

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

NOTICE OF MOTION (L) NO. 3549 OF 2015
IN
SUIT LODGING NO. 1326 OF 2015

Red Chillies Entertainment Pvt. Ltd.

.. Applicant/Plaintiff

In the Matter Between:

Red Chillies Entertainment Pvt. Ltd.

.. Plaintiff

Vs.

M/s. Hathway Sonali Om Crystal Cable
Pvt. Ltd. Anr.

.. Defendants

...

Mr. Venkatesh Dhond a/w Mr. Ameet Naik, Mr. Rashmin Khandekar Ms.
Madhu Gadodia i/b. M/s. Naik Naik & Co. plaintiff.
Mr. Rajendra Jain i/b. M/s. Thakore Jariwala & Associates for defendant
No. 1.

CORAM : A. K. MENON, J.

DATE : DECEMBER 17, 2015.

P.C.:

This is a suit filed by the plaintiff who are producers of the Hindi feature film "Dilwale". The plaintiffs have filed the present suit for protection of their copy right in the said film in a representative capacity as contemplated Order I Rule 8 of the CPC and on principles analogous to the *John Doe principle*. It is the plaintiffs case that the said film has been issued a Censor Certificate dated 11th December 2015, copy of which is appears at Exhibit-A and that Internet links and various URLs listed in paragraph 10 of the plaint which are presently dormant

will become active once the film is released and will provide access to the suit film. Download from the URLs will be free once the film is released. The plaintiffs have also stated in paragraph 8 that the suit film is scheduled to be released for public exhibition on 18th December 2015 and once the film is released these dormant links will be activated resulting in large scale downloads of the said film which will affect their revenue seriously apart from resulting in infringement of their copyright in the suit film.

2. The plaintiffs seek urgent ad-interim relief against defendants. Defendant No. 1 is represented in Court. He submits the orders of the court. In paragraph 24 of the plaint the plaintiffs have disclosed that though the cause of action arose on 8th December 2015, the plaintiffs had initially filed an application before the Hon'ble High Court in Madras being application no. 7946 of 2015 inter alia seeking leave to file a *John Doe* suit against the present and other defendants. However this application was withdrawn in anticipation of filing the present suit.

3. A statement is made across the bar today although the order was passed allowing the application to be withdrawn, no suit was filed pursuant to the application. A copy of the order is still not available but the plaintiffs relies upon a letter received from the plaintiffs Advocates at Chennai wherein it is stated that they have on instructions withdrawn

the application for leave to sue that was filed on 9th December 2015 and that they have not filed any suit on behalf of the present plaintiffs. Copy of the letter dated 15th December, 2015 which has been received by them is taken on record. In view of the averments contained in plaint, I am satisfied that ad-interim protection must be granted to the plaintiff. Accordingly there will be an ad-interim order in terms of prayer clause (a) to (e) both inclusive excluding the bracketed portion. Learned counsel also tender affidavit of service upon defendant No. 1 and 2, defendant No. 3 being a formal party in a typical *John Doe* action.

- (a) That pending the hearing and final disposal of the suit the Defendant Nos. 1, 2 and 3, by themselves, their servants, agents, licensees, franchisees, partners, proprietors and/or otherwise howsoever be restrained by an order of mandatory injunction of the Hon'ble Court from telecasting/ broadcasting / distributing/ putting on the cable TV network/ disseminating/ reproducing exhibiting on internet or otherwise making available to the public, the said Film;
- (b) that pending the hearing and final disposal of the suit the Defendant Nos. 1, 2 and 3, by themselves, their servants, agents, licensees, franchisees, partners, proprietors and/or otherwise howsoever be restrained by an order of mandatory injunction of this Hon'ble Court from (i) making a copy of the said film, including a photograph of any image forming part thereof, (ii) to sell or give on hire, or offer for sale or hire, any copy of the said Film, regardless of whether such copy has been sold or given on hire on earlier occasions, (iii) to communicate the said film to the public in any manner whatsoever including by way of but not limited to telecasting and/or re telecasting the said film or even other use dealing with the rights in the said Film which

vest exclusively in the Plaintiff, in any manner whatsoever.

- (c) that pending the hearing and final disposal of this suit, this Hon'ble Court be pleased to pass an order and temporary injunction, restraining the Defendant Nos. 1, 2 and 3 their partners, proprietors, directors, shareholders, officers, servants and agents, their representatives, franchisees, nominees and other known and unknown parties, from communicating or making available or distributing or duplicating, or displaying, or releasing, or showing, or uploading, or downloading or exhibiting, or playing, and/or defraying the said Film in any manner without proper license from the plaintiff or in any other manner which would violate/infringe the Plaintiff's copyright in the said Film, through different mediums like CD, DVD, Blu-ray, VCD, Cable TV, DTH, Internet, mobile, MMS, Tapes, Conditional Access System or in any other like manner ;
- (d) that pending the hearing and final disposal of this suit this Hon'ble Court be pleased to pass an order directing the concerned police station(s) to render necessary assistance to the Plaintiff in restraining the Defendant Nos. 1, 2 and 3 from violating/infringing the Plaintiffs' Copyright in the said Film.
- (e) that pending the hearing and final disposal this Hon'ble Court be pleased to pass an order directing Defendant No. 2 (ISP) and Defendant No. 3 to comply with the Plaintiff's request to block access to the infringing (websites) URL's within 24 hours of receipt of the notice from the Plaintiff giving details of such infringing websites/webpages to the ISPs;

All concerned shall act on the authenticated copy of this order certified by the Associate of this Court.

(A. K. MENON, J.)