

IN THE COURT OF SH. NISHAT BANGARH
CIVIL JUDGE-02: SOUTH WEST,
DWARKA COURTS:NEW DELHI.

CS No. 1620/2022

CNR No. DLSW03-003236-2022

1. COL. B. S. CHAUDHARY (RETD.) S/O LATE SH. R. S.
CHAUDHARY

2. JASBIR CHAUDHARY, S/O COL. B. S. CHAUDHARY
(RETD.)

.....Plaintiffs

Vs.

R. N. YADAV, [REDACTED]

.....Defendant

SUIT FOR RECOVERY OF DAMAGES FOR DEFAMATION
AND PERMANENT INJUNCTION

Date of Institution	:	16.12.2022
Date of reserving judgment	:	23.08.2025
Date of judgment	:	10.09.2025
Final Judgment	:	Decreed.

JUDGMENT

1. The present suit has been filed for seeking recovery of damages for defamation and permanent injunction. The brief facts of the present case as per the plaint are that the plaintiffs and the defendant are resident of Shivalik Apartments, Plot no. 32,

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CS SCJ 1620/2022

Col. B. S. Chaudhary (Retd.) & Anr. Vs. R. N. Yadav

Sector-6, Dwarka, New Delhi. Plaintiff no. 1 and defendant are members of WhatsApp Group named Shivalik Friends Forum comprising of participants from Shivalik Apartments. With intention to defame the plaintiffs, defendant has posted following messages in the said WhatsApp groups from mobile No.



(I) Message dated 17.09.2022, sent at 09:28 pm;

“Dear Sir,

You have asked 6 years work achievement from Mr Banerji. Sir you came here about 4 years back than how you know 6 years history of Society. I wish to submit the following for your knowledge:

That Mr Banerji was neither Secretary not President in the past 9 years.

That Mr B S Chodhary was Secretary during the period 2013 to 2019. During his first tenure as Secretary, he didn't do anything except misbehave with MC including lady President. For that reason he was sacked by MC from Secretary post and he went to court forcing Society to incur huge legal expenses. Ultimately he lost that case filed by him. In his second term as Secretary also he took entire MC on ride and did not co operate in any way for betterment of Society. He was elected Secretary only for six months but later on refused to step down. Ultimately in next term he was removed from that team. Also during that period he removed

benches from park site and kept near his flat. He and his son also misbehaved with small children playing in park nearby his flat and even called police. Recently his son misbehaved with the work force of Contractor threatening their life. Complaint letter is very much in Society office. These are few examples and list is very big. Every old members in the Society knows him and his deeds very well.

Second person in your team also carry his own achievements. He also has filed so many cases against MC including challenge of MC election duly conducted by RCS but society had to incur huge legal expenses to counter his false allegations. He managed to get one car parking in just about Rs. 1.00 lakh against minimum reserved price of Rs 1.50 lakhs fixed in the past, just causing loss to Society.

Your third one teamat got work done in his bathrooms from present Contractor at a mutually agreed price but later on, on completion of work he refused to pay to that poor fellow the agreed amount. Even reconciliation effort by Mr President alongwith one other gentle man could not reconciled the issue. Further it is recent happenings that there was regular water leakage from his two ACs and were spoiling wall as well entrance of Society. Every one including President,

Secretary and many other requested him for putting drainage pipe for that but he did not heed. Being his next neighbour you know very well. Lastly when Society issued letter to him then he got it done. What can you expect from such person in your team. Lastly some one from your group always blaming bankers. First of all, I wish to mention that in your team also 50 per cent are bankers. In Mr. Banerjee team also about 50 per cent are non bankers giving representation to every block and particularly multi block. You being new here, I wish to inform that originally all members were either from some banks or their relatives or friends.

Further one gentleman stated few days back that there are 3 groups in the Society. I wish to state that we don't believe in groupism. We are a family of 120 members and always sort out any problem in the society keeping the welfare of society members and all have co-operated in the past. There may be differences of opinion on any particular issue but not as a resident. We believe in joint family.

Sir you being new to this family, you will understand who is who in due course of time."

(II) Message dated 17.09.2022, sent at 09:37 pm;

"Sir how you will work with such persons in your team."

(III) Message dated 17.09.2022, sent at 09:39 pm;

“a letter dated 12.08.2022 was posted by the defendant.”

(IV) Message dated 17.09.2022, sent at 10:39 pm;

“Yes Sir, you are very right that Mr Rakesh Kumar is my close relative. As you know (since you also belongs to Haryana from where I belong) we Yadav's bring brides from Bihar also due to unequal boys/girls ratio in Haryana and Orissa is very nearby Bihar . That is why one of our relatives SASURAL is in Rakesh Kumar 's village in Orissa. If placing the truth is offence then it is also offence that you also took Rakesh Kumar's n my relationship details from society office records.”

(V) Message dated 17.09.2022, sent at 10:40 pm,

“this only shows how educated you are.”

It is submitted that the content of the aforementioned messages is offensive misleading and malicious. The language used in the messages is highly derogatory. Defendant has levelled false allegations against the plaintiffs in the said messages, without ascertaining the correct facts. Plaintiff was aware that the said messages will harm the reputation and character of the plaintiffs. It is submitted that the reputation of an individual is a basic element of Article 21 of Constitution of India and balancing of fundamental rights is a constitutional necessity. It is further stated in the plaint that one may be bound to tolerate constructive criticism but not expected to tolerate defamatory and derogatory attack. The dignity of individual is extremely important and

sacrosanct. Every person has right to protect his reputation. Hence, the plaintiff served a legal notice dated 17.10.2022 on the defendant directing him to tender unconditional apology to plaintiffs within 15 days of receipt of legal notice. Defendant failed to do so, he remained silent, therefor, a complaint dated 05.11.2022 was filed against the defendant in PS Dwarka South, New Delhi, but no action was taken by the police. Hence, the present suit.

2. Vide the present suit, plaintiff has prayed as under:

A. Pass a decree in favour of plaintiffs and against the defendants amounting to sum of Rs. 1,00,000/- (Rupees One Lakh only) towards damages;

B. Pass a decree of permanent injunction in favour of plaintiffs and against defendant thereby restraining the defendant, their agents, associates, representatives from writing and posting any false or defamatory post against the plaintiffs.

C. Direct the defendant to tender unconditional written apology to the plaintiffs and post the same in the WhatsApp group namely Shivalik Friends Forum.


D. Allow cost of proceedings in favour of plaintiffs and against the defendant.

3. On filing of the present suit, summons was issued to the defendant on 17.12.2022, which was served on the defendant. Defendant entered appearance on 28.01.2023 and filed written statements.

4. Defendant denies all the allegations contained in the plaint in his written statements. It is stated that the plaintiffs are suppressing material facts, the averments made in the plaint are vague and

baseless. Plaintiffs want to take advantage of their own wrongs. It is submitted that plaintiff has invoked the jurisdiction of this Hon'ble Court unnecessarily because as per the AGM dated 11.12.2022 and AGM minutes dated 14.12.2022, present dispute should have been referred to the management committee and if the matter remained unresolved, it would have been referred to larger extended forum and as per Delhi Cooperative Societies Rules, decision of AGM is binding upon all the members of the society. It is further submitted that all the messages posted by the defendant in the WhatsApp group were in reply to the chatting taking in the group which was not initiated by the defendant. The said messages were initiated after Mr. C. Banerjee (contestant for the seat of President of Society in 2022) posted his manifesto in the WhatsApp group. After the message of Mr. C. Banerjee, Mr. B. K. Sharma raised a question in the said group regarding the work done/achievements of Mr. C. Banerjee in about last six years. In reply to said question, defendant posted on the group that Mr. B. K. Sharma has come to society four years back and how can he be knowing the achievements of last six years. Further, the defendant wrote the name of plaintiff no. 1 because he was the secretary in the tenure 2013 to 2014 and 2016 to 2019 as he was the responsible person to answer the question raised by Mr. B. K. Sharma. It is further submitted that the messages written by defendant in reply to the question of Mr. B. K. Sharma regarding the plaintiff no. 1 were as per the details mentioned in the minutes of meeting of the society dated 21.05.2014 and 24.05.2014. As per the minutes of meeting, plaintiff no. 1 was the Secretary and Mrs. Preeti Kalyan was the President. Plaintiff No.

1 used unparliamentary language against Mrs. Preeti Kalyan and was also found in various financial irregularities of the society. Plaintiff no. 1 had also refused to work as per the by laws of the society when he was asked to comply with the by laws by the members and chairperson (agenda no. 4 of the minutes of meeting). The plaintiff was found involved in extra payment to unappointed CA namely Sh. Nijjwan, repairing the passage in front of his flat only and removal of society guards, thereafter, appointing five guards from private security agency. As per the MC meeting dated 21.05.2014, the said decision were taken by the plaintiff no. 1 without the approval of President, Vice President and MC. When he was confronted with the beforementioned facts, he crossed all the limits and used unparliamentary language against Mrs. Preeti Kalyan, Chairperson of the meeting. Members of committee demanded immediate strict action against plaintiff no. 1. Thereafter, plaintiff no. 1 walked out from the meeting. After detailed discussion, the MC decided to conduct a meeting on 24.05.2014 at 06:00 pm wherein, a strict action was taken against plaintiff no. 1 i.e. he was removed from the post of nominated Secretary with immediate effect from 24.05.2014. Further, it is submitted that defendant was elected as Vice President and plaintiff no. 1 was elected as Member in the year 2016. Thereafter, a meeting by the newly elected members was conducted on 02.05.2025 wherein it was decided that plaintiff no. 1 will be nominated for the post of Secretary for first term in rotation till AGM, after the AGM, Smt. Sushila Srinivasan shall be the Secretary. It is submitted that during the campaign of MC election 2022, when all the members

were sharing their views and opinions in the society's WhatsApp group, plaintiff no. 1 from his mobile number + sent the following message:

“The write up of R N Yadav is out of frustration He was badly defeated last time for President post of MC. He thought it was his birth right being from Indian Bank to stay in MC even if posted out station. He is perhaps suffering form forgetfulness. The progress Report of AGM. Please read those and would understand the work done by the MC when I was secretary. You and your friend Banerjee are squarely responsible for incurring heavy interest on the balance of ground Rent. Both are blamed for not depositing the GR to DDA in time bound manner. R.N. Yadav considered ed his birth right to always get in to MC. He was so depressed that he could not show his face in society. It was second time that he went in to hiding before that there was very sensitive issue which made him and his family so humiliated by an act of one member of his family that he was not seen out side of many days. He went to KOP BHAWAN. He is talking about my family. Especially my son. Let me put the fact in public domain. We had to put pressure on contractor for the long pending work of change of blocked pipes in sewer line. The dirty smell of solid waste getting oozed out of the manhole made life

miserable. It was health hazard so urgency was there. President was aware of this fact. now about bench. It was put there on the request of more then dozen residents. Signed request is available. Yadav is so afraid that he chose to contest election as member to escape repeat humiliation. Let sh. Yadav indicate his personal contribution for the good of the society. He has been almost in every MC since the members came to live in the society since more than two decades. Yes, when he got defeated for the post of president three years ago sh. Yadav is not as party to the problems. It is better for YADAV to refrain from involving family in the election process. He has many chinks in his armor. If those are forced trumble from his cupboard he would not know which direction run for hiding. So again, let the system remain clear of personal allegations, and contest the election peacefully.”

In reply to the abovementioned defamatory message targeting the cast of defendant, defendant had replied that, “*this only shows how educated you are.*”

Further, it is stated in the WS that in AGM dated 11.12.2022, wherein plaintiff no. 1 was also present and signed the minutes of meeting, in para no. 5 of agenda no. 11, it was decided that “*it was proposed by one of the members to recover legal costs being borne by society to defend frivolous filed against MC or any of its members by any residents, if the appellant loses their cases.*”

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However, it was unanimously agreed that in future, if some members or residents have any such complaints against the MC or any of its members, before taking any legal recourse, they should first approach MC for redressal of the issue and if not resolved in MC then larger extended forum of MC to be found to redress the issue.”

Despite this decision taken by the MC, plaintiffs have filed the present false and frivolous case which shows the ulterior motive and nature of the plaintiff.

5. Following are the admitted facts in the written statements:

(a) that plaintiffs and defendant both are residents of Shivalik Apartments, Plot no. 32, Sector-6, Dwarka, New Delhi and they are members of WhatsApp Group named Shivalik Friends Forum comprising of participants from Shivalik Apartments.

(b) that the mobile number [REDACTED] is defendant's mobile number,

(c) that the defendant has sent the messages mentioned in the plaint.

6. Thereafter, replication was filed by the plaintiffs wherein they have denied the averments made in the written statement. It is submitted that plaintiffs have invoked the jurisdiction of this court as per the law laid down in CPC, 1908. The decision taken in AGM dated 11.12.2022, is void ab initio. In any case, the decisions taken by the AGM were to come in force from 01.01.2023 whereas the instant case was filed on 16.12.2022. Hence, the decision taken in AGM will not affect the present case. Further, it is submitted that the minutes of meeting dated 21.05.2014 and 24.05.2014 are not containing any iota of truth as the same were recorded illegally by Sh. D. P. Kalyan i.e. husband

of Mrs. Preeti Kalyan. Further, it is submitted that on 22.12.2022, at 02:07 p.m., defendant from his mobile no. [REDACTED] has posted a message in WhatsApp group named Shivalik Notice Board admitting certain facts and tendering apology on behalf of managing committee citing some explanation which was not accepted by the plaintiffs.

7. Col. B. S. Chaudhary (Retd.), plaintiff no. 1 has been examined as PW-1 and he tendered his evidence by way of affidavit Ex. PW-1/A and has relied upon the following documents i.e.:-

Sr. No.	Nature of documents	Exhibited as
1.	Screenshot of WhatsApp chat dated 17.09.2022	Ex. PW1/1 (colly.) (admitted)
2.	Copy of legal notice dated 17.10.2022	Ex. PW1/2 (OSR) (admitted)
3.	Copy of postal receipt	Ex. PW1/3 (OSR) (denied)
4.	Tracking report	Ex. PW1/4 (denied)
5.	Certified copy of proof of delivery of legal notice	Ex. PW1/5 (OSR)
6.	Complaint dated 05.11.2022	Ex. PW1/6 (objection qua being a photocopy of office copy)
7.	Screenshot of WhatsApp chat dated 22.12.2012	Ex. PW1/7 (admitted)
8.	Copy of MC letter dated 22.03.2017	Mark A (admitted)
9.	Copy of letter dated 12.08.2022	Mark B (admitted)
10.	Certificate u/s 65 B of Indian	Ex. PW1/8

	Evidence Act 12.12.2022	
11.	Certificate u/s 65 B of Indian Evidence Act 15.07.2023	Ex. PW1/9

8. He was cross examined at length, wherein it was established that, he is residing in Shivalik Apartment since 2012, it is a co-operative society. There are 120 members in the society. He had purchased the flat in 2001. He held the post of Secretary MC in 2013 and 2016. The AGM meeting was held on 11.12.2022 and he present in it. It was amicably decided by all the members that if any disputes arises between the members of the society, first of all members will give complaint to the MC for resolving the same and if not resolved then the larger extended forum of MC to perform to retrace the issue, He is not aware of the number of members of the WhatsApp group, he has not filed the list of members of the WhatsApp group. The members of the group can post messages, criticizing the work done by the office bearers, in case they are not satisfied with the work done. He has posted a message refuting the allegations levelled against him by the defendant. He was terminated from the post of nominated Secretary, although it is voluntarily added by the PW-1 that the due process was not followed, hence, he went to Registrar of cooperative society with a complaint and same decided in his favour. It is also admitted that the Shivalik Society went in appeal and he lost in appeal. It is also proved/admitted that elections were held in 2022, Mr. C. Banerji and Mr. B.K. Shamra were contesting for the post of President and the benches were adjacent to the main gate of the society during his tenure. PW-1 has denied that he was made acting Secretary in 2013, he has stated voluntarily that no such post exists, MC nominates the

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Secretary, hence it may be called nominated Secretary. It is denied that allegations regarding financial irregularities were levelled against him in the meeting held on 21.05.2014 and he has used unparliamentary language against Ms. Preeti Kalyan/chairperson in the said meeting. It is voluntarily stated that, nothing such thing has happened during his presence, he left the meeting, but afterwards when minutes of meeting was prepared at the address of the President by her husband namely Mr. D.P. Kalyan, such baseless allegations were written in the minutes. He has denied that he made payment to CA against the order of MC, when he was Secretary, he has voluntarily deposed that any payment which is supposed to be made is made via cheque and the cheque bears signature of either the President or the Treasurer apart from the signature of the Secretary. He has also denied he removed the guards against the order of MC when he was Secretary. He has also denied that he got the benches removed from main gate of the society and put them near to the park at his house, he has voluntarily stated that the benches were shifted near to the triangular park on request of residents of the society. He has denied the suggestion that he has not acted in consonance with the rules and regulations of society. It is denied that whatever was decided in minutes of meeting dated 11.12.2022 was to be implemented from the same date. Further, it is also denied that whenever dispute arises, the same is to be looked into by the Registrar of co-operative societies. It is also denied, as per decision taken in AGM dated 02.05.2016, he has to remain nominated Secretary till the next AGM and thereafter Ms. Sushila was to be nominated as Secretary, he has voluntarily

deposed that It was discussed that he will remain as Secretary for 6 months but ultimately it was decided that he will remain as Secretary for the whole tenure of 3 years. He has denied that the message sent by the defendant in WhatsApp group was reflecting his acts and conduct as an office bearer. He denied that he has used abusive language against defendant in his message sent of WhatsApp Group. He has denied that the messages were sent on group during the period of elections, he has voluntarily stated that it continued till December, 2022.

9. Mr. Jasbir Chaudhary, plaintiff no. 2 has been examined as PW-1 and he tendered his evidence by way of affidavit Ex. PW-1/A.
10. He was also cross examined at length, during his cross examination, it is admitted by him that only the Group Admin can delete or add any of the member in the WhatsApp group and in the month of September 2022 Mr. D.P. Kalyan, Mr. Harish Madan and Mr. M.K. Ahir were the group admins. Further, he maintained his stance that the defendant has tried to defame him and his father in the WhatsApp group. When he was confronted with question that *“Ques: Is it correct that Rakesh contractor had given a written complaint on 12.08.2022 against you?”* he has stated that he had no knowledge of the complaint till the time defendant had posted the said complaint on the WhatsApp group on 17.09.2022, i.e. one day prior to MC election to gain undue advantage by defaming him and his father in the estimation of residents of society who are members of the WhatsApp Group namely Shivalik Friends Forum. He has also alleged that the contents of the complaint are false and fabricated. He wanted to legal action against the contractor alongwith his father, they tried

to trace address of the contractor, for said purpose his father e-mailed to Smt. Indra Rampal (Secretary) and Sh. Rakesh Kundu (Vice President) of the MC, but they did not reply. The address could not be traced till date; hence, no legal notice is sent to him. It is denied that he has not sent any e-mail for address of contractor in the span of one year because the complaint of contractor was genuine, he voluntarily deposed that complaint was false and that is the reason that neither the MC nor the contractor took any steps against him. No Police complaint is filed against him. Also, MC never sought any explanation from him.

11. Thereafter, plaintiffs evidence stands closed on 12.02.2024 vide separate statement of Ld. Counsel for plaintiffs and the matter proceeded for DE.

12. Sh. R. N. Yadav, defendant has been examined as DW-1 and he tendered his evidence by way of affidavit Ex. DW-1/A and relied upon the following documents:

Sr. No.	Nature of Documents	Exhibited as
1.	Certified copies of minutes of MC meeting dated 21.05.2014	Ex. DW1/1 (colly.) (admitted by plaintiffs)
2.	Certified copies of minutes of MC meeting dated 24.05.2014	Ex. DW1/2 (admitted by plaintiffs)
3.	Certified copies of minutes of MC meeting dated 02.05.2016	Ex. DW1/3 (colly.) (admitted by plaintiffs)

4.	Certified copies of minutes of MC meeting dated 05.09.2022	Ex. DW1/4 (colly.) (admitted by plaintiffs)
5.	Copy of WhatsApp conversation during MC election including message dated 17.09.2022 at 09:42 pm, posted by plaintiff no. 1	Ex. DW1/5 (colly.) (admitted by plaintiffs)
6.	Certified copy of AGM proceedings dated 11.12.2022	Ex. DW1/6 (colly.) (denied by plaintiffs)
7.	Copy of AGM minutes dated 14.12.2022	De-exhibited as Mark A (colly.) (denied by plaintiffs)
8.	Copy of order with quotation message sent by plaintiff in whatsapp group	Ex. DW1/8 (admitted by plaintiffs)

13. He is also cross-examined at length; in his cross-examination it was established that he has heard that plaintiff no. 1 is a retired army officer of Indian Army. He was member of MC in the year 2013-16, 2016-19 and 2022 till the date of his cross-examination. He has not attended the MC meetings dated 21.05.2014 and 24.05.2014 regarding which Ex. DW1/1 and Ex. DW1/2 are filed by the DW-1. He has not filed any provision on court record which allows a special invitee i.e. Mr. D. P. Kalyan

in meetings. There is no mentioning the words used by the plaintiff no. 1 which are termed as unparliamentary language in pleadings or any document which is present on court record. He has not attended the meeting dated 21.05.2014, hence, he is not aware of the exact words used by plaintiff no. 1 in the said meeting. The lady President referred by the defendant in WhatsApp chat dated 17.09.2022 Ex. PW1/1 (colly.) is Ms. Preeti Kalyan. There is no complaint filed by Ms. Preeti Kalyan and any MC member either to MC or to police regarding the alleged misbehaviour of plaintiff no. 1 as mentioned in WhatsApp chat dated 17.09.2022 i.e. Ex. PW1/1 (colly.). Defendant has not called Ms. Preeti Kalyan as witness in the present case. He has not mentioned the exact amount of financial irregularity in his pleadings or evidence. He has also admitted that the plaintiff no. 1 was part of his team which contested MC election for 2016 and 2019. Plaintiff no. 1 was made secretary for the tenure of 2016-19. He has not placed on record the minutes of MC meeting held immediately after first AGM of MC for the year 2016-19. He has admitted that despite the agenda no. 5 mentioned in Ex. DW1/3 regarding establishing an ATM in the society premises, the ATM is yet to be installed. Defendant has not attended meeting dated 05.09.2022 as he was not part of MC during which the complaint filed by contractor Rakesh was taken on record by MC. He has not called any member of MC who attended that meeting as witness in the present case despite having complete addresses of the said members. He has read the complaint made by contractor before posting the same on WhatsApp group. He has also admitted that plaintiff no. 2 has not

threatened for life of the workforce of the contractor and no such thing is mentioned in the complaint, but he has stated so in his whatsapp chat Ex. PW1/1 (colly.). It is admitted that he has not called contractor Rakesh as witness in the present matter. He has admitted that he has placed on record very big list, deeds of plaintiff no. 2 and complaint of children against plaintiffs regarding their misbehaviour with children as mentioned by him in WhatsApp chat. He has also admitted that he has not called the old members of society as witness who knows the plaintiffs and their deeds very well as mentioned in the WhatsApp chat. It is also admitted that only members of the society were allowed to attend AGM dated 11.12.2022, hence, plaintiff no. 2 did not attend the meeting as he was not the member of the society. It is also admitted that complete AGM dated 11.12.2022 was video recorded and he has not placed the video recording on court record. He has also admitted that he has not replied to the legal notice dated 17.10.2022. It is admitted that the defendant was contesting for the post of member and plaintiff no. 1 was contesting for the post of Vice President against his team in MC elections held on 18.09.2022. The plaintiff no. 1 lost the said elections and defendant won the same.

14. Further, the defendant during his cross-examination has also stated that he is not aware of the qualifications and criteria required to become an officer in India Army and to be a Special MM. He is not aware that plaintiff no. 1 is highly educated person having double M. A., LLM, MPM degree. He is not knowing any law regarding the provision for allowing special invitee in MC meeting. He is not knowing whether plaintiff no. 1

had always objected to the presence of Mr. D. P. Kalyan as special invitee in MC meeting. He is not aware whether after the completion of tenure of MC for the year 2013-16, no special invitee was ever allowed to attend MC meetings conducted during the tenure of MC for 2016-19, 2019-22 and 2022 to till date of cross-examination due to the objections raised by plaintiff no. 1. Further, he has replied, “*I do not know*” to the question put to him that plaintiff no. 1 has never misbehaved with Ms. Preeti Kalyan and that is the reason that no complaint was filed with MC or police by Ms. Preeti Kalyan or MC members. He has replied “*I do not know*” to the question put to him that the exact amount of financial irregularities are not on court record as the plaintiff no. 1 has not committed any financial irregularity. He has again replied “*I do not know*” to the question put to him that the MC did not form an internal inquiry committee regarding the alleged financial irregularities. He has denied that internal inquiry committee was not formed because plaintiff no. 1 has not committed any financial irregularity. Further, he has also stated that he is not aware whether Smt. Sushila Sriniwas did not make any complaint or take any legal action against plaintiff no. 1 to remove him from post of Secretary after first AGM for the year 2016 or 2019 and he does not remember exactly that such complaint was not filed as it was never discussed that plaintiff no. 1 will be replaced by Smt. Sushila after next AGM and due to this, plaintiff no. 1 was never replaced or removed from the post of Secretary.

15. Further, DW-1/defendant has denied the suggestion that for making the payment from societies’ bank account, apart from

Secretary's signatures, one more MC member's signatures are mandatorily required before making any payment through cheque. He has voluntarily deposed that it depends on the resolution passed by the MC for operation of bank account and making the payment, however, he has refused to furnish any resolution passed by MC with regard to the operation of bank account and making payment. Further, he has also denied the suggestion that the plaintiff no. 1 was again elected as secretary during the tenure of 2016 to 2019 when he won elections being part of the team of defendant because the allegations made by the defendant in WhatsApp chat dated 17.09.2022 are false. It is also denied by the defendant that he has not filed the minutes of meetings of meeting held immediately after the first AGM of 2016-19 because no such issue of replacing plaintiff no. 1 from the post of Secretary was ever discussed and accordingly, plaintiff no. 1 continued to remain Secretary for the complete term.

16. Arguments heard. Record perused.

Arguments on behalf of plaintiffs

17. It is argued on behalf of plaintiffs that the messages posted by the defendant in the WhatsApp group are offensive, misleading, malicious and highly derogatory. Defendant has levelled false allegations against the plaintiffs without ascertaining the facts. The plaintiffs have successfully proved that the defendant has published messages that are defamatory and directly referring the plaintiffs. Hence, the suit must be decreed in favour of the plaintiffs. Plaintiff has placed reliance on the judgments titled as *Lakshmi Murdeshwar Puri Vs. Saket*

Gokhale & Ors. CS (OS) 300/2021 decided on 01.07.2024 by Hon'ble High Court of Delhi and *Abhijit Mishra Vs. Vippro Ltd. CS (OS) 31/2021* decided on 14.07.2025 by Hon'ble High Court of Delhi.

Arguments on behalf of defendant

18. It is argued on behalf of defendant that the plaintiff has failed to prove that the ingredients to establish defamation are present in the present suit. It is submitted that the messages posted by the defendant are on the basis of the information recorded in the minutes of meetings of the society and the same are posted in reply to the question raised by the candidate for the post of president i.e. Mr. B. K. Sharma. Also, as per the amended by laws of the society, the present suit is not maintainable in this court.

Analysis

Issue No. 3:- Whether the suit is not maintainable? OPD.

19. The burden of proving this issue is on the defendant. As per the case of defendant, the present suit is not maintainable because the dispute must have been referred to the 'Management Committee', if the matter should not have been resolved by the said committee, then it should have been referred to the larger extended forum as per the AGM proceedings dated 11.12.2022 Ex. DW1/6 (colly.) and AGM minutes dated 14.12.2022 Mark A (colly.).
20. In the AGM proceedings dated 11.12.2022 Ex. DW1/6, agenda 11 (5) states that "*it was proposed by one of the members to recover the legal costs being borne by the society to defend frivolous legal cases filed against MC or any of its members by*

residents, if the appellant loses their case. However, it was unanimously agreed that in future if some members or residents have any such complaints against MC or any of its members, before taking any legal recourse, they should first approach MC for redressal of the issue and if not resolved in MC, then larger extended forum of MC to be formed to redress the issue.”

21. It is argued on behalf of defendant that as per the Rule 12 (1) of Delhi Cooperative Societies Rules, 2007, the bylaws of a cooperative society can be amended by a resolution passed in the General Body Meeting of the cooperative society and as per Rule 37, the members of the cooperative society are bound to abide by the provisions of DCS Act, 2003, Rules, By laws and other lawful decisions taken by general body, committee, other committees and Registrar. Further, the power to transact with the code of conduct for the members and the committee lies with the GBM as per the Rule 49(h).

22. Per contra, it is argued on behalf of the plaintiff that the committee is not having authority to bar the plaintiff from approaching the court to seek legal remedy. The bylaws framed by the committee during the GBM is in contravention of DCS Act and provisions of law. The said amendments are void ab initio. Further, the said bylaw was supposed to be effective from 01.01.2023 and present suit was filed prior to the date of commencement, hence in any case it is not affecting the case of the plaintiff.

23. The contention raised by the plaintiffs that the resolution mentioned as Agenda 11 (5) in GBM proceedings dated 11.12.2022 was to come into force on 01.01.2023 is found to

be false. From the careful perusal of the Ex. DW1/6 (colly), it appears that only the options mentioned as point 1 to 5 in Agenda no. 3 was supposed to become effective from 01.01.2023. However, as per Section 13 of the Delhi Co-operative Societies Act, 2003 states that an amendment in the bye-laws shall come into force on the day on which it is registered or deemed to be registered, unless a specific date is mentioned. Further, the validity of the amendment of bye-laws is also to be checked by the Registrar of Societies as per section 12 of the Act, further, section 12 of the Delhi Co-operative Societies Act, 2003, also provides for the mechanism of getting the amendment in bye-laws registered, it states that,

“(1) No amendment of any bye-laws of a co-operative society shall be valid unless such amendment has been registered or deemed to have been registered under this Act.

(2) Every proposal for such amendment approved by the general body and complete in all respect as prescribed shall be forwarded to the Registrar within thirty days of approval of the general body and if the Registrar is satisfied that the proposed amendment -

(a) is not contrary to the provisions of this Act and the rules;

(b) does not conflict with the co-operative principles; and

(c) will promote the economic, social and cultural interests of the members of the co-operative society; he may register the amendment :

Provided that in case of amendment of bye-laws of a co-operative bank, prior approval in writing of the Reserve Bank shall be necessary.

(3) The Registrar shall forward to the co-operative society a copy of the registered amendment together with a certificate signed by him and such certificate shall be conclusive evidence that the amendment has been duly registered.

(4) Where the Registrar refuses to register an amendment of bye-laws of a co-operative society, he shall communicate the order of refusal together with the reasons therefor, to the co-operative society in the prescribed manner.

(5) In case the Registrar does not communicate any decision under sub-section (2) or sub-section (4) as above within the period of ninety days, the amended bye-laws shall be deemed to have been registered.

(6) Where it appears to the Registrar that amendment in the bye-laws of a co-operative society is necessary and desirable in the interest of the co-operative society or

class of co-operative societies, the Registrar shall direct the co-operative society or the class of co-operative societies, as the case may be, to make amendment in the bye-laws within a period of sixty days, by convening a general body meeting of the co-operative society.

(7) After the expiry of the period specified in sub-section (6) and if the co-operative society fails to make the amendment, the Registrar after giving the co-operative society an opportunity of being heard, may register the amendment and issue to the co-operative society, a copy of such amendment certified by him with a certificate signed by him, with effect from the date of registration the amendment shall be binding on the co-operative society and its members, subject to appeal, if any.”

24. As per the aforementioned provision, any amendment to the bye-laws of a co-operative society is valid only if registered or deemed registered under the DCS Act. Once approved by the society's general body, such proposals must be sent to the Registrar within thirty days. The Registrar will register the amendment if it complies with the Act, upholds co-operative principles, and benefits the members. A certificate from the Registrar serves as conclusive proof of registration. If the Registrar refuses, reasons must be communicated to the society, and if there is no response within ninety days, the amendment is automatically considered registered. Furthermore, if the Registrar

believes an amendment is necessary for the society's interests, the society may be directed to amend its bye-laws; if it fails to comply, the Registrar can enact the amendment after a hearing, making it binding on all members, though this remains subject to appeal.

25. In the present case, the specific on which the amendment will come into force is not mentioned in the GBM proceedings Ex. DW1/6(colly), so as per the Section 13, the amendment will come into force on the day it got registered or deemed to be registered.

Although it is mentioned in the written statement that the minutes of meeting dated 14.12.2022 marked as Mark A, were sent to the Assistant Registrar (S-3) having office of the RCS, Parliament Street, New Delhi-01 on 14.02.2022 itself, the said fact is denied by the plaintiff in the replication and no cogent evidence in this regard has been produced by the defendant during the trial. Further, the defendant has also not mentioned anything regarding any certificate of registration of amendment issued by the Registrar in compliance to the section 12(3) of DCS Act, 2003. Hence, the defendant has failed to prove that the resolution mentioned as Agenda 11(5) in the GBM proceedings dated 11.12.2022 (Ex. DW1/6) was registered as per Section 12 of the DCS Act, 2003. Hence, in view of the Section 12(1) of DCS Act, 2003, the said amendment cannot be treated to be valid amendment without the proof of its registration.

26. Hence, the court has reached to the conclusion that the defendant has failed to discharge the burden of proving that the

present suit is not maintainable. Accordingly, present issue is decided against the defendant.

Issue No. 1:- Whether the plaintiff is entitled to recovery of Rs. 1,00,000/- towards damages & liable to tender unconditional apology as prayed for in prayer clause A & C? OPP

Issue No. 2:- Whether the plaintiff is entitled to relief of permanent injunction as prayed for in prayer clause B? OPP

27. Issue no. 1 & 2 are taken together as both are interlinked involving common discussion. The burden of proving these issues is on the plaintiffs. The plaintiffs have contended that the defendant in his message dated 17.09.2022 sent at 09:29 pm, has used the derogatory statements against the plaintiffs, specifically “*that Mr. B. S. Chodhary was secretary during the period 2013-19. During his tenure as secretary, he did not do anything except misbehave with MC including lady President for what reason he was sacked from MC Secretary post...*”, “*in his second term as secretary also, he took entire MC on right and did not cooperate in any way for betterment of society...*”, “*he was elected secretary only for six months but later on refused to step down...*”, “*also, during that period he removed benches from park site and kept near his flat...*”, “*he and his son also misbehaved with small children playing in the park nearb his flat and even called police...*”, “*recently his son behaved with the work force of Contractor threatening their life...*”, “*these are few examples and list is very big every old member of the society knows him and his deeds very well...*” and in message dated 17.09.2022, sent at 09:37 pm, by the defendant stating “*Sir how you will work with such persons in your team*” and in message dated

17.09.2022, sent at 10:40 pm, by the defendant stating “*this only shows how educated you are*”. It is argued on behalf of plaintiffs that the allegations levelled by the defendant in the said messages are completely false and made without verifying the correct facts. It is further argued on behalf of plaintiffs that the plaintiff no. 1 enjoys high reputation in society. He has served as an officer of Indian Army and has also served as Spl. Metropolitan Magistrate, the contents of the messages directly hurt the reputation of the plaintiffs and lowers the same in the eyes of general public, in this case, in the eyes of members of the WhatsApp group, in this regard, the plaintiffs have placed reliance on the judgment of Hon’ble High Court of Delhi in *Laxmi Murteshwar Puri Vs. Saket Gokhale and Ors.* In CS (OS) 300/2021 decided on 01.07.2024. This suit for defamation was filed by India’s former Assistant Secretary General of U.N. against the TMCMP namely Saket Gokhale for publishing a series of offending tweets questioning the source of his finances and ownership of her apartments in Geneva and Switzerland against her and her husband Hardeep Singh Puri. It was decreed in favour of plaintiff and defendant was asked to pay compensation amounting to Rs. 15 lakh along with apology to be published on his twitter handle and in Times of India newspaper. Hon’ble High Court of Delhi has observed in the said judgment that:

“98. Assessing the present case case in light of the factors enumerated above, in the on opinion of this court, there is no doubt that the plaintiff enjoys high reputation in society. She has

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performed important roles as Ambassador of India to various countries and as a high official at the United Nations; and has earned for herself a notable position in the social order. Though today she may not be performing any "public function" or formal role in public life, persons of the plaintiff's stature and achievement are held in high esteem as public intellectuals who have served the nation and as role-models for others who may wish to emulate them. The contents of the offending tweets have diminished and harmed that position, which the plaintiff has earned for herself in society.

99. Furthermore, as observed above, allegations of financial impropriety dent the very foundations of a person's reputation. This is even more so if the person has occupied, or is closely associated with another person who occupies, high public office. Allegations of financial impropriety tend to "stick" and have the propensity to spread widely through the "grapevine". Even rumor about financial improbity taints a person's good name. In the present case, the false contents of the offending tweets would, without a shred of doubt, have found their way into the official ecosystem in which the plaintiff moves about, and in which her husband functions. People who matter are likely to have formed opinions in relation

to the plaintiff (and her husband) based on what was contained in the offending tweets. Needless to add, that the loss of esteem suffered by the plaintiff, even if based on utter falsehood, would have resulted inevitably in loss of social standing, accompanied by psychological distress, aggravated by the pain of false accusation.”

It is further submitted that these messages are malicious as have been sent for defaming the plaintiffs for taking undue advantage in elections to be held on exactly next day i.e. 18.09.2022. The messages are directly referring the plaintiffs and has been published in the WhatsApp group namely Shivalik Friends Forum. Hence, the suit of the plaintiff must be decreed in favour of the plaintiffs and against the defendant as the plaintiffs have successfully proved the ingredients of defamation as described in the judgment titled as *Abhijit Mishra Vs. Wipro Ltd.* CS (OS) 31/2021, passed on 14.07.2025 by Hon’ble High Court of Delhi.

28. Per contra, as per the case of the defendant, the plaintiffs are guilty of concealing the material facts from this court. He has not brought the complete whatsapp chat on record. The complete WhatsApp chat has been brought on record by the defendant during evidence i.e. Ex. DW1/5 (colly). The messages sent by the defendant were in reply to the message of one Mr. B. K. Sharma. These messages were not initiated by the defendant. Further, the contents of the messages are true as per the minutes of AGM meeting Ex. DW1/1 (colly), Ex. DW1/2, Ex. DW1/3 (colly.), Ex. DW1/4 (colly.). Hence, the defendant has not committed

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defamation against the plaintiffs. The reliance is placed by defendant on judgments titled as *Air Marshal Harish Masand Vs. State of Madhya Pradesh* neutral citation no. 2024: MPHC-IND:25362 wherein it was held by Hon'ble High Court of Madhya Pradesh that:

“in such circumstances, this court is of the considered opinion that merely expressing one's agreement to oppose by a one liner may be tantamount to agreeing to expression made by other members of the group/accused persons, however, this court is also requires to see the conversation in WhatsApp group in its entirety and has to see the context in which it is made and also the purpose for which the WhatsApp group was formed. It is apparent that the aforesaid WhatsApp group was formed to facilitate the activities of the housing society, including its day to day problems in which, certain criticism was made by one of the members on which, certain views have been expressed by the other members also, in a very cryptic

manner. These comments appears to have been made without any pre-meditation and on the spur of the moment only. They appear to have been made without any intention of defaming the petitioner and in such circumstances, they cannot be held liable for the long posts which are made by only two members of the said group, namely Sandeep Gupta and Lt. Col. Jagdish Pahuja (Retd.).”

Further, it is argued that the plaintiffs have not exhausted the alternate remedy available with them in IT Rules, 2021, pursuant to which, social media intermediaries is expected to have lenient grievance redressal mechanism. Further, it is submitted that court must not see the messages of defendant in isolation, the court must consider the whole conversation, the contents of the messages are the opinions of the defendant and he cannot be penalized for holding an opinion. In this regard, reliance is placed by the defendant on *Addictive Learning Technologies Ltd. and Anr. Vs. Aditya Garg & Ors. CS (OS) 570/2024 decided on 20.02.2025 by Hon’ble High Court of Delhi* wherein court has stated that:

*“Addictive technology
This Court considers it
apposite to set-out out the
principles which this Court*

has relied upon in order to arrive at its conclusion:

A New

(i)

The Court relied upon an article 'Online Trolling: Typology'(Sage Publications, 2023), which recognizes the modus where a user intentionally publishes post/tweet on its social media handle to provoke emotional responses intended to increase user's followers in social media presence. (Discussion at para 10.2, 10.3, 10.4, 10.6, 10.8 and 10.10)

The Court noticed the decision in Nidhi Bhatnagar (Dr.) (supra) wherein the said Court observed that it was not sufficient for a plaintiff to sue for words which merely injure his feeling or annoys him. As per the ratio of the said judgment, to maintain an action for defamation and to claim damages, the defendant's utterance would have to be proven to be so offensive so as to lower the plaintiff's dignity in the eyes of other right-thinking people of society. (Discussion at para 13, 17.12 and 17.15)

(iii) The Court considered that the availability of an alternative remedy to an aggrieved plaintiff/claimant in IT Rules, 2021. Pursuant to the IT Rules, 2021 being promulgated, every social media intermediary (like platform X in the present case) is expected to have Grievance Redressal Mechanism. For aggrieved

plaintiff/claimant to approach the Court without having triggered or exhausted the said time bound remedy is a material factor to be considered. (Discussion at para 14, 14.1, 14.2, 17.16, 18.8, 22.4 and 26)

The Court notes that utterances in the nature of tweets in conversational thread on platform X are not to be assessed in isolation for the purposes of determining the defamation claim. The Court has to consider that nature of the medium is casual and fast paced, conversational in character and an elaborate analysis of a 140-character tweet (or even more than that) may be disproportional. Importantly, the absorption by the reader and the reaction to the post is impressionistic and fleeting. (Discussion at para 15, 15.1, 15.2, 17.9, 17.13, 17.14, 18.6, 20.12 and 24)

The Court notes that it is not sufficient to only consider the impugned tweets/utterances but also to see the responses/reactions of the plaintiff to extract the context in which the conversation has happened on social media platform. A one-sided view by plucking out on isolated tweet/utterance cannot provide a sufficient cause of action to a plaintiff. (Discussion at para 17.9)

The Court has noticed decisions of other common law jurisdiction drawing a distinction between a

defamatory post and a post which merely had vulgar abuse. (Discussion at para 18.2 and 18.3)

(vii) The Court has considered that the casual nature of the medium invites anonymous posts which may ex-facie be disparaging but cannot amount to defamation as it may not have a serious effect to form an impression about the character of the plaintiff. (Discussion at para 18.4, 18.5, 18.6, 18.7, 18.8, 23 and 23.6)

The Court observed that a person cannot be penalized for holding an opinion and a cause of action for the aggrieved would only arise if such opinion is translated into action i.e. results in injury or harm or loss to the aggrieved. Ergo, substantial injury has to be established by the aggrieved party. (Discussion at para 22.1, 22.2 and 23.6)

The Court notes that mere allegation by the plaintiff that the statement of the defendant amounts to an innuendo is not sufficient and the plaintiff has to specifically plead in the plaint and prove the facts and circumstances which imbue the words with a special meaning. (Discussion at para 23.3)

The Court notes that a plaintiff alleging defamation on social media platform arising out of a conversation thread must mandatorily disclose the full conversation thread, particularly his own tweets/comments as well and

*should approach the Court
with clean hands.”*

29. At the outset, the court deems it fit to mention the ingredients required to be proved by the plaintiffs for getting the relief sought in the present matter. The said ingredients are as follows:

(i) Defamatory statement: The statement which would harm the reputation of the plaintiff in the eyes of right-thinking members of the society, leading them to shun or avoid the individual

(ii) Publication: The statement must be communicated to a third party, not just to the plaintiff.

(iii) Reference to plaintiff: The statement must be understood by a reasonable person as referring to the plaintiff, even if not explicitly named.

30. From the admissions made in the pleadings and the evidence led by parties in the present matter, it already stands proved that the messages dated 17.09.2022 sent at 09:29 pm, 09:37 pm, 09:39 pm, 10:39 pm and 10:40 pm were sent by the defendant in WhatsApp group namely ‘*Shivalik Friends Forum*’ consisting of certain members of society. The case of the plaintiffs is that the content of the said messages is defamatory in nature.

31. Further, in view of the citations relied upon by the defendant, the court is of the considered opinion that the messages sent by the defendant cannot be read in isolation. Whole whatsapp chat is required to be perused. From the perusal of whole whatsapp chat brought on record as Ex. DW1/5 (colly) by the defendant, it is clear that the conversation has started

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when a person whose name is reflecting as 'Banerjee' in the screenshots i.e. Ex. DW1/5 (colly), has posted a 'Team Shivalik Manifesto' on the whatsapp group, to said message of banerjee, one person whose name is reflecting as 'Sharma IG 3A' in screenshots has replied "*What stopped your MC from completing most of works mentions in the post. You had six years time which is more than Do not paint a rosy picture until and promise everything , first tell members of society what has been done by MC in last six years . Thanks.*", defendant has sent the message dated 17.09.2022 at 09:29 pm which is subject matter of the suit as reply to the message of 'Sharma IG 3A'. Till now, plaintiff no. 1 has not entered the conversation taking place on the WhatsApp group. From the perusal of the said message, it is clear that defendant is not expressing his opinions, however, he is mentioning specific conduct and acts of the plaintiffs and other candidates of the MC elections for 2022 to 2025. Thereafter, plaintiff no. 1 has replied to the message of defendant wherein plaintiff no. 1 has given clarifications regarding the allegations of threatening the contractor and shifting the benches near his house was given by him and has also pointed out the blames raised on the defendant and his friend Banerjee, also pointed out the defendant's defeat against Mr. Madan in elections. Plaintiff has also cryptically pointed out some sensitive issues taken place with the defendant due to the act of the family members of the defendant. However, plaintiff no. 1 has never given any details of the said sensitive issues. The details of the issue are stated to have been disclosed by defendant himself in message dated 17.09.2022 sent at 10:39 pm and thereafter, he has also messaged

at 10:40 pm that “*this only shows how educated you are.*”. The case of the defendant does not mention any message or instance in the whole chat, which proves that the plaintiff was referring to the said event disclosed by the defendant himself in message sent at 10:39 pm.

32. From the aforementioned discussion, the court has observed that the nature of the chat was regarding the campaigning of the MC elections to be held on very next date i.e. 18.09.2022. From the contents of the messages in the chat, it cannot be considered to be a discussion taking place in a casual manner. Although the message sent at 10:40 pm can be considered to have been sent in reply to the allegations and issues pointed out by plaintiff no. 1 in his message, but, the contents of the messages dated 17.09.2022 sent by defendant at 09:29 pm cannot be deemed to have been sent in a fast paced chat. The said messages containing the details of the minutes of meetings had taken place in the year 2014, 2016 and 2022. Hence, the message sent by the defendant appears to have been sent after taking appropriate time for going through the records available with the committee. Further, the message sent at 09:29 pm is not in reply to the message of plaintiffs, the message to which it has been sent as a reply nowhere have any reference of plaintiffs. The defendant himself drags plaintiffs into the conversation by levelling allegations against them in the said message. It clearly appears that defendant was trying to disclose the conduct of plaintiffs for the purpose of harming their reputation for gaining advantage in the elections to be taken place on NDOH. Further, the contents of the message sent at 09:29 pm appears to be

sufficient to harm the reputation of plaintiff no. 1 who enjoys high reputation in society as he has served as Colonel in the Indian Army and also as a Spl. Metropolitan Magistrate. He has earned a notable position for himself in the society though he has already been retired, but the person of his stature are held in high esteem in the society and also considered to be role model by others in society, levelling allegations of misbehaving with the person holding higher post in hierarchy of committee i.e. a lady president, dents the very foundation of the personality of the army officer, because Indian Army is regarded an institution in which strict adherence to the protocol of respecting senior officer is observed with utmost sincerity. Further, the allegations like not cooperating with the MC and not working in betterment of society, shifting the property of society near his house for his own convenience, he and his son misbehaving with children playing near his house and threatening the contractor for his life are the allegations which are sufficient for harming the reputation of a person of such a stature in the eyes of right thinking person of the society.

33. Further, it is already mentioned that it is an admitted and proved fact that the whatsapp group is consisting of members of the cooperative society. It includes persons other than plaintiffs and defendant. The messages sent by the defendant has been published for the perusal of all the members of the whatsapp group. Hence, the messages sent by the defendant are found to have been published in public domain and has reached to the persons other than him and the plaintiffs.

34. Further, regarding reference, the message sent at 09:29 pm clearly mentions the name of plaintiff no. 1 i.e. Mr. B. S. Chodhary and also clearly referring to his son i.e. plaintiff no. 2, defendant has also never denied that his messages were referring the plaintiffs during the whole trial.

35. In view of the above, all the ingredients have been fulfilled, however, there are certain legal exceptions to the offence of defamation. One of them is the statement made by the defendant is true. In the present case also, defendant has taken this defence that the statements made by him are true and to prove the same, he has brought on record the certified proceedings and minutes of meetings held in 2014, 2016 and 2022. Defendant has stated that all the allegations levelled by him in the message is based on the minutes of meetings and proceedings of the meetings brought on record by him. He submits that the Ex. DW1/1 in agenda no. 4 states that “*Sh. D. P. Kalyan also pointed out that Sh. Chodhary was habitual in defying the by laws of society and consequently a perpetrator of many financial irregularity such as a) extra payment to appointed C.A. (Sh. Nizwan), b) repairing the passage in front of his flat only, 3) removal of society’s two guards and engagement of five guards from private security agency.*

Sh. Chodhary took above decisions without the approval of President, Vice-President and MC on hearing this, Sh. B. S. Choudhary cross all the limits of decency & resorted to unparliamentary remarks in the meeting aimed at Smt. Priti Kalyan, Chairperson of the meeting, all members strongly condemned this incident

and demanded immediate strict action against Sh. B. S. Choudhary.

On hearing this, Sh. B. S. Chodhary walked out the meeting...”.

He has further referred to Ex. DW1/2 wherein it is stated that “*after detailed discussion, it has been decided that the tenure of the present nominated secretary is terminated with immediate effect from today i.e. 24.05.2014. Hence, Mr. B. S. Chodhary ceases to perform as Secretary from 25.05.2014...*”

He further submitted that Ex. DW1/3 clearly states that Mr. B. S. Chodhary i.e. plaintiff no. 1 was nominated as Secretary and Treasurer for the first term only, but, he refused to give up his post after end of first term, which clearly reflects that he works completely against the rules and regulations of the society. Further, Ex. DW1/4 clearly states that Mr. Rakesh, contractor, has filed a complaint dated 12.08.2022 which was taken on record.

Hence, the defendant is not guilty of committing the offence of defamation.

36. It is settled law that the truth of defamatory word is a complete defence to an action of libel or slander. However, the defendant must show that the imputation made by him was true as a whole and in every material part thereof. In the present case, the defendant has brought on record the minutes and the

proceedings of the meetings to support his statements. These documents may be considered as an important evidence, but are not conclusive in nature. The defendant was aware of the addresses of the members who were part of the said meetings. He could have called them as witness in the present suit for proving his statement to be true. Further, nothing has been brought by defendant on record to prove that death threat was given by the plaintiffs to the contractor. On contrary, he has admitted during his cross-examination that the complaint filed by the contractor does not contain any allegation regarding life threats given by the plaintiffs to him. Further, no evidence has been brought on record by the defendant to prove that the plaintiffs misbehaved with the children playing in the park near their house. Also, he has failed to bring on record any evidence to prove that plaintiff no. 1 has shifted the benches from main gate to near his house without or against the directions of President, Vice-President and other MC members. It is also pertinent to mention here that defendant has admitted that he was not the part of the meeting dated 05.09.2022 when the complaint filed by the contractor was taken on record. Further, the fact that plaintiff no. 1 was again nominated as Secretary for the term 2016 to 2019 by the team of defendant also weakens the case of the defendant regarding the truth of his allegations against the plaintiff no. 1. Other than the minutes and proceedings of MC meetings, nothing has come on record to prove that the statements made by the defendant were true.

Further, defendant has not taken any other defence in the present matter.

37. Further, it is argued on behalf of defendant that plaintiffs have failed to make any case for compensation. In this regard, the court is of the opinion that in such cases, actual pecuniary losses may be difficult or even impossible to prove. However, it is pertinent to mention here that an assault on the reputation of a person is per se actionable and it is presumed to have caused damage to the sufferer and in such cases the damages in the present case is to be decided in light of the principles for awarding general compensation.

38. Further, it is also imperative to mention that every individual is vested with an intrinsic right to reputation which has been recognized as integral part of right of life under Article 21 of the Constitution of India. Hence, no one can be allowed to harm the reputation of the other person. Accordingly, the case of injunction is also made out in favour of the plaintiffs.

39. In view of the above discussion, issue no. 1 and 2 are decided in favour of plaintiffs.

RELIEF

40. In view of the aforesaid discussion:

(a) defendant is directed to tender unconditional written apology to the plaintiffs by making a post in the same whatsapp group namely Shivalik Friends Forum within 30 days from today.

(b) The defendant is found liable to pay sum of Rs. 60,000/- to the plaintiffs.

(c) The defendant is also hereby restrained from writing and posting any false and defamatory post about the plaintiffs.

(d) Cost of the suit is to be borne by the defendant.

41. Decree sheet be prepared accordingly.
42. File be consigned to **Record Room**, after its due compliance.

Announced in the Open Court on 10.09.2025.

(NISHAT BANGARH)
Civil Judge-02, South West,
Dwarka Courts, New Delhi/10.09.2025