

Federal Court



Cour fédérale

Date: 20130607

Docket: T-514-10

Ottawa, Ontario, June 7, 2013

PRESENT: The Honourable Madam Justice Tremblay-Lamer

BETWEEN:

HIS HIGHNESS PRINCE KARIM AGA KHAN

Plaintiff

and

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

Defendants

ORDER

UPON considering the Plaintiff's motion for reconsideration of my order dated April 24, 2012, wherein I set aside an Order of Prothonotary Milczynski dated October 29, 2012, with the sole exception that I ordered the Defendants to provide the Plaintiff and his legal counsel with the names of ten purchasers of the material in dispute, for the sole purpose of ascertaining the purchase price paid by them;

AND UPON considering that this motion is under Rule 397 of the *Federal Courts Rules*,

SOR/98-106, which reads as follows:

Motion to reconsider

397. (1) Within 10 days after the making of an order, or within such other time as the Court may allow, a party may serve and file a notice of motion to request that the Court, as constituted at the time the order was made, reconsider its terms on the ground that

(a) the order does not accord with any reasons given for it; or

(b) a matter that should have been dealt with has been overlooked or accidentally omitted.

Mistakes

(2) Clerical mistakes, errors or omissions in an order may at any time be corrected by the Court.

Réexamen

397. (1) Dans les 10 jours après qu'une ordonnance a été rendue ou dans tout autre délai accordé par la Cour, une partie peut signifier et déposer un avis de requête demandant à la Cour qui a rendu l'ordonnance, telle qu'elle était constituée à ce moment, d'en examiner de nouveau les termes, mais seulement pour l'une ou l'autre des raisons suivantes :

a) l'ordonnance ne concorde pas avec les motifs qui, le cas échéant, ont été donnés pour la justifier;

b) une question qui aurait dû être traitée a été oubliée ou omise involontairement.

Erreurs

(2) Les fautes de transcription, les erreurs et les omissions contenues dans les ordonnances peuvent être corrigées à tout moment par la Cour.

AND UPON considering that the Plaintiff asks that paragraph 2 of my Order be

reconsidered and that the following words in bold be inserted into this paragraph:

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", as set out in paragraph six of the Order of Prothonotary

Milczynski dated October 29, 2012, for the sole purpose of ascertaining the purchase price paid by them.

AND UPON considering that paragraph six of the Order of Prothonotary Milczynski provides as follows:

6. The Defendant Mr. Tajdin shall answer the questions represented by Item Nos. 14 to 22 on the Revised summary chart of refusals by producing the names of ten people who ordered books, as indicated on the "Golden Edition Shipping Spreadsheet" (Exhibit 2, Tab 8 of the Discovery Transcript of Mr. Tajdin taken November 8, 2011). The Plaintiff is entitled to select the ten names it wishes to have produced by Mr. Taidin from this spreadsheet. If Mr. Tajdin does not have names in connection with the shipping orders identified by the Plaintiff, then Mr. Tajdin is to produce any customer names he has in connection with this spreadsheet.

[Emphasis added]

AND UPON considering that the Plaintiff argues that as paragraph 2 of my Order could be interpreted as ordering the Defendants to provide the names of any ten purchasers, the paragraph is inconsistent with the part of the Prothonotary's Order that it was intended to uphold;

AND UPON considering that I did not overlook or accidentally omit the disclosure required in paragraph 6 of the Prothonotary's Order;

AND UPON considering that contrary to the Plaintiff's assertion, I did not intend to uphold paragraph 6 of the Prothonotary's Order;

AND UPON considering that in my Order, in light of the information that had already been disclosed to the Plaintiff, I decided to narrow the scope of disclosure required by the Prothonotary by ordering the Defendants to provide the names of any ten purchasers of the material in dispute;

THIS COURT ORDERS that the motion is dismissed.

"Danièle Tremblay-Lamer"
Judge