

\$~35.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(COMM) 38/2016

BALAJI MOTION PICTURES LIMITED Plaintiff

Through: Mr. Abhishek Malhotra, Advocate.

versus

WWW.1337.YOOTORRENT.COM & ORS Defendants

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

19.01.2016

%

I.A. No. 834-835/2016

1. Exemptions allowed, subject to all just exceptions. Compliance be made within four weeks.
2. The applications stand disposed of.

I.A. No. 833/2016

3. Learned counsel for the plaintiff states that deficiency in Court Fees shall be made up within a day. Let the same be made up within two days.
4. The application stands disposed of.

CS(COMM) 38/2016 & I.A. No. 832/2016

5. Issue summons in the suit and notice in the application to the

defendants returnable on 05.05.2016.

6. The plaintiff has filed the present suit impleading 300 defendants. Defendants No.1 to 203 are websites allegedly engaged in the business of uploading content. The plaintiff apprehends that the said websites may even upload unlicensed copy of the plaintiff's film "*Kya Kool Hai Hum 3*", of which the plaintiff claims to be the producer and copyright holder. Defendants No.204 to 238 are Internet Service Providers (ISP), who are engaged in the business of providing basic telephony, mobile services and broadband network all over the world and are covered by the Information Technology Act, 2000 as well as Copyright Act, 1957 and the Telecom Regulatory Authority of India Act, 1997 (TRAI Act). The Ministry of Communication & Information Technology has been impleaded as defendant No.239. The plaintiff states that defendants No.204 to 239 have been impleaded so that the orders that may be passed by this Court may be implemented by them by blocking the infringing URLs of websites such as defendants No.1 to 203. Defendants No.240 to 260 and 260-274 are Multi System Operators (MSOs) and cable operators governed by the Cable Network Regulation Act, 1995 and the TRAI Act. The plaintiff states that various MSOs and cable operators, including in Delhi could be engaged in unauthorised unlicensed production and broadcast, on their local channels and through other means, of various pirated contents, including cinematograph films through their cable network. The apprehension of the plaintiff is that the said defendants may indulge in broadcast of the aforesaid copyright of the plaintiff, which is yet to be released and is due to release on 22.01.2016. Defendants No.275 to 300 are unknown persons, who the

plaintiff apprehends will infringe the copyright in the aforesaid cinematograph film.

7. The suit is in the nature of a *John Doe* suit. The plaintiff submits that if the defendants, or any of them, infringe the plaintiff's copyright in the aforesaid cinematograph film, the same would lead to colossal losses to the plaintiff, and once the infringement takes place, it would be difficult to track and check the same. The plaintiff has placed reliance on several orders passed by the Courts, including by this Court, in other similar situations. Since the copyright in the work in question resides in the plaintiff, and the plaintiff claims not to have assigned or licensed the same to any of the defendants, in my view, the plaintiff is entitled to protection in its copyrighted work.

8. Accordingly, the defendants are enjoined from communicating, making available, distributing, duplicating, displaying, releasing, showing, uploading, downloading, exhibiting, playing, defraying the movie "*Kya Kool Hai Hum 3*" in any manner whatsoever without obtaining prior license from the plaintiff or in any other manner that would infringe the plaintiff's copyright in the said cinematograph film through any medium whatsoever.

9. Defendants No.204 to 239 are directed to ensure compliance of this order by the other defendants.

10. Dasti.

VIPIN SANGHI, J

JANUARY 19, 2016

B.S. Rohella