



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
INTERIM APPLICATION (L) NO.35184 OF 2024  
IN  
COMMERCIAL IP SUIT (L) NO.21967 OF 2024

Trubridge Healthcare Private Limited and another ... Applicants

**In the matter between:**

Trubridge Healthcare Private Limited and another ... Plaintiffs

**Vs.**

Ashish Yellapantula ... Defendant

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Mr. Virag Tulzapurkar, Senior Advocate a/w. Mr. Rashmin Khandekar, Mr. S. Sheth, Ms. Shilpa Sengar and Mr. Harsh Khanchandani i/b. TRILEGAL for Applicants / Plaintiffs.

Mr. Shanay Shah a/w. Mr. Mustafa Bohra, Mr. Nikhilesh Koundinya and Ms. Shrutika Mehta i/b. Solomon & Co. for Defendant.

Ms. Charushila Vaidya, 2<sup>nd</sup> Assistant to Court Receiver.

**CORAM : MANISH PITALE, J.**

**DATE : JANUARY 29, 2025**

**P.C. :**

. The plaintiffs have filed this application invoking Order XXXIX, Rule 2A of the Code of Civil Procedure, 1908 (CPC), alleging breach by the defendant of the ad-interim order dated 12.07.2024 passed by this Court in Interim Application (L) No.21972 of 2024. The plaintiffs have prayed for attachment of properties of the defendant and also for penalizing him by putting him in civil prison, if this Court deems it fit. It is alleged that there is enough material before this Court to demonstrate that the defendant willfully disobeyed the said order of this Court and that the plaintiffs were constrained to repeatedly approach this Court, not only to demonstrate such flagrant breach, but also to ensure that there was no further breach of the order by the defendant.

2. The plaintiffs are in the business of healthcare technology and specialized healthcare revenue cycle management (RCM). They offer advanced data analytics, advisory RCM services and business intelligence solutions. The plaintiffs claim to be market leaders in the said specialized field and they approached this Court with a grievance that the defendant, being their ex-senior employee, having access to sensitive confidential and proprietary information, unauthorizedly downloaded and retained such information with the intention of disseminating the same to third parties. The plaintiffs relied upon Employment and Non-Compete Agreement dated 16.10.2023 as well as Separation Agreement and General Release dated 01.06.2024, to contend that the defendant violated the clauses of the said agreements by indulging in such activity. The defendant ceased to be in employment of the plaintiffs from 04.06.2024 and since the plaintiffs apprehended that the defendant would part with such sensitive information, which included information regarding patients, they moved the present proceedings and pressed for ad-interim reliefs without notice on 12.07.2024.

3. This Court (Coram : R. I. Chagla, J.) by the order dated 12.07.2024 found that sufficient grounds were made out by the plaintiffs to seek such ad-interim reliefs without notice to the defendant. This Court referred to in detail about the disclosures pertaining to the defendant and after being convinced that such confidential and proprietary information of the plaintiffs in possession of the defendant was in danger of being disseminated to third parties, granted the *ex-parte* ad-interim reliefs.

4. The said reliefs included an order of injunction restraining the defendant from directly or indirectly parting with the confidential and proprietary information of the plaintiffs and also from infringing the

copyright of the plaintiffs in such information. The defendant was also restrained from utilizing, transmitting or commercially exploiting and disseminating such confidential and proprietary information. The defendant was also restrained from infringing the plaintiffs' copyright in various literary works such as client specific training document etc. This confidential and proprietary information was stated in detail in Annexures 'A' and 'C' and the said annexures were specifically mentioned in the *ex-parte* ad-interim order dated 12.07.2024.

5. Apart from the aforesaid directions, this Court also appointed Court Receiver of this Court as the Court Receiver in the present case and specifically authorized the Court Receiver to enter upon the premises of the defendant without notice with the help of the police and with the assistance of a third party expert, appointed by the very same order, to seize and take possession of the defendant's personal devices including personal computers, laptops etc. The Receiver was also authorized to take possession of the password and log in credentials of the defendant to access such electronic devices and thereupon, to prepare an inventory of the confidential and proprietary information and to make mirror copies of the entire electronic data stored on such devices of the defendant. This Court specifically directed that while executing the order, the Receiver would be careful to ensure that the personal data of the defendant was not compromised.

6. The said order dated 12.07.2024 was executed and served upon the defendant on 19.07.2024. Therefore, from the aforesaid date, the defendant was aware about the order and the obligations cast upon him under the said order. The Forensic Expert, appointed by this Court, took possession of the devices of the defendant and started the process of data mirroring, which was completed on 06.08.2024. When the expert commenced the forensic analysis of such data, it came to light that two

external devices of the defendant had left traces and that the said two devices had not been handed over by the defendant. In that light, on 12.08.2024, the Forensic Expert informed the Court Receiver that the said two external devices of the defendant i.e. II TB Kingston SSD Disk and San Disk Firebird were not handed over to the Court Receiver when the *ex-parte* ad-interim order was executed on 19.07.2024. Immediately on 13.08.2024, the plaintiffs brought the aforesaid fact to the notice of this Court. The matter was mentioned when the learned counsel appearing for the defendant stated that the defendant would handover the aforesaid two electronic devices to the Court Receiver by 14.08.2024. Thereafter, the Forensic Expert submitted an interim forensic report to the Court Receiver and eventually on 25.09.2024, the expert submitted the final forensic report to the office of the Court Receiver. The plaintiffs rely upon the contents of the said report to claim that the defendant brazenly violated the order of this Court, demonstrating contumacious conduct on his part.

7. In this backdrop, when the interim application seeking temporary injunctions was listed before this Court on 11.10.2024, the plaintiffs relied upon the final forensic report and pressed for specific disclosures as recorded in paragraph 2 of the said order. The learned counsel appearing for the defendant on the said date made a statement that the defendant would communicate in writing to the plaintiffs by 16.10.2024 giving his answers to the specific disclosures sought on behalf of the plaintiffs. In that light, on 15.10.2024, the defendant sent a letter to the plaintiff No.1 giving responses to the five points on which disclosures were sought by the plaintiffs.

8. It is in this backdrop that the present application was filed. The defendant filed affidavit in reply in response to which the plaintiffs filed their rejoinder affidavit. Thereafter, on 17.12.2024, the present

application was taken up for consideration, when this Court was constrained to observe in paragraph 5 that the defendant had not considered it fit to tender an apology to this Court, despite the fact that the aforesaid two devices were not handed over to the Court Receiver when the order dated 12.07.2024 was executed and instead, explanations were sought to be given. In that light, the defendant was asked to remain present on the next date of hearing and he was also directed to file an affidavit of disclosure, disclosing the data stored on the said personal devices, which was deleted by using anti forensic software. Thereafter, the hearing of the application was adjourned to 14.01.2025, while the direction for the defendant to remain present in Court was continued.

9. Mr. Virag Tulzapurkar, learned senior counsel appearing for the plaintiffs (applicants) placed before this Court the backdrop in which the *ex-parte* ad-interim order was passed on 12.07.2024 and the reasons why the Court Receiver had to be appointed. It was submitted that the defendant willfully disobeyed the said order by holding back the said two electronic devices from the Court Receiver and, as the final forensic report demonstrated, the defendant deleted data from these devices. It was further submitted that the defendant used anti forensic software, thereby demonstrating that the defendant, despite being aware of the ad-interim order from 19.07.2024, not only kept back the electronic devices, but he also deleted data from the same thereby brazenly violating the order of this Court. It was submitted that such contumacious conduct was further compounded by the defendant when he filed affidavit in reply in the present application, showing defiance and seeking to give explanations for such conduct. It was submitted that the reason given by the defendant that he panicked and that he was apprehensive that his personal data would be revealed, is wholly unsustainable in the light of the specific direction given in paragraph 38 of the ad-interim order dated 12.07.2024 passed by this Court, wherein it

was specified that the Receiver, while executing the order with the assistance of the Forensic Expert, would ensure that personal data of the defendant was not compromised. On this basis, it was submitted that disobedience and flagrant violation of the order of this Court was admitted on affidavit by the defendant.

10. It was further submitted that in this backdrop, the apology tendered in the affidavit of disclosure filed in pursuance of the direction given by this Court, can be termed to be a hollow apology with no sincerity on the part of the defendant. It was submitted that the fact that the defendant had retained data on the two electronic devices held back from the Court Receiver further demonstrated that such crucial data was disseminated to third parties in violation of the order dated 12.07.2024. On this basis, it was submitted that this Court ought to allow the present application and direct attachment of properties of the defendant and that this Court may also consider directing the defendant to be detained in civil prison for showing scant regard for the majesty of this Court.

11. The learned senior counsel for the plaintiffs relied upon the following judgements to indicate that the approach adopted by Courts while considering such applications under Order XXXIX, Rule 2A of the CPC:-

- a. *Cargil India Private Limited Vs. M. M. Oil Enterprises*, **2019 SCC OnLine Bom 857**;
- b. *Balwantbhai Somabhai Bhandari Vs. Hiralal Somabhai Contractor and others*, **2023 SCC OnLine SC 1139**;
- c. *T. Sudhakar Pai and others Vs. Manipal Academy of Higher Education and others*, **2023 SCC OnLine Kar 41**; and
- d. Order dated **13.08.2024** passed by this Court in **Contempt Petition (L) No.28560 of 2021** (*Pidilite Industries Limited Vs. Premier Stationery Industries Pvt. Ltd. and others*).

12. On the other hand, Mr. Shanay Shah, learned counsel appearing

for the defendant, at the outset, submitted that the conduct of the defendant, in the facts and circumstances of the present case, may appear to be showing disobedience of the order of this Court, but it may not be appropriate to hold that the defendant is liable to face consequences under Order XXXIX, Rule 2A of the CPC. The learned counsel relied upon judgement of the Supreme Court in the case of *Food Corporation of India Vs. Sukh Deo Prasad*, **(2009) 5 SCC 665** and judgement of the Delhi High Court in the case of *Cross Fit LLC Vs. Renjith Kunnumal and another*, **2023 SCC OnLine Del 6261**. He submitted that the aforesaid judgements provided guidance regarding the jurisdiction of the Court under Order XXXIX, Rule 2A of the CPC and the circumstances in which such jurisdiction could be exercised for imposing punishment on the party disobeying an order of injunction. It was submitted that if the said position of law is to be applied to the facts of the present case, it could be demonstrated that the plaintiffs are not justified in insisting upon the defendant being punished.

13. At the same time, it was submitted that the defendant is apologetic about his conduct and he has tendered an unconditional apology in the affidavit of disclosure filed before this Court. It was submitted that in such circumstances, this Court may take a lenient view in the matter, particularly because the defendant while facing litigation from his ex-employer panicked and under bouts of apprehension, he behaved in a manner which may not have been appropriate.

14. The learned counsel for the defendant submitted that the final forensic report of the Forensic Expert, while discussing the aspect of data transfer and data sharing details, specifically recorded that no evidence was found to indicate sharing of data by the defendant. This does show that the defendant could not be said to be guilty of breach of the injunction order dated 12.07.2024, granting ad-interim injunctions at

least insofar as clauses (a), (b) and (d) are concerned.

15. As regards the failure on the part of the defendant to handover the said two electronic devices to the Court Receiver, it was submitted that the defendant had given explanation in his reply affidavit and affidavit of disclosure that this happened due to inadvertence, as the said two devices were kept in his car and the defendant was afraid and apprehensive when the Receiver suddenly turned up at his door along with police to execute the *ex-parte* ad-interim order. It was submitted that the defendant has given honest disclosures about the data he deleted from the said two electronic devices, which was his personal data and he also gave the number of the files so deleted as per his memory. It was honestly stated that the defendant was apprehensive about his personal information and data being revealed. It was submitted that the defendant regrets his conduct. Hence, this Court may not pass any order of a punitive nature against him, considering the fact that he is now without employment and he is up against the plaintiffs i.e. his ex-employers in this legal battle. It was submitted that the defendant is ready to give an undertaking that he shall abide by the order dated 12.07.2024 and that he shall not disseminate the information and data concerning the plaintiffs, as he has not done so till date.

16. This Court has considered the rival submissions. The material on record will have to be considered to examine as to whether the conduct of the defendant in the facts and circumstances of the present case demonstrates disobedience or breach of injunction, thereby inviting punitive order under Order XXXIX, Rule 2A of the CPC. The said provision was inserted by way of amendment of the CPC w.e.f. 01.02.1977 and it provides that when the Court finds such disobedience or breach of injunction order made under Rules 1 and 2 of Order XXXIX of the CPC, an order can be passed attaching the property of the



person guilty of such disobedience or breach and such person can also be detained in civil prison for a term not exceeding three months. The attachment can remain in force for one year and if the disobedience or breach continues, the attached property can be sold and the proceeds can be awarded as compensation to the injured party. The said power of the Court has to be exercised with due care and caution. The Supreme Court in the case of **Food Corporation of India Vs. Sukh Deo Prasad** (*supra*) held as follows:-

“38. The power exercised by a court under Order 39 Rule 2-A of the Code is punitive in nature, akin to the power to punish for civil contempt under the Contempt of Courts Act, 1971. The person who complains of disobedience or breach has to clearly make out beyond any doubt that there was an injunction or order directing the person against whom the application is made, to do or desist from doing some specific thing or act and that there was disobedience or breach of such order. While considering an application under Order 39 Rule 2-A, the court cannot construe the order in regard to which disobedience/ breach is alleged, as creating an obligation to do something which is not mentioned in the "order", on surmises, suspicions and inferences. The power under Rule 2-A should be exercised with great caution and responsibility.”

17. In this context, the Delhi High Court in the case of **Cross Fit LLC Vs. Renjith Kunnumal and another** (*supra*) referred to the aforementioned judgment of the Supreme Court in the case of **Food Corporation of India Vs. Sukh Deo Prasad** (*supra*) and held that in the absence of convincing proof of violation of the injunction order, the defendant cannot be held guilty in order to suffer punitive order under Order XXXIX, Rule 2A of the CPC.

18. This Court is of the opinion that the said position of law makes it abundantly clear that mere suspicion or even strong suspicion of disobedience or breach of an injunction order cannot become the basis for passing punitive order under Order XXXIX, Rule 2 A of the CPC. In any case, the Court would have to specifically analyze the extent of such

disobedience or breach on the basis of the material available on record to pass an appropriate order proportionate to the extent of breach committed by the defendant. There is also substance in the contention raised on behalf of the plaintiffs that the defendant deliberately and flagrantly disobeying or committing breach of an injunction order, cannot be allowed to go scot-free, only upon tendering an apology. The Court would take into consideration the conduct of such a defendant to determine as to whether the apology can be said to be hollow in nature or whether such an apology demonstrates sincerity and an honest sense of repentance on the part of such defendant. The facts and circumstances of each case would determine the course to be adopted by the Court.

19. In order to determine whether the plaintiffs are justified in claiming that the entirety of the order dated 12.07.2024 passed by this Court was disobeyed or breached by the defendant, it would be necessary to understand the nature of *ex-parte* ad-interim injunctions issued by this Court under the said order. As noted hereinabove, the defendant was specifically enjoined and restrained from directly or indirectly divulging or disseminating, exploiting, utilizing or infringing the confidential and proprietary information of the plaintiffs in his possession, specifically identified in annexures 'A' and 'C'. The defendant was also enjoined from transmitting or commercially exploiting or publishing such information. This Court also appointed the Court Receiver to carry out the exercise referred to hereinabove with the assistance of the Forensic Expert. In that light, specific directions were given for taking possession of the personal devices of the defendant and to prepare mirror copies of the same. Therefore, there are two distinct limbs of the *ex-parte* ad-interim order dated 12.07.2024. Firstly, the aforementioned injunctions and restraints imposed upon the defendant and secondly, the seizing of personal electronic devices of the defendant and consequential actions to be taken by the Court Receiver

with the assistance of the Forensic Expert.

20. As regards the first limb of the *ex-parte* ad-interim order dated 12.07.2024, disobedience or breach will have to be ascertained on the basis of material on record and if the material falls short then the plaintiffs would have to lead evidence to prove such disobedience or breach. This pertains to the allegation of dissemination of such confidential and proprietary information of the plaintiffs by the defendant, in the face of the aforesaid order dated 12.07.2024. In this regard, the contents of the final forensic report dated 25.09.2024 assume significance. An aspect of dissemination could be deletion of such data from the personal electronic devices of the defendant, giving a hint that such confidential and proprietary information of the plaintiffs was disseminated and thereafter, it was deleted from the devices of the defendant. The deletion summary in the final forensic report shows that after the *ex-parte* ad-interim order dated 12.07.2024 was served on the defendant on 19.07.2024, the deletion of data took place on two occasions i.e. on 12.08.2024 and 13.08.2024.

21. The deletion summary specifically records that files were deleted between 30.06.2024 and 01.07.2024. It was also found that data deletion took place from the said two electronic devices on the two occasions i.e. on 12.08.2024 and 13.08.2024.

22. But, the most crucial part of the final forensic report dated 25.09.2024, pertaining to data transfer and data sharing details, reads as follows:-

**“5. Data transfer and data sharing details**

As per the IPR Suit, dated 12 July 2024, clause 37, prayer clause 'i', part ii states that, "Prepare an inventory of the Confidential and Proprietary Information and where and / or with what parties it has been shared."

In compliance with it, we have conducted a thorough review for

the same but found no evidence indicating sharing of data using SFTP, FTP, email and file sharing applications.

However, it was noted that multiple external USB devices/internal HDD/personal mobile device were connected to the defendant's personal computer. These USB devices/internal HDD/personal mobile device may contain copies of plaintiff data that could have been further exfiltrated before submission of the defendant's devices to the court receiver.”

23. The aforesaid finding in the final forensic report of the expert shows that after a thorough review was conducted, no evidence was found indicating sharing of data by the defendant using SFTP, FTP, email and file sharing applications. Thus, till the time the final forensic report was prepared, there was no such evidence of disobedience or breach on the part of the defendant of the aforesaid injunction restraining him from sharing or disseminating the confidential and proprietary information of the plaintiffs. As regards the apprehension expressed by the plaintiffs that the defendant, having deleted such information from the electronic devices, may have transferred it elsewhere or further disseminated it, the burden is clearly on the plaintiffs to lead further evidence in order to prove that the defendant indeed committed breach of the said injunction order by sharing or disseminating such confidential and proprietary information of the plaintiffs to third parties.

24. At this stage, there is absence of evidence to show any such disobedience or breach on the part of the defendant with regard to the first limb of the said injunction order. When this Court put a specific query to the learned senior counsel appearing for the plaintiffs as to whether the plaintiffs wanted to lead evidence to show that the defendant had committed breach of the injunction order by sharing or disseminating such information, he submitted, on instructions, that the plaintiffs would not be leading any further evidence.

25. In the face of such material, this Court finds that there is lack of material to demonstrate willful disobedience or breach of the aforesaid first limb of the injunction order by the defendant. In fact, in the affidavits filed in this application, the defendant has specifically stated that he has not disseminated or parted with such information to any third party. The defendant cannot be asked to prove the negative, and therefore, this Court is of the opinion that in the facts and circumstances of this case, it would not be possible to reach a finding against the defendant of having disobeyed or breached the aforesaid first limb of the order of injunction dated 12.07.2024.

26. The material on record will have to be analyzed, as regards the second limb of the injunction order concerning the appointment of receiver and the manner in which the order was to be executed, requiring the defendant to co-operate with the receiver upon the injunction order being communicated to him.

27. An analysis of the same does show that even as per the statements made in the reply affidavit and the affidavit of disclosure in this application, the defendant himself has admitted that the two electronic devices i.e. II TB Kingston SSD Disk and San Disk Firebird were not handed over to the Court Receiver when the ad-interim injunction order was being executed on 19.07.2024. Thus, breach of the said direction of this Court is indeed made out in the present case. While the plaintiffs have alleged that the defendant deliberately held back the said two electronic devices, it is sought to be explained by the defendant that it happened due to inadvertence and the situation created when the Receiver suddenly turned up at the door of the defendant along with police to execute the ad-interim order dated 12.07.2024. The defendant claimed that he suddenly became apprehensive and fearful and having panicked, he forgot that the said two electronic devices were left in his

car. He further claimed that due to an apprehension that his private data would be revealed, he deleted the same from the aforesaid two electronic devices by using anti forensic software.

28. In this context, the most relevant circumstance is the fact that the *ex-parte* ad-interim order dated 12.07.2024 was admittedly served on the defendant on 19.07.2024, when the said order was executed by the Court Receiver. Thus, on 19.07.2024, the defendant was fully aware about the contents of the order dated 12.07.2024, including paragraph 38 thereof, which specifically directed that when the Forensic Expert would be assisting the Court Receiver to execute the said order, it would be done carefully and in such a manner that the personal data of the defendant was not compromised. This is crucial for the reason that the only explanation given by the defendant for deleting data on 12.08.2024 and 13.08.2024 from the said two electronic devices is that, he was apprehensive about his personal data being revealed. The said explanation is not worthy of acceptance and it does show an effort on the part of the defendant to breach the specific directions contained in the order dated 12.07.2024 passed by this Court.

29. It is also relevant to note that the defendant came forward to handover the aforesaid two electronic devices, only after the Forensic Expert sent a communication to the Court Receiver about the said two electronic devices having been held back by the defendant and in that light, the matter being mentioned before this Court by the plaintiffs on 13.08.2024. Thus, it was only when the breach was brought to the notice of this Court that the defendant came forward to handover the two electronic devices to the Court Receiver. The explanation given in the affidavit in reply and the affidavit of disclosure that this was due to 'unintentional oversight', cannot be accepted as it lacks sincerity. This Court finds that it was only after being caught on the wrong foot that the

defendant abided by the directions of this Court and if the Forensic Expert would not have noticed traces of the said two electronic devices held back by the defendant while preparing mirror copies of the data from the devices handed over to the expert, the defendant would never have come clean and this is a factor that cannot be ignored by this Court.

30. Apart from this, after the said two electronic devices had to be handed over by the defendant to the Court Receiver when the matter was mentioned on 13.08.2024, the defendant did not come clean and he failed to state at the outset that due to apprehension and fear, he had deleted certain data, ostensibly containing his private information from the said two electronic devices. It was only after the final forensic report dated 25.09.2024 was submitted by the expert and relied upon by the plaintiffs in the present application, that the defendant tried to explain as to why he had deleted such information and used anti forensic software in respect of the said two electronic device. This Court finds that such conduct on the part of the defendant shows that he has scant regard for the majesty of this Court and the casual manner in which he has treated the orders passed by this Court even during the pendency of the present application under Order XXXIX, Rule 2A of the CPC. The said property was *custodia legis* and yet the defendant defiantly and brazenly dealt with the same in utter violation of the order of this Court.

31. In this backdrop, when the apology tendered by the defendant in the affidavit of disclosure is considered, this Court finds that the said apology cannot be said to be sincere and demonstrating repentance on the part of the defendant for his conduct. As noted hereinabove, in the order dated 17.12.2024, this Court (Coram : R. I. Chagla, J.) found in paragraph 5 that the defendant, while filing affidavit in reply in the present application, did not even consider it fit to tender an apology. It is to be noted that after the said order was passed and the defendant was

specifically directed to file affidavit of disclosure on or before 03.01.2025, disclosing details of the deleted data on the said two personal devices by using anti forensic software that for the first time, in the affidavit of disclosure dated 02.01.2025, the defendant tendered unconditional apology to this Court in paragraph 2 of the said affidavit. This demonstrates that the defendant, at the outset, despite his aforesaid conduct, did not tender an apology immediately and with sincerity. The learned senior counsel for the plaintiffs, in this regard, is justified in relying upon the judgements in the cases of **Cargil India Private Limited Vs. M. M. Oil Enterprises** (*supra*) and **Balwantbhai Somabhai Bhandari Vs. Hiralal Somabhai Contractor** (*supra*).

32. But, it is to be noted that in the aforesaid judgements, upon which the learned senior counsel for the plaintiffs placed reliance and also the other judgements on which the reliance was placed i.e. **T. Sudhakar Pai Vs. Manipal Academy of Higher Education** (*supra*) and **Pidilite Industries Limited Vs. Premier Stationery Industries Pvt. Ltd.** (*supra*), the Courts found, *inter alia*, that the party alleged to be in breach of the order of injunction had made false statements on affidavits and / or flagrantly violated orders of injunction, restraining the party from acting or not acting in a particular manner. This Court has already found that the defendant, in the facts and circumstances of the present case, cannot be said to have flagrantly violated specific ad-interim injunctions granted as per prayer clauses (a), (b) and (d) in paragraph 37 of the said order. At the same time, this Court finds that the defendant has fallen short of completely and substantially abiding by the directions contained in the second limb of the order of ad-interim injunction dated 12.07.2024, concerning the manner in which the defendant was to handover all the electronic devices to the Court Receiver, for the Forensic Expert to undertake the exercise of making mirror copies and to execute other ancillary directions issued by this Court.



33. This Court is of the opinion that in such cases, concerning Order XXXIX, Rule 2A of the CPC, power has to be exercised with care, caution and responsibility, as held by the Supreme Court in the case of **Food Corporation of India Vs. Sukh Deo Prasad** (*supra*) and thereupon, a punitive order can be passed. Even while passing such punitive order, the Court cannot be oblivious of the principle of proportionality. The more intense the breach of the injunction order, the more severe ought to be the punitive order under Order XXXIX, Rule 2A of the CPC. The nature of disobedience or breach of an order of injunction has to be taken into consideration by the Court even if a finding is rendered that such disobedience or breach has been proved. This Court is of the opinion that if the breach of the first limb of the aforementioned ad-interim order of injunction dated 12.07.2024 was to have been proved, the approach of this Court would proportionately have been more severe. But, considering the nature of breach of the second limb of the said injunction order, this Court is proceeding to pass appropriate punitive order against the defendant. It is to be noted that in the letter dated 15.10.2024 sent by the defendant to the plaintiff No.1, in the backdrop of the order dated 11.10.2024, wherein specific disclosures sought by the plaintiff were recorded, the defendant specifically stated that he had not disseminated or otherwise dealt with the confidential and proprietary information of the plaintiffs. The forensic expert report dated 25.09.2024 also found that there was no evidence of such sharing or dissemination of the aforesaid information by the defendant. The defendant has reiterated that he is ready to give a further undertaking to the satisfaction of this Court in that regard. Therefore, while passing the punitive order against the defendant, this Court is also inclined to issue appropriate directions to him.

34. The plaintiffs were repeatedly required to approach this Court due to the conduct of the defendant in holding back the said two electronic

devices and thereafter deleting information without intimation to the Court Receiver or the Forensic Expert and this factor also needs to be taken into consideration while passing the order against the defendant.

35. In view of the above, considering the contumacious conduct of the defendant in breaching the aforesaid second limb of the injunction order dated 12.07.2024 and in order to proportionately penalize him, it would be appropriate that the defendant purges the contempt rather than being directly sent to the civil prison. Hence, the following order:-

- (i) The defendant shall pay to the plaintiffs, an amount of Rs.5 lakhs within a period of four weeks from the date of this order;
- (ii) In the event, the defendant fails to pay the aforesaid amount within the stipulated period of time, he shall be taken into custody and detained in civil prison for a period of four weeks;
- (iii) The defendant shall file an undertaking before this Court within a period of four weeks to the effect that he shall not disseminate the confidential and proprietary information of the plaintiffs to any third party until further orders in Interim Application (L) No.29172 of 2024, and that he shall abide by the directions / orders issued by this Court, while disposing of the said application.

36. The instant application is disposed of in above terms.

**(MANISH PITALE, J.)**