

\$~28

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 1299/2015
FOX STAR STUDIOS INDIA LTD. & ANR

..... Plaintiffs

Through Mr.Rajiv Nayyar, Sr. Advocate with
Mr. Sidharth Chopra, Ms.Senha Jain
and Ms.Savni Dutt, Advocates.

versus

MACPULER WILLAM & ORS.

..... Defendants

Through Nemo.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **14.05.2015**

I.A.No.9754/2015 (Exemption)

1 Subject to the undertaking of the plaintiff that he will file original documents/certified copies of the documents within four weeks from today exemption is allowed. Application disposed of.

I.A.No.9755/2015 (Exemption)

2 Exemption is allowed subject to just exceptions. Application disposed of.

I.A.No.9756/2015 (exemption to serve notice u/S 80 of the CPC)

3 Defendant nos.42 and 43 are the Department of Telecommunication and Department of Electronics and Information Technology respectively. Learned counsel for the plaintiff submits that this application has been filed by way of abundant precaution but

in view of the judgment of the Supreme Court in WP(Crl.) No.167/2012 Shreya Singhal Vs. Union of India there is a mandate on the Government to make necessary compliance.

4 Accordingly, exemption is allowed subject to just exceptions.

CS(OS) 1299/2015 & I.A.No.9753/2015 (u/O XXXIX R. 1& 2 CPC)

5 Issue summons of the suit and notice of the pending application to the defendants on the plaintiffs taking necessary steps by way of ordinary process, speed post as also courier.

6 The present suit is a suit for permanent injunction for infringement of copyright, accounts of profits, delivery up and damages. Plaintiff no.1 is a leading production and distribution company in India and the exclusive licensee of media rights to various films. Plaintiff no.2 is a production company responsible for various celebrated films. The cinematograph film titled “Bombay Velvet” is the subject matter of the instant suit which has been produced by plaintiff no.2. It is stated to be scheduled for release on 15.5.2015. Plaintiff no.2 is the author/producer of the film and is thus the owner of the copyright in the film in terms of Section 17 of the Copyright Act, 1957. It has a exclusive right as guaranteed under the said Act. By virtue of an agreement dated 15.7.2015, the plaintiff no.2 had granted exclusive licence to plaintiff no.1 in respect of the aforementioned film. The plaintiffs have filed the instant suit for protection of its rights guaranteed under the Copyright Act.

7 Plaintiffs have expended substantial monetary investment and have also undertaken a great deal of work in the marketing,

exploitation, distribution and communication of the said film. The apprehension of the plaintiffs is that before the release of the film the film may be downloaded and seen on websites and will be available for viewing illegally without authorization. This suit has been filed against various websites (named and un-named) who are primarily indulged in hosting, streaming or providing access to infringing and illegal content.

8 Defendant nos.1 to 24 are the websites engaged in the aforementioned business of hosting, streaming, retransmitting/downloading such kind of illegal content. Defendant nos.25 to 41 are the Internet Service Providers (ISPs) and Telecom Service Providers. These defendants are collectively engaged in the business of providing internet services and telecom services respectively to the public and are the gateways which enable access of such “rogue” websites through internet into India. Defendant nos.42 and 43 are the Government Departments and they have been arrayed as defendants only to ensure compliance of any order which may be passed by this Court. Defendant nos.44 to 60 are the unknown/“John Doe” defendants and a restraint order is sought against them as well.

9 The plaintiffs submit that there is rampant piracy in the internet and various orders have been passed in the past to protect the rights of such like plaintiffs. Submission is that if the content of the film “Bombay Velvet” is permitted to be exhibited through illegal channels prior to its release and even thereafter without due authority an irreparable financial and reputational loss would be suffered by the

plaintiffs.

10 The submissions made and the documentary annexed along with the plaint have been perused.

11 A prima facie case is made out in favour of the plaintiffs and against the defendants. Irreparable loss and injury will be suffered by the plaintiffs in case ex parte ad interim injunction is not granted. Balance of convenience lies in favour of the plaintiffs. Accordingly, till the next date of hearing, by way of ex parte ad interim injunction, defendant nos.1 to 24 and 44 to 60, their partners, proprietors, officers, servants, agents and employees etc. are restrained from infringing the exclusive rights of the plaintiffs and from in any manner hosting, streaming, broadcasting, rebroadcasting, retransmitting, exhibiting, making available for viewing and downloading, providing access to and/or communicating to the public, displaying, uploading, modifying, publishing, updating and/or sharing on their websites through internet in any manner, the plaintiffs' exclusive rights in relation to the film "Bombay Velvet" and the content of the said film. Defendant nos.25 to 41, their directors, partners and all other persons claiming through them will also ensure and secure compliance of the aforementioned order.

12 All the defendants shall ensure compliance. The necessary notification will be issued by defendant nos.42 and 43 in this regard through its various Internet Service Providers (ISPs).

13 Compliance of Order XXXIX Rule 3 CPC be effected in one week.

14 List before Joint Registrar on 09.9.2015.

15 Order dasti under signatures of the Court Master.

MAY 14, 2015
ndn

INDERMEET KAUR, J