. State of U.P. [(2010) 10 SCC 677 : (2010) 4 SCC (Civ) 315] this Court reproduced often quoted quotation which reads as under: (SCC p. 687, para 37)

> '*37. ... "Every trial is voyage of discovery in which truth is the quest".'*
>
> *(emphasis in original)*

This Court observed that the

> '*power is to be exercised with an object to subserve the cause of justice and public interest, and for getting the evidence in aid of a just decision and to uphold the truth'.*

37. Lord Denning in Jones v. National Coal Board [(1957) 2 QB 55 : (1957) 2 WLR 760 : (1957) 2 All ER 155 (CA)] has observed that: (QB p. 63)

> *'… In the system of trial [that we] evolved in this country, the Judge sits to hear and determine the issues raised by the parties, not to conduct an investigation or examination on behalf of [the] society at large, as happens, we believe, in some foreign countries.'*

38. Certainly, the above, is not true of the Indian judicial system. A Judge in the Indian system has to be regarded as failing to exercise his jurisdiction and thereby discharging his judicial duty, if in the guise of remaining neutral, he opts to remain passive to the proceedings before him. He has to always keep in mind that 'every trial is a voyage of discovery in which truth is the quest'. In order to bring on record the relevant fact, he has to play an active role; no

doubt within the bounds of the statutorily defined procedural law.

39. Lord Denning further observed in Jones [(1957) 2 QB 55 : (1957) 2 WLR 760 : (1957) 2 All ER 155 (CA)] that: (QB p. 64)

> *'… It's all very well to paint justice blind, but she does better without a bandage round her eyes. She should be blind indeed to favour or prejudice, but clear to see which way lies the truth….'*

40. World over, modern procedural codes are increasingly relying on full disclosure by the parties. Managerial powers of the Judge are being deployed to ensure that the scope of the factual controversy is minimised.

41. In civil cases, adherence to Section 30 CPC would also help in ascertaining the truth. It seems that this provision which ought to be frequently used is rarely pressed in service by our judicial officers and Judges.

42. Section 30 CPC reads as under:

> *'**30.Power to order discovery and the like**.—Subject to such conditions and limitations as may be prescribed, the court may, at any time, either of its own motion or on the application of any party—*
> *(a) make such orders as may be necessary or reasonable in all matters relating to the delivery and answering of interrogatories, the admission of documents and facts, and the discovery, inspection, production, impounding and return of documents or other material objects producible as evidence;*
> *(b) issue summons to persons whose attendance is required either to give evidence or to produce documents or such other objects as aforesaid;*
> *(c) order any fact to be proved by affidavit.'*

*43. '**Satyameva Jayate**' (literally 'truth stands invincible') is a mantra from the ancient scripture Mundaka Upanishad. Upon Independence of India [**Ed.**: Emphasis supplied to "India" and "national motto" herein.] , it was adopted as the national motto [**Ed.**: Emphasis supplied to "India" and "national motto" herein.] of India. It is inscribed in Devnagri script at the base of the national emblem. The meaning of full mantra is as follows:*

> '*Truth alone triumphs; not falsehood. Through truth the divine path is spread out by which the sages whose desires have been completely fulfilled, reach where that supreme treasure of truth resides.'*
>
> *(emphasis in original)*

44. The Malimath Committee on Judicial Reforms heavily relied on the fact that in discovering truth, the Judges of all courts need to play an active role. The Committee observed thus:

> '***2.2.*** *... In the adversarial system truth is supposed to emerge from the respective versions of the facts presented by the prosecution and the defence before a neutral Judge. The Judge acts like an umpire to see whether the prosecution has been able to prove the case beyond reasonable doubt [The State discharges the obligation to protect life, liberty and property of the citizens by taking suitable preventive and punitive measures which also serve the object of preventing private retribution so essential for maintenance of peace and law and order in the society.] [**Ed.**: Quoted from Para 2.1 of the Malimath Committee Report.] and gives the benefit of doubt to the accused. It is the parties that determine the scope of dispute and decide largely, autonomously and in a selective manner on the evidence that they decide to present to the court. The trial is oral, continuous and confrontational. The parties use cross-examination of witnesses to undermine the opposing case and to discover information the other side has not brought out. The Judge in his anxiety to maintain his position of neutrality never takes any initiative to discover truth. He does not correct the aberrations in the investigation or in the matter of production of evidence before the court. ...*
>
> ***
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> ***2.15.*** *The adversarial system lacks dynamism because it has no lofty ideal to inspire. It has not been entrusted with a positive duty to discover truth as in the inquisitorial system. When the investigation is perfunctory or ineffective, Judges seldom take any initiative to remedy the situation. During the trial, the Judges do not bother if relevant evidence is not produced and plays a passive role as he has no duty to search for truth. ...*
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> ***
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> ***2.16.9.*** *Truth being the cherished ideal and ethos of India, pursuit of truth should be the guiding star of the criminal*

justice system. For justice to be done truth must prevail. It is truth that must protect the innocent and it is truth that must be the basis to punish the guilty. Truth is the very soul of justice. Therefore truth should become the ideal to inspire the courts to pursue. This can be achieved by statutorily mandating the courts to become active seekers of truth. It is of seminal importance to inject vitality into our system if we have to regain the lost confidence of the people. Concern for and duty to seek truth should not become the limited concern of the courts. It should become the paramount duty of everyone to assist the court in its quest for truth.'

45. In Chandra Shashi v. Anil Kumar Verma [(1995) 1 SCC 421 : 1995 SCC (Cri) 239] to enable the courts to ward off unjustified interference in their working, those who indulge in immoral acts like perjury, prevarication and motivated falsehoods have to be appropriately dealt with, without which it would not be possible for any court to administer justice in the true sense and to the satisfaction of those who approach it in the hope that truth would ultimately prevail. People would have faith in courts when they would find that truth alone triumphs in the courts.

46. Truth has been foundation of other judicial systems, such as, the United States of America, the United Kingdom and other countries.

47. In Giles v. Maryland [17 L Ed 2d 737 : 87 S Ct 793 : 386 US 66 (1967)], the US Supreme Court, in ruling on the conduct of prosecution in suppressing evidence favourable to the defendants and use of perjured testimony held that such rules existed for a purpose, as a necessary component of the search for truth and justice that Judges, like prosecutors must undertake. It further held that the State's obligation under the due process clause 'is not to convict, but to see that so far as possible, truth emerges'.

48. The obligation to pursue truth has been carried to extremes. Thus, in United States v. Havens [64 L Ed 2d 559 : 100 S Ct 1912 : 446 US 620 (1980)] it was held that the Government may use illegally obtained evidence to impeach a defendant's fraudulent statements during cross-examination for the purpose of seeking justice, for the purpose of 'arriving at the truth, which is a fundamental goal of our legal system'.

49. Justice Cardozo in his widely read and appreciated book The Nature of the Judicial Process discusses the role of the Judges. The relevant part is reproduced as under:

> '*There has been a certain lack of candour, 'in much of the discussion of the theme [of Judges' humanity], or rather perhaps in the refusal to discuss it, as if Judges must lose respect and confidence by the reminder that they are subject to human limitations'. I do not doubt the grandeur of conception which lifts them into the realm of pure reason, above and beyond the sweep of perturbing and deflecting forces. Nonetheless, if there is anything of reality in my analysis of the judicial process, they do not stand aloof on these chill and distant heights; and we shall not help the cause of truth by acting and speaking as if they do.'*

50. Aharon Barak, President of the Israeli Supreme Court from 1995 to 2006 takes the position that:

> '*For issues in which stability is actually more important than the substance of the solution—and there are many such cases—I will join the majority, without restating my dissent each time. Only when my dissenting opinion reflects an issue that is central for me—that goes to the core of my role as a Judge—will I not capitulate, and will I continue to restate my dissenting opinion: "Truth or stability—truth is preferable".*

On the contrary, public confidence means ruling according to the law and according to the Judge's conscience, whatever the attitude of the public may be. Public confidence means giving expression to history, not to hysteria. Public confidence is ensured by the recognition that the Judge is doing justice within the framework of the law and its provisions. Judges must act—inside and outside the court—in a manner that preserves public confidence in them. They must understand that judging is not merely a job but a way of life. It is a way of life that does not include the pursuit of material wealth or publicity; it is a way of life based on spiritual wealth; it is a way of life that includes an objective and impartial search for truth.' [Aharon Barak, "Foreword—A Judge on Judging: The Role of a Supreme Court in a Democracy", (2002) 116 Harv L Rev 16]

51. In the administration of justice, Judges and lawyers play equal roles. Like Judges, lawyers also must ensure that truth triumphs in

the administration of justice.

52. Truth is the foundation of justice. It must be the endeavour of all the judicial officers and Judges to ascertain truth in every matter and no stone should be left unturned in achieving this object. Courts must give greater emphasis on the veracity of pleadings and documents in order to ascertain the truth."

26. *As stated in the preceding paragraphs, the pleadings are the foundation of litigation but experience reveals that sufficient attention is not paid to the pleadings and documents by the judicial officers before dealing with the case. It is the bounden duty and obligation of the parties to investigate and satisfy themselves as to the correctness and the authenticity of the matter pleaded.*

27. *The pleadings must set forth sufficient factual details to the extent that it reduces the ability to put forward a false or exaggerated claim or defence. The pleadings must inspire confidence and credibility. If false averments, evasive denials or false denials are introduced, then the court must carefully look into it while deciding a case and insist that those who approach the court must approach it with clean hands.*

28. *It is imperative that the Judges must have complete grip of the facts before they start dealing with the case. That would avoid unnecessary delay in disposal of the cases.*

29. *Ensuring discovery and production of documents and a proper admission/denial is imperative for deciding civil cases in a proper perspective. In relevant cases, the courts should encourage interrogatories to be administered."*

12. The object of Order XI was again reiterated in the decision of the Supreme Court in ***SBI v. S.N. Goyal, (2008) 8 SCC 92 : (2008) 2 SCC (L&S) 678 : 2008 SCC OnLine SC 771,*** the relevant paragraphs of which read as follows:

> "***22.*** *The learned counsel for the respondent submitted that the respondent was unaware of the earlier order dated 18-1-1995 or about the consultation with the Chief Vigilance Officer when he filed the suit and therefore could not make necessary averments in the plaint in that behalf. But that is no answer. The Code of Civil Procedure contains appropriate provisions relating to interrogatories, discovery and inspection (Order 11 Rules 1, 12 and 15) to gain access to relevant material available with the other party. A party to a suit should avail those provisions and if any new ground becomes available on the basis of information secured by discovery a party can amend its pleadings and introduce new facts and grounds which were not known earlier. The difficulty in securing relevant material or ignorance of existence of relevant material will not justify introduction of such material at the stage of evidence in the absence of pleadings relating to a particular aspect to which the material relates. If a party should be permitted to rely on evidence led on an issue/aspect not covered by pleadings, the other side will be put to a disadvantage. For example, in this case, if there had been a plea and issue on the question whether extraneous material was taken into account, the Bank could have examined the appointing authority to explain the context in which he informed the Chief Vigilance Officer about the matter or explain how his decision was not dependent upon any extraneous material. Therefore, the courts below committed a serious error in holding that the order of removal was based on extraneous material (the advice/recommendation of the Chief Vigilance Officer) and therefore invalid."*

13. In the case on hand, the application to administer interrogatories was taken after the issues were framed, but before the commencement of the evidence. The issues framed by the learned Judge in the suit are as follows:

1) Whether the news items published on the plaintiff by the 2nd defendant's news channel are based on any proof materials?

2) Whether there is proven malafide on the part of the 2nd defendant in publishing the news itemms about the plaintiff?

3) Have the defendants deliberately carried out a defamation campaign against the plaintiff?

4) Have the actions of the defendants caused mental agony and suffering to the plaintiff?

5) Whether the news channel is entitled to publish news reports or articles other than exact judicial order on an allegation?

6) Whether the 2nd defendant's news channel is legally barred from publishing news reports or articles during pendency of legal proceedings?

7) Whether any freedom of speech involved in the second defendant making the statements, which are questioned in the suit?

8) Whether any statement made by the second defendant constitute any act of defamation?

9) To what relief is the plaintiff entitled to?

The Apex Court in the case of ***Raj Narain v. Indhra Nehru Gandhi [(1972) 3 SCC 850]*** held that there must be a reasonable close connection between the interrogatories with the matter in question. Upon perusal of the order impugned herein, issues framed and the interrogatories, it is not only evident that there is connection between the interrogatories with the matter

in question, but also that the learned Judge has extensively considered the interrogatories and the reply before passing the order.

14. Considering the materials placed on record in the case on hand and the findings rendered above, we concur with the specific finding given by the learned Judge that the details / material facts required in the interrogatories are not dealt with in the written statement and further, no ground has been made out by the appellant for setting aside the impugned order. In such view of the matter, interrogatories have to be necessarily answered by the appellant / first defendant.

15. Insofar as the maintainability of the application under Order XI Rule 7 before the learned Judge is concerned, the decision of the learned Judge has to be understood in the scheme of Rule 7, which permits an adversary to take out an application to strike out the interrogatory, if it is unreasonable, vexatious or are prolix, oppressive, unnecessary or scandalous. The learned Judge in para 18 of the Order has clearly considered the scope of Rule 7 and then, held that the application is not

maintainable as no ground as permissible under Rule 7 is made out. In view of the same, this ground is misconceived and is hence rejected.

16. In view of the foregoing, this Original Side Appeal stands dismissed. The appellant is directed to answer the interrogatories within a period of 10 days from today. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] **[M.S.Q., J.]**
31.08.2023

Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking order

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R. MAHADEVAN, J.
AND
MOHAMMED SHAFFIQ, J.

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O.S.A.No.50 of 2023

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