

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****NOTICE OF MOTION (L) NO. 416 OF 2014****IN****SUIT NO. 177 OF 2014**

Smt. Sakshi Punjabi

... Applicant

In the matter between:

Smt. Sakshi Punjabi

...Plaintiff

vs.

Mrs. Shobha Kapoor and others

...Defendants

Mr. D.D. Madon, Senior Advocate, instructed by Mr. Vijay D. Dhingreja, for the Plaintiff.

Mr. Virag Tulzapurkar, Senior Advocate, along with Mr. Mahesh Mahadgut and Ms. Ankita Kanojia, for Defendant Nos. 4 to 6 and 8.

Dr. B.B. Saraf, along with Mr. Ameet Naik, Ms. Madhu Gadodia and Ms. Anshika Mishra, instructed by M/s. Naik Naik & Company, for Defendant Nos. 1 to 3 and 7.

Mr. Sameer Pandit for Defendant No. 10.

CORAM: S.J. KATHAWALLA, J.**DATE: 27th February, 2014****PC.:**

1. The Plaintiff claims to have a flair for writing and over the years has written several books on Information Technology which have been adopted by various ICSE Schools in their syllabus. According to the Plaintiff, she has written and/or authored several scripts and stories for Hindi movies and is registered as a Member with the Film Writers Association. Defendant No. 3 – Balaji Motion Pictures and

Defendant No. 6 – Pritish Nandy Communications Limited are the Companies engaged in the business of production and distribution of cinematographic films and have acquired rights in the film “*Shaadi Ke Side Effects*” (“the suit film”), scheduled for theatrical release on 28th February, 2014. Defendant Nos. 1, 2, 4 and 5 i.e. Mrs. Shobha Kapoor, Ms. Ektaa Kapoor, Mr. Pritish Nandy and Ms. Rangita Pritish Nandy respectively are the Producers of the suit film. Defendant No. 7 – Alpana Mishra and Defendant No. 8 – Ishita Pritish Nandy are the co-producers of the suit film. Defendant No.9 – Mr. Saket Choudhary is the Director of the suit film and the story and screenplay of the suit film has also been credited to Defendant No.9. Defendant No. 10 – Mr. Rajat Kapoor is an actor, director and screenplay writer.

2. The Plaintiff has filed the present Suit, inter alia, seeking direction to the Defendants to depict the name of the Plaintiff in the credits of the suit film and for permanent injunction restraining the Defendants from releasing the suit film in theatres or distributing it in any manner on the ground of breach of confidence and infringement of the copyright in the Plaintiff's storyline/script.

3. According to the Plaintiff, in the year 2008, she created a concept which was expressed in a synopsis/concept note including core theme, characters, introduction, set-up titled “Just adjust” and registered the same with the Film Writers Association, Mumbai, under serial No. 141135 on 30th June, 2008. The Plaintiff thereafter developed and evolved the concept further and expressed the same in a storyline titled “Just adjust” with Film Writers Association, Mumbai, under serial No. 142750 on 30th July, 2008. According to the Plaintiff, the copyright in

respect of the work contained in the concept notes and storyline are both literary work and the Plaintiff is thus the author and owner of the original literary work referred to in Exhibits-A and B to the Plaint and the copyright subsisting therein. Having registered her said works with the said Film Writers Association, the Plaintiff intended to exploit the same.

4. According to the Plaintiff, some time at the end of the year 2008, the Plaintiff during one of her visits to Prithvi Theatre at Juhu, ran into Defendant No. 10, an actor, director and screenplay writer. During the course of their conversation, to explore a possibility of exploitation of her aforesaid literary work, the Plaintiff informed Defendant No. 10 that she was a Hindi movie script writer and expressed a desire to discuss the story written by her. Defendant No. 10 readily agreed and asked the Plaintiff to come over to his residence the very next day. On the next day, the Plaintiff visited the residence of Defendant No. 10 at the appointed time and day at which time Defendant No. 10 introduced the Plaintiff to Defendant No.9 who was also then present at the residence/office of Defendant No.10. After exchange of pleasantries between the Plaintiff and Defendant No.9, Defendant No. 9 left the premises. Thereafter the Plaintiff disclosed the broad contours of the storyline "Just Adjust" to Defendant No. 10 who expressed interest in the said story and requested the Plaintiff to leave behind a copy of the synopsis and storyline to enable Defendant No. 10 to peruse the same. According to the Plaintiff, the recitation of the story and handing over a copy of the synopsis and storyline was with a clear understanding that it was confidential and would not be used or exploited in any manner other than through the Plaintiff, or in any manner prejudicial to the rights

of the Plaintiff. The Plaintiff thereafter waited for a few days and followed up with Defendant No. 10 who asked her to come and meet him in that regard. According to the Plaintiff, she met Defendant No. 10 to carry the matter forward. At the said meeting, Defendant No. 10 again, in the presence of Defendant No.9, appreciated the said script of the Plaintiff and opined that the script has to be polished. The Plaintiff expressed her willingness to do so as required by Defendant No. 10, and/or through any other production house that might be keen/willing to use the story, through the Plaintiff, for a cinematographic film. According to the Plaintiff, thereafter with anticipation she waited to hear from the Defendant No. 10. When she did not hear from the Defendant No. 10, she attempted to make further enquiries. However, Defendant No. 10 avoided further meetings with the Plaintiff and evaded any further queries on the subject. This conduct of Defendant No. 10 gave the Plaintiff an impression that Defendant No. 10 had lost interest in the aforesaid work of the Plaintiff and the same would not be given effect to. The Plaintiff after a point did not pursue the matter further with Defendant No.10.

5. According to the Plaintiff, in or about the second week of February, 2014, she came across promotional visuals of the suit film on television. According to the Plaintiff, the said promos seemed to have highlighted difficulties/stress factors faced by a married couple having a young child and their relationship getting corroded due to the pressures and responsibilities of a hectic life, leading to difference of opinion in raising the child. The Plaintiff was shocked to find many similarities between her storyline, characters, depiction and that of the suit film produced by the Defendants. It was particularly when the Plaintiff found from the

promotional materials in the diverse media that the name of Defendant No. 9 was credited with the story and screenplay of the suit film and one Ms. Zeenat Lakhani and one Mr. Arshad Syed were credited with additional story and screenplay, that the Plaintiff immediately realized that the Defendants were acting upon the concept note and storyline handed over by the Plaintiff to Defendant No. 10. The Plaintiff therefore realized that Defendant No. 10 had breached the confidence that was reposed in him by the Plaintiff and that the suit film was in clear infringement of the copyright of the Plaintiff in her aforesaid original literary work.

6. The following similarities have been pointed out by the Plaintiff between the film of the Defendants and the story developed by the Plaintiff:

- (i) The film as well as the story developed by the Plaintiff, revolves around a contemporary urban married couple;
- (ii) Both highlight the usual stress of married life, more so after having a baby. There is a transition from a carefree and loving couple to an irritable and quarreling couple;
- (iii) Both show how the married couple are trying to cope up with the responsibilities after marriage and a child, and are thus constantly quibbling and quarreling with each other;
- (iv) Both show how the married couple drift apart and there is intervention by a relationship consultant;
- (v) In both the film and the story the couple have a young girl child;
- (vi) The character Raj Malhotra in the story created by the Plaintiff is a complete

party entertainer working as a DJ at night clubs whereas Sid of the suit film is a music composer. Raj is young at heart, loves to party all night and has a very busy lifestyle and runs away from domestic responsibilities. Sid is a today's man who discovers that he loves/wants his freedom and is unable to cope with the intricacies of marriage despite trying very hard;

(vii) The character Sasha in the story developed by the Plaintiff also loves to party and is a very enthusiastic fashion designer who tries hard to balance her work, child and domestic responsibilities. Similarly Trisha of the suit film is shown to be wild carefree and having tons of fun before marriage and who is shown to be irritable and impulsive after the responsibilities of marriage take over;

(viii) The character Vivek Mehta in the story developed by the Plaintiff is a businessman who is bit heavy on his weight, and who becomes a friend of Raj, whereas in the suit film Sid has a friend, a character played by Ram Kapoor, who again is on the heavier side;

(ix) In the story developed by the Plaintiff, the relationship consultant happens to be Sasha's cousin whereas in the suit film, the relationship consultant is Sid's friend;

(x) In both the story and the suit film, intervention of a relationship consultant enables the couple to change their perspective;

(xi) In the story of the Plaintiff and the promos of the suit film, a maid is shown to be working for the couple.

7. The Plaintiff thereafter by her Advocate's notice dated 21st February, 2014, addressed to the Defendant Nos. 1 to 6, 9 and 10, recorded some of the aforesaid facts and called upon the Defendant Nos. 1 to 6, 9 and 10, to prominently accord

credit for the concept and content in the suit film to the Plaintiff. By the said notice, the Plaintiff also reserved her right to any claims towards royalty from the business generated from the suit film.

8. The Defendant No. 6 – Prithvi Nandy Communications Ltd. by their Advocates' reply dated 24th February, 2014, informed the Advocate for the Plaintiff that their clients' film is not based on any story that the Plaintiff claims to have written and registered with the Film Writers Association and that the notice does not even annex a copy of the synopsis/storyline/screenplay which the Plaintiff claims to have authored. It was further clarified that the story and screenplay of the suit film is a work of the writers, Saket Chaudhary (Defendant No. 9), Zeenat Lakhani and Arshad Syed and they have no reason to believe otherwise. The Advocates for Defendant Nos. 1 to 3 by their letter dated 24th February, 2014, addressed to the Advocate for the Plaintiff, inter alia, denied the allegations made by the Plaintiff in her Advocate's notice and called upon the Plaintiff to issue a written apology letter to Defendant Nos. 1 to 3 for the false allegations and false claims made by the Plaintiff under the said notice; to withdraw the said notice and the allegations made therein and to submit the documents, if any, substantiating the claims alleged by the Plaintiff.

9. The Plaintiff thereafter filed the present Suit seeking the aforesaid reliefs. In the said Suit, the Plaintiff has also, in the alternative, sought a declaration that the Defendant Nos. 1 to 9 are liable to pay to the Plaintiff 10 per cent of the profits made from each of the act of using and exploiting the Plaintiff's work in the suit film as royalty for original work, and in the alternative to pay to the Plaintiff an

amount of Rs. 40,00,000/- (Rupees Forty lakhs only) as damages.

10. The Plaintiff has today moved for urgent ad-interim relief to the effect that the suit film should not be released tomorrow i.e. 28th February, 2014 without the Defendants giving full and prominent credit as creator of the concept and content of the suit film to the Plaintiff.

11. This Court first called upon the Advocate for the Defendant No. 10 to inform the Court as to what had actually transpired between the Plaintiff and the Defendant No.10. The Advocate for Defendant No. 10 submitted that Defendant No. 10 has never met the Plaintiff and that except for meeting Defendant No.9 at a chat show, Defendant No. 10 has never met Defendant No.9 either. The Advocate for Defendant No. 10 also submitted that Defendant No. 10 was and is nowhere concerned at any point of time with the suit film.

12. Dr. Saraf, the Learned Advocate appearing for the Defendant Nos. 1 to 3 and 7, has submitted that the Plaintiff has approached the Court with an incorrect case of infringement of the copyright in the Plaintiff's storyline/script by the Defendants. Dr. Saraf has further submitted that there can be no copyright in an idea, theme or subject matter. He has submitted that where the same idea is developed in a different manner, certain similarities are bound to occur. He has submitted that the similarities sought to be pointed out by the Plaintiff are not on fundamental or substantial aspects. He has handed over a list of the similarities between the suit film and the story/script of the Plaintiff. Without prejudice to the aforesaid contentions, Dr. Saraf has also submitted that the Plaintiff is guilty of gross

delay in approaching the Court i.e. one day prior to the release of the suit film across the Nation. In fact, he submitted that the suit film has already been released today at Sydney, Australia and any relief granted in favour of the Plaintiff, shall cause grave damage, injury and prejudice to the Defendants. He submitted that not only the Plaintiff has failed to make out a prima facie case in her favour for grant of urgent ad-interim orders, but even the balance of convenience is in favour of the Defendants. It is therefore submitted that no urgent relief be granted in favour of the Plaintiff.

13. Mr. Virag Tulzapurkar, the Learned Senior Advocate appearing for Defendant Nos. 4 to 6 and 8, has tendered an affidavit of Defendant No. 6 in reply to the application for ad-interim reliefs. Mr. Tulzapurkar has submitted that the Plaintiff is guilty of laches, delay and acquiescence and is not entitled to any ad-interim reliefs. On the aspect of delay, Mr. Tulzapurkar has relied on the decisions of this Court in (i) Notice of Motion No. of 2011 in Suit (L) No. 3404 of 2011 (*Nariman Films & Ors. vs. Baba Arts Limited and others*) dated 19th December, 2011; (ii) Notice of Motion No. 3391 of 2009 in Suit No. 2417 of 2009 (*Sushila Sharma vs. Madhur Bhandarkar and others*) dated 4th November, 2009; (iii) Notice of Motion No. of 2006 in Suit (L) No. 2993 of 2006 (*Anandji Virji Shah and others vs. Ritesh Sidhwani and others*) dated 17th October, 2006; (iv) Notice of Motion No. of 2008 in Suit (L) No. 3821 of 2008 (*M/s. KBC Pictures vs. A.R. Murgadoss & Ors.*) dated 26th December, 2008; (v) Notice of Motion (L) No. 764 of 2013 in Suit (L) No. 280 of 2013 (*Sai Paranjpaye vs. PLA Entertainment Pvt. Ltd. and others*) dated 4th

April, 2013; and (vi) Notice of Motion (L) No. of 2013 in Suit (L) No. 967 of 2013 (*Uday Singh Deshraj Rajput vs. Filmkraft Productions (India) Pvt. Ltd. and others*) dated 29th October, 2013.

14. Mr. Tulzapurkar has submitted that in or around August, 2005, the Defendant No. 6 had entered into an Agreement with the writer Saket Chaudhary (Defendant No.9). Services of the said writer were commissioned for story writing of three films. The first film was titled "Pyar Ke Side Effects" ("the said film"). The said film was released on 15th September, 2006 and was a box office success. At the time of conceiving the idea for the said film, Defendant No. 6 had also conceived the idea of having a sequel to the said film and had registered the title "Shaadi Ke Side Effects". In January, 2006, Defendant No. 6 had applied for allotment of the title "Shaadi Ke Side Effects" which was allotted on 11th February, 2006. Thereafter, Defendant No. 6 has renewed the said title and kept it valid and subsisting till date. The title "Pyar Ke Side Effects" was also allotted in favour of Defendant No. 6 on 31st August, 2005. The planning for the film "Shaadi Ke Side Effects" commenced immediately upon the post success of the film "Pyar Ke Side Effects". The pre-production planning began in December, 2006, and the writer Saket Chaudhary had started work on the story for this film. Saket Chaudhary decided to involve Zeenat Lakhani along with him to develop the story and screenplay of the said movie. It was further decided by Saket Chaudhary and Defendant No. 6 to also avail the services of Arshad Syed in the process. The said movie was ready in and around October, 2013, and the first trailer of around 2

minutes 48 seconds was released on the You Tube on 28th October, 2013, and it has been continuously featuring on You Tube till date. The Bombay Times carried an article dated 28th October, 2013, of the trailer launch of the said movie. It is submitted that from time to time the promos/advertisements of the said movie have been appearing in newspapers and on various TV shows. Such a prominent launch of the said movie could never have been missed by the Plaintiff and therefore there is gross delay/laches in filing the present Suit and approaching this Court.

15. Mr. Tulzapurkar further submitted that there is no similarity of any nature whatsoever between the storyline disclosed by the Plaintiff in the Plaint, and the story, screenplay of the said movie. Mr. Tulzapurkar has relied on a comparative chart prepared on behalf of Defendant No. 6 showing the vast dissimilarities between the storyline of the Plaintiff and the said movie, which is annexed as Exhibit-D to the affidavit filed by Defendant No.6. Mr. Tulzapurkar laid great emphasis on the contents of paragraph 46 of the Judgment of the Hon'ble Supreme Court in the case of *R.G. Anand vs. M/s. Delux Films and others*¹. Mr. Tulzapurkar submitted that Mr. Rajat Kapoor, Defendant No.10, is not associated and/or connected directly and/or indirectly with the production or any other aspect of any nature whatsoever of the said movie. Mr. Tulzapurkar therefore submitted that the Plaintiff has failed to make out even a prima facie case of infringement by the Defendants with regard to her alleged literary work. The balance of convenience is also not in favour of the Plaintiff. The Plaintiff has prayed for damages to the tune of

1 (1978) 4 SCC 118

Rs. 40 lacs in the Suit. If the Plaintiff ultimately establishes her case, she will be entitled to damages. However, the Defendants cannot be restrained from releasing the suit film on the eve of the date fixed for release. The balance of convenience is therefore completely in favour of the Defendants and against the Plaintiff.

16. I have considered the submissions advanced on behalf of the Parties and the case law cited by them.

17. The Plaintiff has created a concept which was expressed in a synopsis /concept note titled "Just adjust" and registered with the Film Writers Association, on 30th June, 2008. The Plaintiff thereafter developed and evolved the concept further and expressed the same in a storyline titled "Just adjust" with Film Writers Association, Mumbai, on 30th July, 2008. As against this, as pointed out by the Defendant No.6, in August, 2005, i.e. much before the Plaintiff having registered her script with the Film Writers Association, Defendant No. 6 had entered into an Agreement with writer Mr. Saket Chaudhary (Defendant No. 9), whereunder the services of Mr. Saket Chaudhary were commissioned for story writing of three films. The first film was titled "Pyar Ke Side Effects". This name was registered in favour of Defendant No. 6 on 31st August, 2005. During the same time, Defendant No. 6 herein had also conceived the idea of having a sequel to the said film and registered the title "Shaadi Ke Side Effects". The title "Shaadi Ke Side Effects" was also allotted to the Defendant No. 6 on 11th February, 2006. After the film "Pyar Ke Side Effects" was released on 15th September, 2006, and was a box office success, Defendant No. 6 immediately thereafter started planning for the film "Shaadi Ke Side Effects. The

pre-production began in December, 2006 and Defendant No. 9 started work on the story for this film. The said movie was ready in and around October, 2013 and the first trailer was released on the You Tube on 28th October, 2013.

18. Again, the Plaintiff has stated in the Plaint that some time by the end of the year 2008, she had met Defendant No. 10 at his residence when Defendant No. 9 (Mr. Saket Choudhary) was present but the said Defendant No. 9 left after exchange of greetings . The Plaintiff thereafter disclosed the broad contours of the storyline "Just adjust" with Defendant No. 10, who requested the Plaintiff to leave behind a copy of the synopsis and storyline to enable Defendant No.10 to peruse the same. Thereafter, the Plaintiff again met Defendant No. 10 to carry the matter forward. At the said meeting, Defendant No. 10 again in the presence of Defendant No. 9 appreciated the said script of the Plaintiff and opined that the script has to be polished. The Plaintiff expressed her willingness to do so. According to the Plaintiff, thereafter with anticipation she waited to hear from Defendant No.10. However, when she did not hear from Defendant No. 10, she attempted to make further enquiries. However, Defendant No. 10 avoided any further meeting with the Plaintiff and evaded any queries on the subject, which conduct of Defendant No. 10 gave an impression to the Plaintiff that Defendant No. 10 had lost interest in the work of the Plaintiff.

19. The above facts pertaining to the alleged visits of the Plaintiff to the residence of the Defendant No. 10 and the reaction of the Defendant No. 10

thereafter mentioned in the Plaint differs from what is stated in the legal notice issued on behalf of the Plaintiff to the Defendants. In the legal notice dated 21st February, 2014, there is no mention of the fact alleged in the Plaint that Defendant No. 9 Mr. Saket Choudhary was present at the residence of Defendant No. 10, when the Plaintiff met Defendant No. 10 for the second time, and that Defendant No. 10 in the presence of Defendant No. 9 appreciated the script of the Plaintiff and opined that the script has to be polished. Again in the legal notice it is stated that the Plaintiff after the second meeting did not hear anything from Defendant No. 10 and as such understood that the Defendant No. 10 was not keenly interested in the script written by the Plaintiff. In contrast, it is mentioned in the Plaint that the Plaintiff thereafter followed up with Defendant No.10. However, Defendant No. 10 did not respond to the Plaintiff and in fact started avoiding the Plaintiff. As recorded hereinabove, the Advocate for Defendant No. 10 has on instructions, informed the Court that Defendant No. 10 does not at all know the Plaintiff and has never met her and that Defendant No. 9 has never visited the residence of Defendant No. 10 and that Defendant No. 10 has only met Defendant No. 9 at one chat show and nowhere else. Defendant No. 10 as well as the other Defendants through their respective Advocates have also informed the Court that the Defendant No. 10 is not in any manner concerned with the suit film. In fact, there is not a single letter/e-mail exchanged between the Plaintiff and Defendant No. 10 pertaining to the script of the Plaintiff having been handed over to Defendant No. 10. In view thereof, the Plaintiff has failed to even prima facie establish that she had any meeting with Defendant No. 10 pertaining to her storyline/concept note where Defendant No. 9

was present and that Defendant No. 10 has thereafter retained the storyline of her script “Just adjust” and subsequently Defendant No. 10 avoided any meeting with the Plaintiff and breached the confidence by parting with her storyline/script. Thus, it is difficult to accept at least at this prima facie stage that any of the Defendants have breached the confidentiality reposed by the Plaintiff or that the Defendants have made the suit film by using the concept in the literary work of the Plaintiff.

20. Again, according to the Plaintiff, there are substantial similarities in the work which are listed in paragraph 5 above. It is trite law that there can be no copyright in a theme or an idea. Where the same idea is being developed in a different manner, certain similarities are bound to occur. The theme/plot in the film, as well as the storyline/script of the Plaintiff, pertains to the problems faced by a couple after marriage. In view thereof, whilst developing the plot the authors are bound to show arguments, differences of opinion, lack of understanding between the couple, which further aggravate after a child or children is/are born. Intervention by a third party to bring back normalcy in the married life of the couple is also expected. The Hon'ble Supreme Court has in its judgment in the case of *R.G. Anand* (supra), has after extensively considering the law on the subject laid down the following propositions in paragraph 46 of the said Judgment:

“46. Thus, on a careful consideration and elucidation of the various authorities and the case law on the subject discussed above, the following propositions emerge:

1. There can be no copyright in an idea, subject matter, themes, plots or historical or legendary facts and violation of the copyright in such cases is

confined to the form, manner and arrangement and expression of the idea by the author of the copyright work.

2. Where the same idea is being developed in a different manner, it is manifest that the source being common, similarities are bound to occur. In such a case the courts should determine whether or not the similarities are on fundamental or substantial aspects of the mode of expression adopted in the copyrighted work. If the defendants work is nothing but a literal imitation of the copyrighted work with some variations here and there it would amount to violation of the copyright. In other words, in order to be actionable the copy must be a substantial and material one which at once leads to the conclusion that the defendant is guilty of an act of piracy.

3. One of the surest and the safest test to determine whether or not there has been a violation of copyright is to seeing the reader, spectator or the viewer after having read or seen both the works is clearly of the opinion and gets an unmistakable impression that the subsequent work appears to be a copy of the original.

4. Where the theme is the same but is presented and treated differently so that the subsequent work becomes a completely new work, no question of violation of copyright arises.

5. Where however apart from the similarities appearing in the two works there are also material and broad dissimilarities which negative the intention to copy the original and the coincidences appearing in the two works are clearly incidental no infringement of the copyright comes into existence.

6. As a violation of copyright amounts to an act of piracy it must be proved by clear and cogent evidence after applying the various tests laid down by the case law discussed above.

7. Where however the question is of the violation of the copyright of stage play by a film producer or a Director the task of the plaintiff becomes more difficult to prove piracy. It is manifest that unlike a stage play a film has a much broader prospective, a wider field and a bigger background

where the defendants can by introducing a variety of incidents give a colour and complexion different from the manner in which the copyrighted work has expressed the idea. Even so, if the viewer after seeing the film gets a totality of impression that the film is by and large a copy of the original play, violation of the copyright may be said to be proved.”

21. As against the similarities pointed out by the Plaintiff, the Defendant No. 6 has submitted the dissimilarities between the work of the Plaintiff and the suit film, running into several pages which is annexed and marked as Exhibit- D to the affidavit filed by Defendant No.6. After going through the synopsis and storyline of the Plaintiff, the script of the film submitted on behalf of Defendant No. 6, the similarities and dissimilarities between the work of the Plaintiff and the suit film and the propositions set out by the Hon'ble Supreme Court in the case of *R.G. Anand* (supra), this Court is *prima facie* of the view that the Plaintiff has failed to establish that the Defendants have breached any of the rights of the Plaintiff as alleged and therefore, the Plaintiff is not entitled to any urgent relief as sought.

22. Even otherwise, the Plaintiff cannot be granted any relief as sought, in view of the fact that the Plaintiff is guilty of gross delay and laches. As set out earlier, the said movie was ready in and around October, 2013, and the first trailer of around 2 minutes 48 seconds was released on You Tube on 28th October, 2013 and is being continuously featuring on You Tube till date. The trailer was also broadcast on several T.V. Channels like 9XM, Music Express, M Tune, Zoom till Mid November, 2013. Bombay Times carried an article dated 28th October, 2013, of the trailer

launch of the said movie. Thereafter, the trailer of the said movie has appeared continuously on You Tube and has been attached to the movie "Krish-3" released on 1st November, 2013. The movie Krish-3 was released with over 4000 prints and was exhibited continuously. In addition to the above, the TV campaign for the said movie was launched in the first week of January, 2014, on several TV channels like 9XM, Music Express, M Tune, Zoom TV, etc. From time to time the promos/advertisements of the said movie have been appearing in newspapers and on various T.V. Shows, the particulars of which are set out in paragraph 5h of the Affidavit in reply of the Defendant No.6 dated 27th February, 2014. Thus there has been continuous promotion of the said movie right since October, 2013.

23. The said movie is already delivered to M/s. Eros International (Overseas Distributor) on 15-16th February, 2014. The censor approval in certain overseas territories like Singapore, UK, Canada have already happened during the period 17-22nd February, 2014. Eros has even shipped the film for final release which is on 28th February, 2014. The said movie is being released across the globe on 28th February, 2014. The release dates have been appearing in all types of media right from October, 2013 to the knowledge of the Plaintiff who has knowingly delayed the filing of the Suit with the obvious intention of snatching last minute orders from the Court. Third party rights have been created by the Defendants and its co-producers. Theatres have been booked, advance ticket sales have already begun on 26th February, 2014 and the public at large have purchased show tickets for the release.

24. The Learned Senior Advocate appearing for the Plaintiff has submitted that since the Plaintiff is not very closely involved in the films, she had no notice of the trailer of the suit film which was released in October, 2013, and the subsequent information appearing on the Internet in respect of the suit film. This submission cannot be accepted since the Plaintiff has herself stated in the Plaint that she has written and/or authored several scripts and stories for Hindi movies and is registered as a member with the Film Writers Association.

25. I am therefore satisfied that the Plaintiff has not only failed to make out a prima facie case for grant of urgent ad-interim relief in her favour, but the Plaintiff is guilty of gross delay on her part in approaching the Court i.e. one day prior to the release of the suit film and therefore the balance of convenience is also completely in favour of the Defendants and against the Plaintiff. If the Plaintiff ultimately succeeds in establishing her claim, she will be entitled to damages as claimed.

26. In the circumstances, the Plaintiff is not entitled to any urgent ad-interim reliefs and the application stands rejected. Defendants to file their Affidavit-in-reply on or before 21st March, 2014. Rejoinder to be filed on or before 28th March, 2014. Place the Notice of Motion for final hearing on 2nd April, 2014, after the Ad-interim Board.

(S.J. KATHAWALLA, J.)