

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

NOTICE OF MOTION NO..... OF 2009  
IN  
SUIT (L) NO 629 OF 2009

Sanjay B. Haran .. Plaintiff

V/s.

Big Pictures & Ors .. Defendants

Shri. Snehal Shah a/w R.B. Jain, Abhishek Jain & Sandip D i/b  
Legal Juris for Plaintiff

Sr. Counsel Virag Tulzapurkar, Ameet Naik, Abhishek Kale i/b  
Naik Naik and Company for Defendants

Coram : A.V. Nirgude, J  
Date : 04<sup>th</sup> March, 2009

P.C.:

1. The suit is filed for declaration that the Plaintiff is absolute owner of the film title by name "13" and for perpetual injunction to prevent the Defendant No. 4 from using title "13B" FEAR HAS A NEW ADDRESS for his film which is scheduled to be released on this Friday.
2. The Plaintiff has sought ad interim injunction to prevent

release of the film in the said name. In my view, the Plaintiff has failed to make out a case for passing such order.

3. First and the foremost reason is that, although the Plaintiff has registered the title with his Producers' Association and although, the Association has informed this fact to the Association of which Defendant No. 4 is a member, this registration as well as the rules of the Association do not have statutory force and do not give proprietary rights to the Plaintiff for the said title. Besides this, it is also an admitted fact that the Plaintiff and the Defendant No. 4 have no contractual relationship whereby they agreed not to utilize each others title.

4. Thirdly, although the Plaintiff has stated in the plaint that the Defendant No. 4 by using title "13B" and separated it from the words "FEAR HAS A NEW ADDRESS" giving an impression to the general public that the title of the film is "13B", it is not a case of passing of action. The arguments of the Defendant No. 4 that the cause of action for the suit is based on passing of action, in

my view, is not a correct impression.

5. The Plaintiff's reliance on definition of term "Custom" in various law dictionaries is of no avail because admittedly, the Plaintiff has not pleaded custom in the plaint and so, at this stage, there is no possibility of appreciating the case of the Plaintiff on the basis of custom or usage etc.

6. The last point that goes against the Plaintiff is that he came to the Court rather belatedly. Though the Plaintiff was knowing even in middle of February that the Defendant No. 4 had made the film ready and it would be released shortly, he came to the Court only on 02.04.2009. By this time, it is obvious that the Defendant No. 4 has changed his position, hence, there is no ad interim relief.

(A.V. Nirgude, J)

