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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION LODGING NO.3195 OF 2015
IN
SUIT LODGING NO.1223 OF 2015

Manish Realities Pvt. Ltd. and Anr. ...Applicants

IN THE MATTER BETWEEN

Manish Realities Pvt. Ltd. & Anr. ...Plaintiffs

V/s.

Sonali Cable Vision Pvt. Ltd.& Ors. ...Defendants

.....
Mr. Venkatesh Dhond, Sr. Advocate a/w Mr. Rashmin Khandekar, Ms. Madhu Gadodia, Mr. Rahul Mehta and Ms. Mansi Nair Advocates i/by Naik Naik and Co. Advocates for Plaintiffs/Applicants.

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CORAM : A. K. MENON, J.

DATE : 19TH NOVEMBER, 2015.

P.C.:

The above suit is filed by the plaintiffs, who are producers of a Hindi feature film titled "**X-Past is Present**" starring Rajat Kapoor, Anshuman Jha and others (the '**Said Film**'). The Plaintiffs have moved for urgent ad-interim reliefs on the basis that the film has been completed on 30.3.2014 and while the said film has already been exhibited internationally in various film festivals viz. at the 11th South Asian International Film Festival which was held in November, 2014 as well as

in the International Film Festival of Kerala in December, 2014, it is yet to be released for exhibition in India and elsewhere.

2 It is the plaintiffs' case that on or about 16th November, 2015, the plaintiffs came across 16 links on the internet, particulars of which are set out in paragraph 8 of the plaint, offering free viewing/download of the said film. It is the plaintiffs' case that aforesaid links are currently dormant but are likely to be activated immediately upon release of the said film in India .

3 Mr. Dhond, the learned Senior Counsel appearing on behalf of plaintiffs, has tendered an additional affidavit of one Mr. Gaurav Jain, the authorized signatory of plaintiff nos.1 and 2 affirmed on 19.11.2015 wherein it is stated that the said film has been censored and has been issued censor certificate dated 17.11.2015 by the Central Board of Film Certification. A copy of the certificate is annexed at Exhibit A to the said affidavit. Mr. Dhond submits that unless urgent orders in the nature of ad-interim reliefs sought are passed, the aforesaid links are likely to be activated resulting in infringement of plaintiffs' copyright. Mr. Dhond accordingly seeks reliefs in terms of prayer clauses (a) to (e) both inclusive, of the notice of motion at this ad-interim stage. He submits that the Notice of Motion has also been served upon the defendants 1 and 3 via e-mail at the e-

mail addresses of those defendants as reflected on the website of the Ministry of Corporate Affairs. Since the suit seeks orders based on what is commonly known as “**John Doe**” principle, the plaintiffs have set out their apprehensions in paragraphs 8 to 10 of the plaint.

4 I am satisfied that sufficient cause has been shown by the plaintiffs and the orders sought ought to be granted as there apart from the mere likelihood of the said film being pirated, there is a real danger that the said film will be available on the websites and other media once, the film is released. It is well known that once downloading is active, it will be difficult to monitor various downloads and the resultant infringement of the Plaintiff’s copyright in the said film. Any protective orders that may be granted after release of the said film on 20th November 2015 to prevent infringement of copy-right may prove to be futile since copies may be made from the downloaded versions as well. In the circumstances, there will be an ad-interim order in terms of prayer clauses (a), (b), (c) and (d) of the Notice of Motion. Notice of Motion is made returnable on 7.12.2015. The plaintiffs shall meanwhile comply with the provisions of Order XXXIX Rule 3.

(A. K. MENON, J.)

