

Federal Court



Cour fédérale

Date: 20130424

Docket: T-514-10

Ottawa, Ontario, April 24, 2013

PRESENT: The Honourable Madam Justice Tremblay-Lamer

BETWEEN:

HIS HIGHNESS PRINCE KARIM AGA KHAN

Plaintiff

and

NAGIB TAJDIN, ALNAZ JIWI, JOHN DOE
AND DOE CO. AND ALL OTHER PERSONS
OR ENTITIES UNKNOWN TO THE
PLAINTIFF WHO ARE REPRODUCING,
PUBLICSHING, PROMOTING AND/OR
AUTHORIZING THE REPRODUCTION AND
PROMOTION OF THE INFRINGING
MATERIALS

Defendants

ORDER

UPON MOTION by the Defendants Nagib and Alnaz Jiwa, pursuant to Rule 51 of the
Federal Courts Rules, SOR/98-106 appealing the Order of Prothotary Milczynski made October
29, 2012;

AND UPON reviewing the materials filed and hearing counsel for both parties;

AND UPON considering that this Court has expressed to the parties that it believes that this matter should be brought to a conclusion forthwith, in light of the limited financial scope of the debate in issue and the extent of resources allocated to this file as of this date;

AND UPON considering that with the sole exception dealt with hereafter, the Court is of the opinion that the outstanding questions which the Prothonotary ordered the Defendants to answer, have been satisfactorily answered by material and information communicated by the Defendants to the Plaintiff subsequent to the Prothonotary's Order;

THIS COURT ORDERS that:

1. This motion is granted in part and the appeal is allowed in part.
2. The Order of the Prothonotary dated October 29, 2012 is set aside, with the sole exception that the Court orders the Defendants to provide the Plaintiff and his legal counsel with the names of ten (10) purchasers of the material in dispute, being a book entitled "*Farmans 1957-2009 – Golden Edition Kalam-E Imam-E-Zaman*", for the sole purpose of ascertaining the purchase price paid by them.
3. The Court further orders, as a condition of making this Order, that information will be given to the Plaintiff His Highness Prince Karim Aga Khan and Plaintiff's legal counsel and the Plaintiff shall share this information only with the following named representatives of the Plaintiff, each of whom is the Chairman of the Ismaili Tariqah and Religious Education Board (ITREB) in his or her respective country:
 - Alijah Dr. Mohamud Amirali Karim (Canada)
 - Huzur Mukhiani Shahinour Nathoo (France)

- Alijah Saheba Guilner Riyaz Makaney (India)
- Alijah Hassan Noorali Chatur Popat (Kenya)
- Huzur Mukhi Azzim Gulamhussen (Portugal)
- Rai Abdulaziz Akberali Lalani (Tanzania)
- Alijah Saheba Arzina Riyaz Kurji (Uganda)
- Huzur Mukhiani Salima Gowerali Bhatia (United Kingdom)
- Alijah Al-Karim Sadruddin Alidina (United States of America)

to be used solely for the aforementioned purpose.

4. The information obtained in the response to this question shall be used for the sole purpose of this litigation and shall be subject to the obligation of confidentiality required by the implied undertaking rule.
5. The whole without costs.

"Danièle Tremblay-Lamer"

Judge