

IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) 286/2012

NOKIA CORPORATION and ORS Plaintiff

Through: Mr. N.K. Kaul, Sr. Adv. with

Mr. Neeraj Grover, Adv.

versus

MOVIEEXPRESS and ORS Defendant

Through: None

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR

ORDER

06.02.2012

I.A. No.2229/2012

Allowed, subject to all just exceptions.

CS(OS) No.286/2012

Issue summons in the suit and notice on the application by registered AD covers, speed post, ordinary process as well as courier, returnable on 2.3.2012.

I.A. No.2228/2012

Notice for the date fixed.

Arguing the application for grant of ex parte ad interim injunction, Mr. N.K. Kaul, learned Senior Counsel representing the plaintiffs, submits that the trademark 'Nokia' is a registered trademark of the plaintiffs and is a well-known trademark in terms of provisions of the Trademark Act, 1999. Learned Senior Counsel further submits that the trade mark 'Nokia' is famous and well known trade mark/trade name in relation to any goods or services which not only makes an immediate association in the mind of the consumers and public at large with the products and services of the plaintiffs but also assures the consumer that each product and service bearing the mark 'Nokia' is of the utmost quality and would guarantee complete consumer satisfaction. Learned counsel further submits that the said trademark 'Nokia' is registered in the name of the plaintiffs in respect to various goods and services as detailed in paragraph 13 of the plaint. Learned counsel further submits that defendant no.2 is the production house and defendant no.3 is the producer of a film and they had contacted the Marketing Division of the plaintiffs to produce the film named 'Mr. Nokia', in Telugu language. Learned counsel further submits that neither the Marketing Division nor the Legal Division of the plaintiff had given its approval and consent for screening the film under the name of 'Mr. Nokia' or any name deceptively or phonetically similar thereto. Learned counsel also submits that already the defendants have started advertising and airing songs to publicize the said movie containing reference to the mark 'Nokia' and/or 'Mr. No. Keyia'. Learned counsel has drawn attention of this Court to the letter dated 8.3.2011 sent by the said defendants to the plaintiffs wherein they have clearly stated that almost 75 per cent of the movie songs will be based on mobile phones of the plaintiffs and the cellphone

would be the most important element in the film. Learned counsel thus submits that if the right of the plaintiff is not protected, then the plaintiffs will suffer irreparable loss and injury to its well-established reputation and the defendants, on the other hand, will gain advantage to ride on the reputation of the plaintiffs.

I have heard learned Senior Counsel representing the plaintiffs at considerable length and have also gone through the documents placed on record.

Till the next date of hearing the defendants, their directors, partners or proprietors, as the case may be, their distributors, officers, servants, representatives, theatre owners, exhibitors, multiplexes, radio channels, online music websites and agents are restrained from advertising, airing songs, publishing, publicizing, offering for viewing the impugned movie under the title 'Mr. Nokia' and/or 'Mr. No. Keyia' and/or 'Mr. Nav-kia' and/or offering the songs containing the reference to the mark 'Nokia' and/or 'No.Keyia' and/or any other identical or deceptively similar (phonetically, structurally or visually) mark to the plaintiffs? registered trade mark 'Nokia' as also from doing any such act amounting to passing off and/or dilution of the

plaintiffs? well known trademark ?Nokia?.

Provisions of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 shall be complied with by the plaintiffs within a period of three days.

This order shall become effective from the date it is served on the defendants.

DASTI.

KAILASH GAMBHIR, J

FEBRUARY 06, 2012/tp

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