

VIKRANT

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION (L) No. 2315 OF 2016
IN
SUIT (L) NO. 751 OF 2016

Eros International Media Limited & Another ...Plaintiffs
Versus
Bharat Sanchar Nigam Limited & 49 Others ...Defendants

Mr. N. Rodrigues, i/b R.M. Partners for the Plaintiffs.
Mr. Ashish Bhan, with Udit Mendiratta Padmaja Kaul, with Ms.
Shivangi Agarwal, i/b Trilegal for the Defendants.

CORAM: G.S. PATEL, J
DATED: 24th August 2016

PC:-

1. I have noticed some media reports that comment on the fact that the error pages being displayed by various ISPs giving an impression that “viewing” an illicit copy of a film is a penal offence under the Copyright Act, 1957. This is inaccurate. The offences under the Copyright Act, 1957 are covered *inter alia* by Sections 63, 63-A, 63-B and 65-A read with Section 51, and in particular, Section 51(b)(ii). These newsreports show, and this is confirmed by Mr. Rodrigues for the Plaintiffs, that many ISPs, including Tata Communications Limited, have put up error pages saying that “*viewing, downloading, exhibiting or duplicating*” a particular film is a

punishable offence. The offence is not in viewing, but in making a prejudicial distribution, a public exhibition or letting for sale or hire without appropriate permission copyright-protected material. These error pages appear to have confused the penal provisions regarding obscenity with penalties under the Copyright Act, 1957.

2. It is no longer possible to leave it to these ISPs to construct appropriate error pages. I will request Mr. Rodrigues and Mr. Dhond, learned Senior Advocate for the Plaintiffs, to suggest an appropriately worded draft of the error pages so that these can then be issued to the ISPs. If the Plaintiffs can work out a suitable and effective combined error message applicable or usable by all ISPs, that would be ideal. The basic purpose must be kept in mind, *i.e.*, so that a person who is inadvertently adversely affected by a blocking order is made aware of his remedies and about which Court he or she can approach for corrective or remedial action.

3. List the matter on Friday, 26th August 2016 at 3.00 p.m.

(G. S. PATEL, J.)