

A - 117 - 2014

10.04.2014

**BY COURIER/ EMAIL**  
**WITHOUT PREJUDICE**

To,  
MAXIM Advocates & Law Consultants  
C-4/70 A, Lawrence Rd, Keshav Puram,  
Delhi - 110035, India.

Email: (1) maximadvocates@gmail.com

Subject: Reply to legal notice undated (received by email on 03.04.2014)

Your reference: NIL

Your Client: Relief India Trust (further details as to address and registration have not been provided).

Our Client: Mr. Vishnu Gopal, C/o MobME Wireless Solutions, 4th Floor Bhageeratha Square, Kacheripady, Kochi 682018, Kerala.

Dear Sir/Madam,

A. We are concerned for Our Client, Vishnu Gopal and under instructions of and on behalf of Our Client, we reply to your undated legal notice received on 03.04.2014 as under:-

B. At the very outset, the allegations and averments made in the notice under reply, unless otherwise specifically traversed and admitted herein, are strictly denied and refuted. It is stated that your aforementioned legal notice is without any basis, unfounded and is with a view to impede Our Clients constitutional right to freedom of speech. In this connection Our Client wishes to draw your attention to the following facts:

- i. Our Client on February 9, 2013 received an email, with the subject line, "Save Life Of Master Mahi At AIIMS" from [donate1@reliefindiatrust.org](mailto:donate1@reliefindiatrust.org) on his email ID. The email requested for donation of money for the operation and medical expenses of a poor and destitute patient. This email, was further followed up with several telephone calls which continue till date asking for the donation. This donation would be received in the Bank Accounts of Your Client for the ostensible benefit of the Patient undergoing the purported operation. With a view, to make such a charitable donation, Our Client, inquired as to the NGO Number and Section 80G registration. On making such inquires Your Client severed all communications.



defamatory, Our Client is unable to take down the comments. Here, your Legal Notice has not mentioned even one comment, which is specifically defamatory and has resorted to make vague and general statements.

- vi. It is also submitted that Your Client, has even earlier resorted to illegal acts to disrupt accessibility to the Blog/Article dated February 13, 2013. These include:
- i. In the month of November, 2013 a series of Denial of Service attacks were launched against the hosting provider of the Blog/Article due to which access to it was temporarily disrupted. This has been confirmed in correspondence by the Hosting Provider. Our Client has preserved all digital records relating to this incident. A Denial of Service attack is illegal under the laws of India, with the Information Technology Act, 2000 contemplating, independent civil and criminal remedies.
  - ii. In the month of January, 2014 a DMCA complaint was filed by one, Mr. Mukesh Arora who identified himself to be a part of Your Client. This DMCA complaint was filed against the Blog/Article with a view to have it taken down. This was an egregious exercise of the DMCA process, which only provides a remedy to Copyright Owners against unauthorized use of their works and does not extend to claims for defamation in any way. Moreover, the alleged infringement claims, were clearly frivolous given that the Complaint stated that the infringement was caused due to the use of the term, "Relief India Trust", which is protected by "IPR". By any legal standard, the use of a person or an entities, name, does not constitute any Copyright infringement. However, this frivolous legal process was used to attempt to take down the Blog/Article.

It is evident that Your Client has resorted to several illegal acts as well as threatened coercive litigation even prior to the present notice, under reply. Hence the salutary comments in your notice that, "[w]e are not against freedom of speech and recognize the value of fair comment" are false.

- vii. Our Client states that the Blog/Article contains statements which emanate from facts and are in the public good, being even published on third party websites listed above. The Blog/Article does in no way harm the reputation of Your Client in as much the post relies on facts already in the public domain through news reports and documents which have been gathered through research. Any comments or opinions which are contained in the Blog/Article arise fairly and reasonably from these documents and facts, the publication of which is in the broader public good.
- viii. In the absence of any specific allegations of defamation, or even paragraph numbering in your Legal Notice, Our Client is unable to respond para wise. In any case, no part of the Blog/Article has been pointed out through your notice to be defamatory which only makes general and unsubstantiated claims.

- C. In view of the above, Our Client calls upon you to withdraw your legal notice and the claims made under it, since they are contrary to facts and are with a view to coerce Our Client to take down the Blog/Article. With respect to your demands stated under the heading, "Next Steps", we have been instructed by Our Client to refer Your Client to the reply given in the case of *Arkell v. Pressdram* (1971).
- D. In case you initiate any legal proceedings against Our Client, based on the facts stated in the said legal notice, the same will be at the peril and cost of Your Client and shall be dealt with by Our Client as advised. Please take notice and advise your Client accordingly.
- E. Our Client, further states that it is at liberty to initiate legal proceedings, civil and criminal for the illegal acts of Your Client in the past including, the Denial of Service attacks, false claims of copyright infringement under the DMCA, and the threat of coercive legal proceedings.

Yours faithfully,



[APAR GUPTA]

PARTNER