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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION (L) NO. 2540 OF 2016
IN
SUIT (L) NO. 869 OF 2016

Ms. Anita wd/o Mumukshu Mudgal ...Plaintiff
Versus
Mr. Sjid Nadiadwalla & 3 Ors. ...Defendants

Mr. R. R. Mishra, i/b Hitesh Dabhi, for the Plaintiff.
Mr. Ravi Suryawanshi, a/w Mansi Nair, for Defendant No. 1.
Mr. Akshay Patil, a/w Mr. Ajai Fernandes, i/b R. M. Azim, for
Defendant No. 2.

CORAM: G.S. PATEL, J
DATED: 30th August 2016

PC:-

1. This is an action in copyright infringement.
2. The Plaintiff first filed S.C. Suit No. 1444 of 2016 in the Bombay City Civil Court at Dindoshi. She sought ad-interim reliefs restraining the release of the motion picture *Houseful 3*. That ad-interim application was rejected by a speaking order dated 31st May 2016. It is thereafter that, admittedly, the Plaintiff withdrew her Suit saying that the City Civil Court had no jurisdiction and some time later filed the present Suit. By that time, the film had been released.

3. This application now seeks to restrain the Defendants from releasing the film on satellite, television, cable, video on demand and on the internet.

4. There is already one finding of a Court on facts, *i.e.*, the City Civil Court that the Plaintiff is unable to demonstrate with the required particularity that there was a disclosure of the Plaintiff's deceased husband's script to the 1st Defendant 10 years ago in October/November 2007. I will proceed, however, for the present on the findings that Suit is withdrawn and in any case since that the a finding of the City Civil Court, I am at liberty to look at the matter afresh. Paragraph 8 at page 6 of the Plaintiff sets out the Plaintiff's case in this behalf:

"8. The Plaintiff states that in the year October-November 2007, her husband's good friend Mr. harsh Prasad (writer-director) suggested to Mr. Mumukshu (Late husband) to go to Mr. Sajid Nadiadwalla, the Defendant No. 1 to narrate the story "Dewaaney to dewaaney hai. So the Plaintiff and her husband had gone to Defendant No. 1's office Mr. Nadiadwalla office at versova in the second half of the day. They reached to reception and told receptionist regarding meeting with Mr. Sajid Nadiadwalla. Then, both of them went to the Defendant No.1's office and Plaintiff's husband narrated the story of Dewaaney to Dewaaney hai to the Defendant No. 1 and left one copy of the script in his cabin for consideration. As per prevailing practice then, they did not obtain any acknowledgement for the handing over of the said story to the Defendant No. 1 as per prevailing practice then. In film industry, generally

no producer/director gives an acknowledgement of the receipt of any story/script/scenes/songs.”

5. There are two aspects to this. The first is about the assertion that such a meeting in fact took place and that the events at that meeting (date is not specified) did come to pass. The second aspect is the assertion of a “preferential practice” in the film industry. These matters require proof. It cannot be assumed.

6. The Plaintiff sets out in a tabulation in paragraph 14, 19 similarities between the Plaintiff’s script and the film *Houseful 3*. I will make no comment on this at this stage since I propose only to make the Notice of Motion returnable at an early date. I will on the next occasion, at the time of final hearing of the Notice of Motion, examine this contention on behalf of the Plaintiff.

7. As to the claim for an ad-interim injunction, I do not think that sufficient strong *prima facie* case is made out for an ad-interim relief. I will certainly consider whether any further orders are necessary against the Defendants at the time when I hear the Notice of Motion. Since the Defendants are in any case keeping accounts of the film’s receipts from all modes of release, even a direction to maintain accounts is unnecessary. That would have been required had such accounts not been maintained in the first place.

8. Affidavit in Reply to be filed and served on or before 23rd September 2016. Affidavit in Rejoinder, if any, to be filed and served on or before 30th September 2016.

9. List the Notice of Motion for hearing and final disposal on 6th October 2016.

(G. S. PATEL, J.)

Bombay High Court