

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION (L) NO. 823 OF 2013**

**IN**

**SUIT (L) NO. 308 OF 2013**

Radhey Shayam @ "Raaj"

...Plaintiff

V/S.

M/s. Ramesh Sippy Entertainment Pvt. Ltd. and others

... Defendants

Ms. Urvashi M. Nayak for the Plaintiff.

Dr. Veerendra Tulzapurkar, Senior Advocate, with Dr. Birendra Saraf, Mr. Ameet Naik, Ms. Madhu Gadodia, Ms. Anushree Rauta, Ms. Rajni Singh, instructed by M/s. Nanik Naik & Co., for the Defendants Nos.1 to 3.

**CORAM: S.J.KATHAWALLA, J.**

**DATE: 10<sup>th</sup> APRIL 2013**

**PC.:**

1. By this application, the Plaintiff seeks urgent ad-interim relief i.e. an order restraining the Defendants from releasing the cinematograph film "Nautanki Saala" on 12-04-2013. According to the Plaintiff, he is the owner of the copyright in the literary work i.e. the story named "DASTOOR (A Wrong Step)" which was registered with the Film Writers Association in the year 2008 and the cinematograph film "Nautanki Saala" has been made by the Defendants by using the said story "DASTOOR (A

Wrong Step), thereby committing breach of his copyright.

2. As pointed out by Dr. Veerendra Tulzapurkar, learned Senior Advocate appearing for the Defendants the Film "Nautanki Saala" is a remake of the French script and film originally titled "Apres vous" and internally titled "After You", directed by Mr. Pierre Salvadori and Produced by Mr. Phippe Martgin, which was released in the year 2003. The agreement executed on 01-06-2012 executed between "LPF LES Films Pelleas as the 'Assignor' and Defendant No.1 Ramesh Sippy Entertainment Pvt. Ltd., as the 'Remake Producer' is tendered in Court, which shows that the Defendant No.1 has acquired remake rights for a consideration of more than Rs.4 Crores. In fact, in Clause 6.1 of the said Agreement, it is agreed that the Assignor shall be entitled to appropriate credits on all positive and negative copies and in all paid advertising of the Remake Film(s), as set out in detailed therein.

3. It is not even the Plaintiff's case that he had at any time, narrated his story to any of the Defendants. Instead, he has stated in the Plaint that he had approached and narrated the film story to various Producers, Directors and Production Houses without naming any single Producer, Director and Production House.

4. The learned Advocate for the Plaintiff, on instructions, also

submitted that if the scene pertaining to the theatre in the movie “Nautanki Saala” is changed to a restaurant scene, the Plaintiff will have no objection to the release of the movie in the movie “Nautanki Saala” on 12<sup>th</sup> April, 2013. This shows that the Plaintiff is claiming that the Defendants have breached the Plaintiff’s alleged copyright on the basis that the Defendants have shown the scene pertaining to the theatre from his story, which by no stretch of imagination can be treated as a breach of his copyright in his story “DASTOOR (A Wrong Step)”. A common scene or concept does not entitle any story writer to allege breach of copyright of his story.

5. In view thereof, I am satisfied that the Plaintiff discloses no cause of action against the Defendants. The balance of convenience is also in favour of Defendants and against the Plaintiff. The Application for ad-interim relief is therefore, rejected.

( S.J.KATHAWALLA, J. )