4

IN THE COURT OF THE LD. DISTRICT JUDGE (EAST)

KARKARDOOMA COURTS, NEW DELHI

FAO NO. ____/2017

ARISING OUT OF CS NO. 1161/2017

In the Matter of:

Juggernaut Books Pvt. Ltd. ...Appellant

Versus

Swami Ramdev & Ors. ...Respondents

APPEAL UNDER ORDER 43 RULE 1 READ WITH SECTION 151 OF THE CODE OF CIVIL PROCEDURE, 1908 AGAINST ORDER OF EX-PARTE AD-INTERIM INJUNCTION PASSED BY THE COURT OF THE LD. ACJ-CCJ-ARC RESTRAINING THE APPELLANT FROM PRINTING, PUBLISHING AND SELLING BOOKS

Most Respectfully Showeth:

1. This appeal is being preferred against an ex-parte ad interim order dated 04.08.2017 passed by the Court of the Ld. ACJ-CCJ-ARC Nipun Awasthi, by which the Appellant and other Defendants are restrained from publishing or selling copies of the book *Godman to Tycoon: The Untold Story of Baba Ramdev* ("**Impugned Order**"). The Impugned Order is annexed herewith at **ANNEXURE 'A'**.

2. The Impugned Order is ex facie bad in law, and has been passed without application of mind or examination of even the material which was placed on record by the Plaintiff. In passing the Impugned Order in unexplained haste, on the date of the institution of a suit which is technically defective, without hearing the Defendants, the Ld. ACJ-CCJ-ARC has in effect censored a book without consideration of its contents or merits, and in the teeth of the law. Further, the Impugned Order is effectively a final order and records findings which are final in nature. Without being heard, the Appellant and other Defendants have been subjected to a broad and sweeping injunction.

3. The book *Godman to Tycoon: The Untold Story of Baba Ramdev* ("**Book**") is a truthful, even handed and balanced consideration of the history of Baba Ramdev, which has been meticulously researched and is based on public and recorded sources, most of which have been in the public domain for years. The Book is not based on fresh or new claims or statements, and the contents are based factually on happenings reported on widely in the media and made available to the public prior to the publication of the Book. All of the statements that the Impugned Order has drawn attention to have been stated earlier by mainstream newspapers such as the Dainik Bhaskar, Indian Express, Times of India etc. None of these articles have occasioned such a civil suit or any other action in law, and it is only now that the Plaintiff/ Respondent No. 1 has chosen to take action. A copy of the Book is annexed herewith at **ANNEXURE 'B'**.

4. At the very outset, the Appellant and the author stand by the Book as it is published and submit to this Hon'ble Court that they honestly hold the belief that the Book is truthful and not defamatory. Therefore in terms of the law as set forth in *Bonnard* v. *Perryman* and judgments following the said principle, no injunction can be sustained and the matter must tried. If the Impugned Order had not been passed ex parte, this undertaking would have been given to the Court of the Ld. ACJ-CCJ-ARC.

5. The Respondent No. 1 is a public figure, and well known public persona. He is associated closely with a company that according to the numbers set forth in the Suit, has revenues of more than Rs. 10,000 Crores. He appears on the television on a daily basis and is equally in the newspapers on a daily basis. He has made statements in public which pertain to the politics of India, which are also widely reported. In short, he is one of the most well known persons in India today.

6. Therefore, it is not possible that the mere repetition of statements which have been made before many times, could have any effect on the

reputation of the Respondent No. 1/Plaintiff. As a public figure, the standard of irreparable harm to his reputation must be commensurately high. It is submitted that the Impugned Order has been passed in response to a Plaint where the Respondent No. 1/Plaintiff has not even explicitly stated that the contents of the Book are materially false - merely that they show the Respondent No. 1/Plaintiff in a poor light.

7. As a matter of fact, it is submitted that the contents of the book are true statements, made fairly, on the basis of publically available documents and recorded interviews. The basis of the Book included references to more than 180 press articles, more than 100 documents obtained from the Registrar of Companies, 28 taped interviews and many Right to Information requests. Each of the facts cited in the order as controversial has been the subject of press speculation and has even been debated in legislative assemblies of states.

8. The Impugned Order is passed incorrectly *ex facie* in that the law has held that an injunction cannot be granted against work concerning a public figure, on issues of public interest, even if they are later discovered to be defamatory. It is only possible to grant an injunction where no defense could ever have been possible. This position has been espoused the Hon'ble Supreme Court of India and the Hon'ble High Court of Delhi.

9. The Impugned Order was also incorrect on facts as (i) there was no prima facie case made out, (ii) there was no possibility of irreparable harm, and (iii) the balance of convenience was in favour of the Book continuing to be published. The Book was at the time of the passing of the order already widely available in the market, and has already reached thousands of readers. An injunction serves no purpose except to prejudice the Defendants financially and reputationally.

10. The Appellant is aggrieved as the Impugned Order has restrained the publication and the sale of the Book without an opportunity of hearing -

in the teeth of the law. It is humbly submitted that the Book assailed as defamatory in this suit - which was written entirely in the public interest, and with no malice or personal agenda against the Respondent No. 1/ Plaintiff as an individual - is neither defamatory nor otherwise in contravention of the laws of India, and it has only reported true facts as gleaned from publicly available documents, and merely contains legitimate and reasonable surmises and conclusions drawn therefrom. The issues pertaining to the meteoric rise of one of India's biggest companies and most important public figures which are raised in the Book are all important issues of public interest, and legitimate debate surrounding these topics cannot be stifled in a democracy by invoking the anti-Free Speech weapon of defamation lawsuits.

11. The Book is not even the first full length book about Respondent No. 1. There are at present a number of full length books about the Respondent No. 1. They include *From Moksha To Market- The Baba Ramdev Phenomenon* by Kaushik Deka, *Ramdev Baba- 7 Life lessons* by V J Cartier, *Ek Yogi, Ek Yoddha* by Sandeep De, *Gurus- Stories of Indias Leading Babas* by Bhavdeep Kang, *Yog Guru Swami Ramdev* by Ashok Raj, *The Life and Times of Baba Ramdev* by Ashok Raj, *Baba Ramdev and The Resurgence of the New India Movement* by K C Mahendru and *Baba Ramdev Ke Sapnon Ka Bharat* by K C Mahendru. It is submitted that all of these books exist in the market and are being read by those interested in Baba Ramdev. Any idea which is stated in one book may be controverted in another book, and any impression conveyed to a reader in one book may be opposed in another. Furthermore, even the Respondent No. 1 has published pieces on a wide variety of issues - eg. *Yog: It's Philosophy and Practice*. It is in public interest that there be as many views as possible circulating in the marketplace of ideas, especially when pertaining to figures and issues of national

importance. Copies of the cover pages of these books are annexed herewith at ANNEXURE 'C (Colly.)'.

12. It is humbly submitted that no statement whatsoever in the Book is per se defamatory, obviously untrue, or incapable of being reasonably substantiated; and the Respondent No. 1 is therefore attempting to impinge on the freedom of the media, and also the inviolable right of the Defendants to practice their professional calling (of free, fearless and fair reporting), by filing strategic lawsuits. Every statement appearing in the Book is either itself a demonstrably true statement of fact, or a reasonably and legitimately-held opinion or inference of the author of the Book (drawn, in turn, from facts available in the public domain, and interviews conducted by the Author); and pertains to the public affairs of a person in public life. Moreover, the issues which are discussed in the said Book are also confined only to matters of public interest, and the private life of the Respondent No. 1 is not at all discussed.

13. It is to be noted that, in Indian law, in order to establish that a particular statement – written or spoken – is defamatory, it must be proved not only that it was published, but also that it was false, and that it was calculated to lower the reputation of a specific person (or an identifiable set of people) in the eyes of the general public. Where the subject of the article is a person in public life and holding public office, reasonable inferences concerning the actions of such persons, and bona fide questions pertaining to the commercial affairs of such person, cannot be said to be 'defamatory'. Thus, the plaint does not disclose any cause-of-action in law, and ought to have been rejected *in limine*.

14. In a case for injunctive reliefs against allegedly defamatory material, as in every case seeking the relief of injunction, the Plaintiff has to cogently establish that the article complained of is prima facie defamatory of the Plaintiff, and balance of convenience must also be established.

Furthermore, and before getting into all other issues, the Plaintiff of course bears the onus of proving that defamatory words concerning him were at all published - for which it is simply not sufficient for him to merely show either that he has a reputation, or that he is the subject of the article, or that he personally disagrees with the contents of the article. He must also show that the article unfairly casts him in a false light, and that it is factually not true, and that the opinions of the author expressed therein are not at all warranted by facts or otherwise protected by the doctrine of 'fair comment', and that the contents of the article have in fact caused his reputation to be lowered in the public's estimation. None of these facts has even been pleaded in the Plaint in a cogent fashion, or sufficiently to meet the standard of the law. A copy of the Plaint and the Applications as received by the Appellant/Respondent No. 1 is annexed herewith at ANNEXURE 'D (Colly.)'.

EACH ALLEGEDLY CONTROVERSIAL PORTION HAS BEEN THE SUBJECT OF REPORTING BY THE MEDIA AND HAS BEEN EXPOSED TO THE PUBLIC AT LARGE

15. The Ld. ACJ has taken exception in the Impugned Order to some of the contents of the Book and has set out certain portions in the Impugned Order. It is pertinent to state that the portions which have been set out in the Impugned Order do not correspond to the portions set out in the plaint presented to the Hon'ble Court. The Ld. ACJ has conducted a roving enquiry into the Book, only without the benefit of hearing the Defendants.

16. The first portion extracted in the Impugned Order at Paragraph 7 relates to allegations made by media sources about land allocations and discounts from BJP led governments. These allegations have not only been

widely reported in the international or national media, but they have also been the subject of extensive debates in the legislative assemblies of Haryana and Himachal Pradesh, which debates in turn have been heavily reported. These are eminently matters of national and public interest, touching on government actions. A selection of articles reporting on the land allocations and related issues is annexed herewith at **ANNEXURE 'E (Colly.)'**.

17. At Paragraph 9, the portion extracted states that in the villages of Haryana, the Respondent No. 1 has been referred to as 'Lala Ramdev'. Even this statement, however minor, has been widely discussed by the media prior to the publication of the Book, and has been brought up in the proceedings of the legislative assembly in Haryana. A selection of articles reporting the fact that persons having been using the term 'Lala Ramdev' is annexed herewith at **ANNEXURE 'F (Colly.)'**.

18. At Paragraph 10, the Ld. ACJ concerns himself with the portions of the Book relating to the death of Rajeev Dikshit and the circumstances surrounding it, and certain rumours prevalent at the time about the involvement of the Respondent No. 1 and his rebuttals to the same. These matters too were widely reported in the media and articles commenting on the issue are annexed herewith at **ANNEXURE 'G (Colly.)'**.

19. At Paragraph 11, the Impugned Order deals with the contents of the Book covering the issue of the mysterious disappearance of Shankardev, who was the Respondent's Guru. There was very heavy reporting on all sides of the facts and the investigation which was conducted by the CBI. A selection of these reports, which were far more sensational in tone and content than the Book, are annexed herewith at **ANNEXURE 'H (Colly.)'**.

20. The contents of the Book as a whole is taken from sources which are already in the public domain, many for years together, and otherwise from interviews diligently recorded by the Author. The Author,

Defendant No. 1, has even taken the steps of having the interviews confirmed to be genuine from a forensic laboratory. The results of the forensic laboratory tests are annexed herewith at **ANNEXURE 'I'**.

21. As a matter of fact, all of the above issues have been far more explicitly dealt with by contemporary reports in newspapers, TV channels and other media. If there was ever any question of defamation, the Respondent No. 1 has acquiesced over and over again, and has been satisfied with rebutting allegations when confronted. Those rebuttals and comments from the Respondent No. 1 and his team have all also been reported on and treated fairly in the book.

GROUNDS

A. BECAUSE the Ld. ACJ-CCJ-ARC passed the Impugned Order ex-parte and did not give the Defendants a chance to stand by the Book or their statements. The law is categorical on the point that if the Author and Publisher stand by their statements and claim truth and fair comment in relation to matters concerning public figures, no injunction can follow. The Hon'ble High Court of Delhi has held in multiple cases that the categorical assertion of the author standing by his/her statement and claiming that they can substantiate the same is sufficient reason to vacate or prevent an injunction. The principle is that pre-publication injunction or restraint should not be granted in case the defendant who supports the publication cites truth as a defense and pleads justification. In these cases damages are the appropriate remedy. The Appellant is now making a statement to that effect on affidavit and it is submitted that the injunction cannot be continued hereinafter.

B. BECAUSE the Ld. ACJ-CCJ-ARC has erred in finding that the reputation of Respondent No. 1 can be said to be harmed by the contents of the Book. Respondent No. 1 is an exceedingly prominent public figure by virtue of

his media presence, popular appeal, stature as a religious figure, yogi and businessperson. Single Judge, Delhi High Court in ***Phoolan Devi v. Shekhar Kapoor*** **(1995) 15 PTC 46**, has defined public figure in the context of defamation suits:

> *For the purpose of standard to be applied in defamation action from the dictionary meaning 'public figure' is one who is famous or infamous because of who she is or what she has done as public figure. Public figures, for purposes of libel are those who have assumed roles of special prominence in society, for the right to privacy action purposes, one who has arrived at a decision where public attention is focused upon him or her as a person.*

It is submitted that public figures are often in the public gaze and must be open to public scrutiny and criticism. In the classic case of ***Seymour v. Butterworth*** **(1862) 3 F and F 272**, Cockburn C.J. stated:

> *Those who fill a public position must not be too thin skinned in reference to comments made upon them. It would often happen that observations would be made upon public men which they know from the bottom of their hearts were undeserved and unjust; yet they must bear with them and submit to be misunderstood for a time.*

C. BECAUSE the Ld. ACJ-CCJ-ARC erred grievously- in not recognizing the element of public interest in publishing the material of the book. Respondent No. 1 is a public persona and interest of public in knowing certain facts about the life of a public figure outweighs the interest of Respondent No. 1 in maintaining his reputation. In *Sardar Charanjit Singh* v. *Arun Purie* 1983 (4) DRJ 86, the Hon'ble High Court of Delhi relied on *Gatley on Libel and Slander* while denying an injunction on publication:

> *The plaintiff admittedly is a Member of Parliament. He is a public man. In Gatley on Libel and Slander, 8th edition para 884 page 387 it is observed: "THOSE who fill public positions must not be too thin-skinned in*

reference to comments made upon them". "One who undertakes to fill a public office offered himself to public attack and criticism; and it is now admitted and recognised that the public interest requires that a man's public conduct shall be open to the most searching criticism".

D. BECAUSE the Ld. ACJ-CCJ-ARC erred grievously in passing the Impugned Order without the Plaint even setting out explicitly the contents of the Book as false, or demonstrating any falsity with evidence. The Plaint repeatedly claims the contents of the Book to be malicious, controversial and juicy but does not demonstrate them to be false. As such no cause of action is made out and the suit ought to be dismissed *in limine*.

E. BECAUSE the Impugned Order has been obtained by suppression and misrepresentation. The Plaintiff has claimed in the Plaint "that the publication by the defendants is not based on any public records nor does it relate to the acts or conduct relevant to the discharge of any action undertaken by the Plaintiff". This is manifestly untrue from any copy of the Book which contains a substantial sources section setting out public sources for the contents of the Book. This is material falsehood intended to mislead a Court and that is sufficient to cause the vacation of the injunction and the rejection of the plaint.

F. BECAUSE the Ld. ACJ-CCJ-ARC has erred manifestly in holding that the overall effect that the book has on a reader is to create a feeling of mistrust in personality of Respondent No. 1 and the author's sole objective has been to malign Respondent No. 1. The Book in question is an evenhanded account which deals with criticisms and controversies but is also full of praise and laudatory passages about the Respondent No. 1. The Author's Note at the very outset of the Book details the objectives behind writing the book and methodology followed. The pertinent paragraph is reproduced below:

Each time we met, I had found him earthy, self-deprecating and disarming, generous with his time and deft in steering conversations to what he wanted to say. But I never felt that I really got to know him. Beyond his carefully cultivated public persona lay a masterfully guarded person of tremendous will.

The only way to tell his story, I believed, was to tell it through the voices of all the people he worked with along the way to building his empire, those who'd had a chance to meet him in unguarded moments.

The Author's Note also states that fifty-two persons were interviewed as research for the book, and certain interviews have been taped. Additionally, media reports and public documents have been relied upon, and have been documented in the 'Sources' section. The effort has been to provide a complete and truthful journalistic account and to enable readers to review the source material and reach their own conclusion.

G. BECAUSE the Ld. ACJ-CCJ-ARC has erred in holding that the paragraph present on page 205, Chapter 25 itself adversely affects the reputation of Respondent No. 1. The paragraph identified merely refers to a Reuters article, previously published and cited in the bibliography, which contains certain allegations against Respondent No. 1. It must be noted that no action has been taken by Respondent No. 1 against Reuters, which published this article in May, 2017. Further, both pages immediately preceding and following page 205 contain several positive statements about Respondent No. 1, his force of personality, and his legacy and do not contain any independent or unsourced statements directly alleging use of public money for private gains. Further, where there is a weakness in a source – ie. that reliance is placed on unpublished documents - the same is explicitly set out.

H. BECAUSE the Ld. ACJ-CCJ-ARC has erred in holding that page 201, Chapter 25 in and of itself contains defamatory material about the

Respondent No. 1. Chapter 25 is entitled "Conclusions" and the concluding statements identified on page 201 are in reference to previous chapters of the book, each of which has a detailed bibliography containing external sources and reference to public documents. The Conclusions chapter must be read in light of previous researched statements made in the book and not in isolation. Further, the paragraphs following page 201 have lavishly praised Respondent No. 1's business instinct and his contributions to the worlds of Yoga and Ayurveda.

I. BECAUSE the Ld. ACJ-CCJ-ARC has erred in holding that the paragraph on page 200, Chapter 24 contains material which leads to the inference that Respondent No. 1 is a businessman, to the exclusion of being a social worker. Page 198 of the same Chapter states that Respondent No. 1 has assured people that he runs the company 'as a service to the nation' and contains a direct quote of Respondent No. 1 in this regard. The relevant paragraph of page 198 is being reproduced here:

> *Despite these constant question marks over Patanjali products, Indians continue to place their trust in the company. Their faith in the saffron-robed Ramdev remains intact because he repeatedly, self-assuredly and charmingly reassures them that he, in the great tradition of Hindu sadhus, is running the company as a* ***service to the nation.*** *'I sleep on the floor, I am a fakir…all the profits are going to charity. I don't own anything in my name…don't trust the multinationals or stooges of other corporations who defame me. They are doing so because they cannot stand the success of Patanjali'* [Emphasis added]

In the first chapter itself, Respondent No. 1's motivation behind running a business have been clearly and unbiasedly reported. The relevant paragraphs on page 11-12 of Chapter 1 are set out hereunder:

> *Questioned during a television interview if a sanyasi should be running a business empire, Baba Ramdev responded, in his trademark style, with a*

faux aggressive counter-question, smile on his face. 'Accha,' he demanded, tilting his head in that familiar way, 'show me where in our scriptures is it written that a sanyasi has to retire to the Himalayas and do nothing else? I am a karma yogi and a rashtra yogi... The purpose is not to accumulate any great wealth for myself. Look, there is an empire worth crores, no, hundreds of crores around us today [referring to Patanjali's assets], but even today, I sleep in a hut on the floor. Whatever I have got from the country, it is for the country. The wealth of Patanjali is not for any one person- it is for the country. It is all for charity.'

It is difficult not to admire the sentiment. Or the devotion with which he set off to bring yoga and Ayurveda to millions of Indians - not the kind that live in Delhi and Mumbai alone but also the ones who live in Tier 2 and 3 cities. Baba Ramdev kindled the resurgence of yoga in the country at the millennium when he would appear on television every morning to teach yoga in his homely and practical way.

It is, thus, submitted that the selection of page 200 in Paragraph 9 of the Impugned Order as containing defamatory material is a clear instance of cherry picking of statements, without reading them in the correct context or within the scheme of the book.

J. BECAUSE the Ld. ACJ-CCJ-ARC has erred in holding that the entire book is based on rumours as heard and hearsay testimonials. The Author's note states that fifty-two persons were interviewed as research for the book, and certain interviews have been taped. Additionally, media reports and public documents have been relied upon, and have been documented in the 'Sources' chapter. Where a rumour has been reported, it has been clearly identified as such and a reasonable reader will treat it with suspicion. Further, the Book itself has referred to the stories regarding these unexplained, coincidental events as being 'conspiracy theories' (p.136) and 'rumours' (p.140). This fact has been acknowledged by the Ld.

ACJ-CCJ-ARC in paragraph 10.2 of the Impugned Order, but has been misunderstood to be the spreading of rumours maliciously.

K. BECAUSE the Ld. ACJ-CCJ-ARC has erred in finding that the reporting of the CBI Proceedings has been carried out in a manner to defame the Respondent No. 1. The CBI proceedings have been reported the best of the author's ability and she has, on her own, provided adequate explanation as to her attempts to get further details. The author has clearly stated in the Book that she filed two RTIs for further information as to CBI proceedings, but information was not given for some reason or another.

L. BECAUSE the Ld. ACJ-CCJ-ARC has erred in finding that advertisements or marketing strategies which rely on highlighting or sensationalizing allegedly defamatory material have been adopted by the Appellant. The strategy followed is standard, given the subject matter of the book i.e. well known persona and nature of the book i.e. biographical. The article contained on www.devbhoomimedia.com is not part of the marketing strategy of the Appellant and has not been published at its request. The Defendants cannot control what third parties in the market are saying and cannot be held liable for the same. It is pertinent to note that the Respondent No. 1 has not pursued any action against this website.

M. BECAUSE the Ld. ACJ-CCJ-ARC has erred in travelling beyond the Plaint in finding offending portions of the Book. The entirety of the cause of action must be explicitly pleaded in the Plaint by the Plaintiff and the Hon'ble Court cannot travel beyond those claims in passing orders. Reliance may be placed on Halsbury's Laws of England, Vol-28:

> *172. Pleading and proof of words – In an action for defamation the actual words complained of, and not merely their substance, must be set out verbatim in the statement of claim... where the plaintiff complains of a book or long article, he must specify the passages which he alleges to be defamatory rather than merely plead the whole book or article.*

In *Brijlal Prasad v. Mahant Lal Das* AIR 1940 Nag 125, *Krishna Rao v. Firm Radhakrishan Ramsahai* AIR 1956 Nag 264, *Nanumal v Ram Prasad* AIR 1926 All 672, Indian courts too were pleased to find that the actual words used on which the charge for defamation is based should be set out clearly in the plaint. The Impugned Order has referred to page 200 and 205 of the book as containing statements likely to injure Respondent No. 1's reputation. These pages have not been mentioned by Respondent No. 1 in his suit for injunction. Further, while Respondent No. 1 did not specify which paragraph in Chapter 19 - Mystery 3: The Mentor's Sudden Death creates suspicion in the mind of the reader, the Ld. ACJ has supplied a paragraph of his own accord. Even where the Respondent No. 1 and the Ld. ACJ have both identified the same Chapters as being defamatory, the Ld. ACJ has relied upon different words than those pleaded. From Chapter 16- Mystery 2: The Guru's Disappearance, Respondent No. 1 has reproduced certain paragraphs of the chapter in his pleadings. The Impugned Order has, however, focused on the use of the word 'mystery' in the title of the chapter as creating a doubt in the mind of the readers - without this being an allegation in the Plaint. It is, therefore, submitted that there has been non-application of mind in passing the Impugned Order as there is no identity between the cause of action disclosed in the plaint and the grounds on which the Impugned Order has been given.

N. BECAUSE the Ld. ACJ-CCJ-ARC has erred in holding that any alleged innuendos in the book are capable of adversely affecting the reputation of Respondent No. 1. In alleging that defamatory statement is not apparent on the face of the words, the innuendo must be set out in clear and specific terms.

O. BECAUSE the Ld. ACJ-CCJ-ARC has erred in not appreciating that the grant of interlocutory injunctions in defamation actions is frowned upon in law, and ought never to be passed ex-parte. As the Hon'ble High Court

of Delhi has held in a number of cases, there exist competing interests - that of the author to write and publish and the right of an individual against invasion of privacy and the threat of defamation. However, the balancing of these rights should be considered at the stage of the claim of damages for defamation rather than a preventive action for injuncting of against the publication itself.

P. BECAUSE the Ld. ACJ-CCJ-ARC has erred in not appreciating that lawsuits filed solely with the intent of censoring, intimidating and silencing critics by burdening them with the costs of legal defence, until they abandon their criticism or opposition - which are known by the commonly-used acronym of "SLAPP" (i.e., 'strategic lawsuit against public participation') - will not be entertained by the courts of law. It is submitted that the instant suit has been filed with precisely this intent - of removing legitimate commentary about the Respondent No. 1/Plaintiff from the public domain - and hence ought not to be entertained.

Q. BECAUSE the Ld. ACJ-CCJ-ARC has failed to appreciate that the balance of convenience favours the author and publisher because a non-fiction book has a limited shelf life. Lengthy injunctions are equivalent to a death sentence for a book. Ultimately, if the Defendants succeed, no market for the Book will exist by the time the suit is finally decided. However, the Plaintiff may always be granted damages.

R. BECAUSE the Ld. ACJ-CCJ-ARC has erred in not examining the nature of the book, i.e. a biographical account of Respondent No. 1. A biographical account would necessarily have to contain the accounts of friends, family and professional relations. It is submitted that the book truthfully reports the accounts of people who have claimed to have been associated with Respondent No. 1, and who have voluntarily shared these accounts.

S. BECAUSE the Ld. ACJ-CCJ-ARC erred grievously in issuing notice on a suit which suffers from serious technical defects. First, no valuation has

been carried out and no amount of damages have been claimed by the Respondent No. 1/Plaintiff. The suit has not quantified the damages allegedly due to the Respondent No. 1. It is submitted that the Plaintiff cannot claim any damages in excess of the pecuniary jurisdiction of the court in which he has filed the claim.

T. BECAUSE the Ld. ACJ-CCJ-ARC erred in issuing notice on a suit which is not within the jurisdiction of the Hon'ble Court. Under the Code of Civil Procedure, 1908, a suit must be filed where the Defendants ordinarily reside or carry out business. None of the Defendants reside or carry out work in the East District of Delhi. No evidence of sale or purchase in East District of Delhi has been placed on record. The jurisdiction of this Hon'ble Court has not been made out with a single document, and none of the Parties reside or are based here. The Defendant No. 1 in fact resides in Mumbai. The Defendant No. 2 has its offices in Shahpur Jat, which does not fall within the jurisdiction of this Hon'ble Court. The Defendants No. 3 and 4 are based in Bangalore, and Defendant No. 5 is based in Manipal. Even if it is pleaded that cause of action has arisen in whole or in part, some documents or explicit statement must be made to such effect. The plaint ought to be returned to be refiled in another court which does have jurisdiction.

U. BECAUSE the Ld. ACJ-CCJ-ARC has effectively passed a final order in the guise of an ex-parte ad interim order. He has reached findings which severely prejudice the Appellant and the other Defendants. The findings in the Impugned Order, if not appealed would be binding even in arguments finally.

V. BECAUSE the Ld. ACJ-CCJ-ARC has passed an order without applying his mind to the documents before him. This may be best seen from the prayer clause of the application for interim injunction, which prays for *"restraining her from claiming to be owner of the suit property and restraining*

the defendants from creating any nuisance, interference in the peaceful sewa Pooja of the devotees, trustees etc. and restraining the defendants from forcibly occupying the first and second floor of the dharamshala situated at the trust property." It is telling that notice has been issued on this application and an ex-parte injunction granted.

W. BECAUSE the Ld. ACJ-CCJ-ARC has erred in permitting a suit which agitates such a personal right to be filed by power of attorney. The facts pleaded may not even be pleaded by a person other than the Plaintiff in person. It is further of interest that the applications and affidavits have been signed on 02.08.2017 in New Delhi, and are attested seemingly in New Delhi on 03.08.2017, while the stamp paper was purchased for the Power of Attorney on 03.08.2017, at 10.37 am in Roorkee. Therefore, the power of attorney is almost certainly subsequent in time. Further the Power of Attorney is generic and does not even touch upon the subject of the suit.

22. No other appeal or writ petition or proceeding has been filed against the Impugned Order or is pending in any court to the best of the knowledge of the Appellant.

23. That the Appellant reserves its right to defend that Civil Suit on these grounds and others.

Prayer

That in the light of the foregoing, it is most humbly prayed that this Hon'ble Court be pleased to:

a) Set aside the order of the Ld. ACJ-CCJ-ARC dated 04.08.2017 passed in CS No. 1161/2017;

b) Direct that the suit and applications be heard expeditiously; and

c) Pass any other order in the interests of equity, justice and good conscience.

and so the Appellant as in duty bound humbly prays.

Appellant

Filed through:

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New Delhi
Date: 18/8/17