

IN THE HIGH COURT OF DELHI AT NEW DELHI

20.07.2011

Present: Mr. Rajiv Nayar, Sr. Adv. with Mr. Nikhil Rohatgi and Mr. Akshay Ringe, Advs. for the Plaintiff.

I.A. No. 11242/2011 (under Section 151 CPC)

Exemption allowed, subject to filing of original documents, as mentioned in the application, by the plaintiff within 4 weeks.

Application is disposed of.

I.A. No. 11243/2011 (under Section 151 CPC)

Allowed, subject to all just exemptions.

Application stands disposed of.

CS(OS) No. 1724/2011

Plaint be registered as Suit. Summons be issued to the defendants through ordinary manner, registered A.D. post and courier service, returnable for 30th September, 2011.

I.A. No. 11241/2011 (under Order 39 Rules 1 and 2 r/w Section 151 CPC)

Notice for the date fixed.

Plaintiff is the producer of cinematograph film ?Singham?.

Plaintiff apprehends that the said movie will be copied and DVDs/CDs thereof will be prepared, distributed in the market as also shown on TV by the cable operators, thereby causing huge financial losses to the plaintiff. In case the film is shown on cable and internet, by the persons who are not being authorized by the plaintiff to do so, cine goers may not go to theaters to see the film, resulting in huge financial losses to the plaintiff. It is contended that copying and distributing the film on CDs/DVDs/Blue-ray discs/VCD etc. by such unscrupulous persons has been noticed in respect of new releases in recent past. Such films are shown by the cable operators. It is further contended that plaintiff is able to find out the names of defendant nos. 1 to 5 who had been indulging in such activities. Apart from them, many unknown persons may also indulge in similar activity. Since names and addresses of such cable operators/persons are not known, they have been collectively arrayed as defendant nos. 6 to 30 in the assumed name of ?Mr. Ashok Kumar?. It is contended that in this regard ?John Doe?, practice may have to be

resorted which is well recognized not only in United States of America, Canada, England and Australia but also in India. Reliance has been

placed on Taj Television vs. Rajan Mandal and Ors. 2003 FSR 22 and order passed by a Single Judge of this Court in CS (OS) No. 821/2011 in UTV Software Communications Limited vs. Home Cable Network Ltd. and Ors. Perusal of the orders, reliance whereupon has been placed by the plaintiff, shows that such unknown unauthorized persons can be arrayed as defendant nos. 6 to 30 and ?John Doe? order may be passed against such persons enabling plaintiff to serve order upon such persons when their identity is disclosed. Past practice of unauthorized persons indulging in such illegal activities of copying the film on CDs/DVDs/Blue-ray disc and distributing the same has also been recognized in the judgment relied upon by the plaintiff.

In the facts of this case as detailed above, in my view plaintiff has succeeded in making a prima facie case in its favour. Plaintiff has exclusive copy right over the film ?Singham? which is yet to be released. In case, CD, DVD, Blue-ray, VCD are made by unidentified persons and distributed and shown on cable TV, DTH, internet, MMS, Tapes and CAS, plaintiff will indubitably suffer irreparable loss and injury.

For the forgoing reasons, defendants and other unnamed and undisclosed persons, are restrained 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 movie ?Singham? 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 cinematograph film ?Singham? through different mediums like CD, DVD, Blue-ray, VCD, Cable TV, DTH, Internet, MMS, Tapes, Conditional Access System or in any other like manner.

Compliance of Order 39 Rule 3 be made within a week.

Copy of the order be given Dasti under the signatures of the Court Master.

A.K. PATHAK, J.

July 20, 2011

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