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

% ***Judgment reserved on: 30.10.2025***

Judgment pronounced on: 15.11.2025

\+ FAO(OS) 288/2016, CM APPL. 37142/2016 and CM APPL. 37143/2016

ABP PVT LTD .....Appellant

Through: Mr. Darpan Wadhwa, Sr. Adv. with Mr. Arijit Mazumdar, Ms. Riya Dhingra, Mr. Amer and Mr. Bhaskar Anand, Advs.

versus

ITC HOTELS LTD & ORS .....Respondents

Through: Mr. Rajiv Nayar, Sr. Adv. with Mr. L.K. Bhushan and Ms. Raashi Beri, Advs.

\+ FAO(OS) 27/2017 and CM APPL. 3223/2017

ABP PVT LTD .....Appellant

Through: Mr. Darpan Wadhwa, Sr. Adv. with Mr. Arijit Mazumdar, Ms. Riya Dhingra, Mr. Amer and Mr. Bhaskar Anand, Advs.

versus

ITC HOTELS LTD & ORS .....Respondents

Through: Mr. Rajiv Nayar, Sr. Adv. with Mr. L.K. Bhushan and Ms. Raashi Beri, Advs.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

J U D G M E N T

ANIL KSHETARPAL, J.

1. With the consent of learned counsel for the parties, the present Appeals, filed by the Appellant against the same Respondents, arising from two different interlocutory orders passed by the Court in the same suit, shall stand disposed of by this Judgment.

2. In FAO(OS) 288/2016, the Appellant assails the correctness of an order dated 03.08.2016 [hereinafter referred to as 'Impugned Order dated 03.08.2016'] passed by the learned Single Judge, while dismissing its application under Order VII Rule 11 of the Code of Civil Procedure, 1908 [hereinafter referred to as 'CPC'].

3. In FAO(OS) 27/2017, the Appellant assails the correctness of an order dated 10.01.2017 [hereinafter referred to as 'Impugned Order dated 10.01.2017'], while refusing the stay the proceedings under Section 10 of the CPC.

4. In order to comprehend the issues involved in the present case, the relevant facts are required to be noticed in brief.

5. The genesis of the litigation arises from an article published on 10.04.2004 in the newspaper 'the Telegraph', namely "*smoke gets in his eyes*" which was also published not only on the website but also by way of print publication. A civil suit being CS(OS) 110/2004 was filed by Sh. Yogesh Chander Deveshwar [hereinafter referred to as 'YCD'] and the Respondent No.1/ITC Hotels Ltd (since merged with IT Ltd) claiming damages for defamation to the tune of Rs.550 crores, which is pending before the High Court of Calcutta [hereinafter referred to as 'Calcutta suit'].

6. The Respondent No.1/ITC Hotels Ltd. and Ors, Respondent No.2/M/s. International Travel House Ltd and Respondent No.3/M/s Fortune Park Hotels Ltd filed a civil suit being CS(OS) 575/2004 before this Court [hereinafter referred to as 'Delhi suit'] claiming the relief of damages and injunction. In the said suit, the Appellant filed

an application under Order VII Rule 11 of the CPC to reject the plaint on the following two grounds:

i. the Respondents lack cause of action to file the suit; and

ii. the plaint is required to be rejected on account of non-joinder of YCD either as plaintiff or defendant.

7. The Appellant also filed an application under Section 10 of the CPC claiming that an identical suit is pending before the High Court of Calcutta and therefore, proceedings in the subsequently instituted suit filed before this Court should be stayed.

8. Heard learned counsel for the parties at length, and with their able assistance, perused the paperbook along with the documents filed in support thereof.

9. The Respondents/plaintiffs in the Delhi suit are group companies of ITC Group. The article which has been published is with respect to YCD, while referring to him as the ITC Chairman. In paragraph no.4 of the Impugned Order passed on 03.08.2016, the learned Single Judge has posed the following issue which requires adjudication:

> *"4. Whether a corporate entity can be so closely associated with an individual so as to suffer any loss / damages on account of defamation, even if not of the said corporate entity but of the said individual and in which it can be compensated."*

10. The enabling power of the Civil Court to reject the plaint under Order VII Rule 11 of the CPC is extremely limited to the grounds as specified under Clauses (a) to (f), which reads as under:

> *(a) where it does not disclose a cause of action;*
>
> *(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;*

> *(c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;*
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> *(d) where the suit appears from the statement in the plaint to be barred by any law;*
>
> *(e) where it is not filed in duplicate;*
>
> *(f) where the plaintiff fails to comply with the provisions of rule 9.*

11. The Appellant claims rejection of plaint under Clause (a), which provide for non-disclosure of cause of action. In fact, the appellant claims that the plaintiffs lack cause of action to file the suit, which means that the plaintiffs have no locus to file the suit.

12. From a comprehensive and holistic reading of the plaint filed at Delhi, it becomes evident that the Respondents/plaintiffs have claimed that they have been defamed, with the business trading governing reputation being adversely affected and lowered in the eyes of the general public as well as the Respondents'/Plaintiffs' employees and associates at Delhi. Paragraph no. 28 of the amended plaint reads as under:

> *"28. The cause of action for filing the present suit first arose on 10th April, 2004 when the defamatory article was written/edited/printed/published in the 10th April, 2004, edition of the Telegraph and circulated through out India, including Delhi and was posted on the web site, www.telegraphindia.com. The cause of action further when the article was published, circulated and read in Delhi and the Plaintiffs were defamed, with their business/trading/governing reputation being adversely affected and lowered in the eyes of the general public as well as the Plaintiff's employees/associates etc in Delhi. The cause of action is a continuing one, as the said article is still posted on the aforesaid web site. The. present suit is being filed within the period of limitation prescribed therefor."*

13. From the reading of paragraph no.28, it becomes evident that at this stage, it would not be appropriate to conclude that the plaint does not disclose a cause of action. Moreover, failure to disclose a cause of

action in the plaint and non-existence of a cause of action available to the plaintiff(s) are two different aspects with fine distinction. Order VII Rule 11 of the CPC does not envisage rejection of the plaint on the question of *locus standi* of the Respondent/Plaintiffs which is akin to Respondent/Plaintiffs lacking cause of action available to them to file the suit. Moreover, YCD and ITC Group companies are stated to be interlinked.

14. The Appellant's argument that the Respondents/Plaintiffs lack a *locus standi* to file this suit and thus their plaint does not disclose a cause of action is incongruent and misplaced because as per clause (a), failure to disclose cause of action may be a ground to reject a plaint but at this stage it would not be appropriate to reject the plaint without giving them opportunity to lead their evidence on the ground of plaintiff's lack of locus standi to file the suit.

15. The Madras High Court deliberated on this issue in ***Mr. Tim Boyd v. Mr. Kesiraju Krishna Phani***, while categorically holding as under:

> "*Para 23 "Whether a plaint discloses the cause of action as required under Order 7 rule 11, is a question which is a distinct and different one from the question as to whether the plaintiff can succeed in the suit based on such cause of action. It is needless to state that only the latter question involves the consideration of other allied questions with regard to the maintainability of the suit as well as the "locus-standi" of the plaintiff to file the suit. In my considered view, these questions, namely the maintainability of the suit or the locus-standi of the plaintiff to maintain such suit, are the questions which are to be relegated to be considered and decided along with the other issues on merits, after conducting trial, since these questions also involve consideration of facts and law."*

16. The Respondents/Plaintiffs have also claimed that due to the article which makes a reference to ITC, it has created a negative

impression in the eyes of the public at large *qua* the actions of the Chairman of the Respondents'/Plaintiff's group and by necessary inference, the actions of the Respondents'/Plaintiffs' companies. Such insinuations made in the article are claimed to be defamatory, vicious and libelous. As per Section 10 of the CPC, subsequently instituted suit is liable to be stayed if the Court comes to conclusion that the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties or between the parties under whom they or any of them claimed litigating.

17. As already noticed, the first suit was filed by YCD and ITC Ltd, whereas subsequently instituted suit is by Respondent Nos. 1 to 3. In any case, Plaintiff Nos. 2 and 3 are not parties to the Calcutta suit. Moreover, these companies are claiming damages on account of the article published by the Appellant, which is circulated and published across the length and breadth of India, and the plaintiffs have suffered damages and imputation is calculated to lower the professional/corporate/business reputation of the Respondents'/Plaintiff's companies in the public mind and tarnish their image in the estimation of right thinking members of the society. The Respondents/Plaintiffs also claim that the said article has lowered the Respondents'/Plaintiff's companies' reputation in relation to management of their affairs and has negatively impacted the reputation of the Respondents'/Plaintiff's companies as concerns their trading/business/governing character and has caused loss and damages to the Respondents/Plaintiffs.

18. Moreover, the Respondents/plaintiffs in the present suit claim independent right of damages, apart from the suit filed at Calcutta by

YCD in personal capacity along with ITC Ltd. Hence, substantial issues involved in the Delhi suit, which was subsequently instituted, is not directly and substantially in issue in the Calcutta suit. Moreover, the Respondents/Plaintiffs in both the suits are not the exact same.

19. Consequently, and in view of the aforegoing, this Court does not find it appropriate to interfere with the Impugned Order passed on 10.01.2017.

20. With these observations, the present Appeals are dismissed. All pending applications stand closed.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

NOVEMBER 15, 2025
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