

MOOT PROBLEM -3

In the Hon'ble Supreme Court of India

Diamond Network News Pvt. Ltd.

...Petitioner

Versus

Union of India

...Respondent

1. *"Jago India!"* is an investigative news program which is aired from 8:00 PM to 9:00 PM on Diamond News Network Pvt. Ltd. It enjoys high TRP's due to the often sensationalistic and outlandish claims made by its host Kshimendra Tripathi. Its frequent themes include, black magic, aliens, supernatural powers and sometimes even wish granting snakes. ORG-DWAR a TRP rating agency rates it as one of the top 3 programs in the Rural Market, in the viewership range of MALE/FEMALE 15-35.
2. Shortly after a verdict is delivered by the Special Bench of the Hon'ble Ballabhad High Court hearing the Garodhra Case (Similar to the Ayodhya Case decision available at <http://elegalix.allahabadhighcourt.in/elegalix/DisplayAyodhyaBenchLandingPage.do>), Mr. Tripathi on 30.09.2010 airs a special program on *"Jago India!"* called "Garodhra : Mosque or Temple".
3. In the program he invites a distinguished panel of senior lawyers, former judges and civil society activists. One of the panelists includes, Mr. Kishori Nanda Bhagwat who is known for his communal and controversial views. Mr. Kishori Nanda Bhagwat also has some criminal proceedings pending against him in several states for hate speech and incitement of enmity between religious groups.
4. During the panel discussion some highly objectionable remarks are made, a transcript of which is provided below:

"Mr. Tripathi : What can we say today ? After more than 11 years of wait what we have got today is not a verdict. It is so long and incomprehensible. The people of this country want a closure. They want a mosque or they want a temple. Now let me ask Mr. Bhagwat why he wants a temple. Mr. Bhagwat your views?"

Mr. Bhagwat: Tripathi Jee, let me be clear. The judges of this country are either corrupt or they are afraid to take decisive action. We have lot of evidence that there was a temple at the Garodhra Masjid Site. Who are these judges to tell us otherwise. I for one will not stand for a verdict which allows the Mosque to continue to be there. The courts today are a haven for blackmarketers, bride burners and FERA criminals".

Mr. Tripathi : There is something which is rotten in the state of Denmark".
5. When this discussion is progressing, visuals showing the forceful and illegal demolition of the Garodhra Masjid are shown. There are also clips showing the Judges of the Hon'ble Ballabhad High Court who delivered the verdict in the Garodhra Case.

6. Justice M.C. Gupta, who was one of the Judges in the Garodhra Case is shocked when watches this program. Having recently retired after spending more than 14 distinguished years in the service of the Judiciary he takes this telecast to be a personal affront to him. Being deeply pained by this he sends a notice of defamation dated 12.12.2010 to Diamond Network News Pvt. Ltd. asking for a personal apology.
7. Diamond Network News Pvt. Ltd. through its lawyers reply to the notice on 06.01.2011 stating:

“While we deeply regret the pain and suffering caused to you personally as per the broadcast, we do not share or voice the views on our television programs. All our television programs which invite members of the public do not reflect the positions and the opinion of Diamond Network News Pvt. Ltd.. Towards this we put up a prominent disclaimer at the beginning of each telecast reminding our viewers that the opinions expressed by our panelists are their alone. Moreover Jago India! is a live program in which we do not censor or edit the contents. Having said this, we again are apologetic for the telecast and the contents which caused you agony. Please note that this is without prejudice to our rights to telecast differing views and opinions.”
8. Not being satisfied with the reply Justice M.C. Gupta files a Suit for Damages for Defamation on 02.02.2011 in the District Court of Ballabhad. The suit is valued at Rs. 100 Crores which is also the amount of damages which are being claimed by him. On 06.04.2011, the District Court of Ballabhad issues an ex-parte interim order calling upon Diamond Network News Pvt. Ltd. to deposit Rs. 50 Crore and also not re-telecasting the program of *Jago India!* telecast on 30.09.2010.
9. Aggrieved with the Order dated 02.02.2011 passed by the Hon’ble District Court of Ballabhad, Diamond Network News Pvt. Ltd. has approached the Hon’ble Supreme Court of India under Article 32 through its majority shareholder, Mr. Priyadas Singhania who is an Indian. The substantial questions for determination are:
 - a. Whether the Order dated 02.02.2011 calling upon the Petitioner to deposit Rs. 50 Crore infringes the freedom of press?
 - b. Whether the Ld. District Court was correct in passing the Order dated 02.02.2011 ex-parte?
 - c. Whether the Petitioner is in any way liable for the views and opinions of panelists on its shows?