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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ CS(COMM) 523/2016, IAs 5972-5975/2016

**SONY PICTURES NETWORK INDIA PRIVATE LIMITED**

..... Petitioner

Through: Mr.Abhishek Malhotra, Kumar Sudeep  
and Mr.R.Taneja, Advs.

versus

**WWW.VIMEO.COM & ORS**

..... Respondents

Through:

**CORAM:**

**HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**ORDER**

% **12.05.2016**

The matter was taken up in the morning, when during the course of submissions, it was noted that the plaintiff has averred in the suit that plaintiff is the co-owner of the copyright in the film Azhar by virtue of Film Production Agreement dated September 18, 2015, entered between the plaintiff and M/s Balaji Motion Pictures Ltd. It is also noted, that the suit has been filed by the plaintiff namely M/s Soni Pictures Network India Pvt. Ltd. In other words, M/s Balaji Motion Pictures Ltd has not filed the suit. The learned counsel for the plaintiff sought a pass over to file an application as urgent orders are prayed for, as the picture is being released tomorrow i.e May 13, 2016.

The matter was again taken up in the afternoon when the counsel for the plaintiff has filed an application under Order I Rule 10 read with Section 151 CPC with a prayer to permit M/s Balaji Motion Pictures Ltd being co-producer, be arrayed as co-plaintiff in the present proceedings.

The said application is taken on record. The Registry to number the said application. The prayer in the application is allowed. M/s Balaji Motion Pictures Ltd is transposed/arrayed as plaintiff No.2. The amended memo of parties is taken on record.

**IA 5973/2016(u/S 149 r/w Sec. 151 CPC-by petitioner)**

This is an application for extension of time for filing the court fee. Let the court fee be filed within three days from today.

Application is disposed of.

**IA 5974/2016**

Let fair typed copies of dim documents with proper margins be filed within four weeks from today.

Application is disposed of.

**IA 5975/2016**

Let original documents be filed within four weeks from today.

Application is disposed of.

**CS(COMM) 523/2016**

Let summons be issued on the plaint returnable on 11<sup>th</sup> August, 2016.

**IA 5972/2016(u/O 39 Rules 1 & 2 r/w Sec. 151 CPC)**

1. It is the submissions of learned counsel for the plaintiffs that plaintiffs are the owners of copyright in the film “Azhar” to be released across the theatres on May 13, 2016.
2. The defendants are various websites, multi system operators, cable operators etc. The defendant Nos.1 to 13 are websites engaged in the business of uploading pirated and unlicensed content including the films to the public. It is the submission of learned counsel for the plaintiff that the defendants are targeting their infringing business activities in respect of the said film by transmitting/communicating through the medium of the internet and the websites owned or controlled by defendant Nos.1 to 13. Defendant Nos.14 to 45, 47 and 48 are the internet service providers who are engaged in the business of providing basic telephony, mobile services and broadband network throughout the country and the said defendants allow access to various websites and web pages resulting in infringing the plaintiff's copyright works. Defendant Nos.50 to 54 are the multi system operators and defendant Nos.55 to 74 are the local cable operators, who are engaged in

unauthorized and unlicensed reproduction and broadcast on their local channels and through other means, of various copyright contents. However, they are not licensed by the plaintiff to distribute and/or broadcast the said Film.

3. The defendants Nos. 76 - 100 are all the presently unknown persons who the plaintiffs apprehend will infringe the copyright of the plaintiffs in the film "Azhar". The plaintiffs seeks proactive protective orders from this Court in order to protect its copyright in the said film. For convenience of reference, the plaintiff has named them Ashok Kumar and is seeking an injunction in the nature of *john doe* order against these defendants. The plaintiff's case is, for restraining the defendants, 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, duplicating, displaying, releasing, showing, uploading, downloading or exhibiting the film "Azhar" through different mediums like CD, DVD, Blu-ray, VCD, Cable TV, DTH, Internet, MMS, Tapes, Conditional Access System or in any other like manner. He would rely upon similar orders passed by this Court in C.S.(OS) No.384/2011 dated 18.2.2011, C.S. (OS) No.821/2011 on

4.4.2011, C.S.(OS) No.1724/2011 on 20.7.2011, C.S. (OS) No.2066/2011 On 26.8.2011 and C.S. (OS) No.2352/2011 on 21.9.2011.

4. I have heard the learned counsel for the plaintiffs and have perused the plaint, application and supporting documents. It is contended by learned counsel for the plaintiffs that the plaintiffs would earn maximum revenue from the theatrical release of the film “Azhar” in cinemas in the first week of the release of the said film. These revenues earned are for the purposes of covering the costs incurred in the production of the film and for making profits. After the theatrical release, after a short period of time, the movies are published on different mediums like CDs, DVDs, blu-ray discs, VCDs etc. It is the second stage of revenue generation by the producer. The producers also generate revenue from distribution of the movie on a broadcast network for exploitation on television and finally, the latest medium of exploitation for a film is by permitting download and streaming of the film over the internet. It is further submitted that the actions of the defendants would not only amount to unlicensed and illegal exploitation of the film, but also interfere with and disrupt this established industry practice, thereby causing immense losses to the plaintiffs. He states, since the violators are unknown general orders need to be passed and have been

passed in the past by this Court. He states, such orders are commonly known as “John Doe” orders, which were passed in US Courts. It is contended that the plaintiffs are the owners of the copyright in the film Azhar and apprehends that the defendants are likely to violate the plaintiff's copyright in the said film.

5. Notice returnable on 11<sup>th</sup> August, 2016.

6. Considering the submissions made by learned counsel for the plaintiffs, the Court is satisfied that a prima facie case has been made out. Balance of convenience is in favour of the plaintiffs and would suffer irreparable loss, if the defendants are not restrained in any manner from communicating the unlicensed copied of the said film to the public in any of the modes alleged by the plaintiffs. Accordingly, the defendants, their partners, proprietors, directors, shareholders, officers, servants and agents, their representatives, franchisees, nominees and other known and unknown parties are restrained from communicating, making available, distributing, duplicating, displaying, releasing, showing, uploading, downloading or exhibiting the film “Azhar” in any manner without proper license from the plaintiffs or in any other manner which would violate/infringe the plaintiff's copyright in the said film "Azhar" through different mediums like CD,

DVD, Blu-ray, VCD, Cable TV, DTH, Internet, MMS, Tapes, Conditional Access System or in any other like manner.

7. The defendant Nos. 14 to 45, 47 and 48 shall ensure the compliance of the plaintiff's request to block the access of the URL of the infringing websites and the defendants 46 and 48, to ensure, the request of the plaintiffs to defendants 14 to 45, 47 and 48 is implemented.

8. Compliance of Order XXXIX Rule 3 be made within one week from today.

9. Dasti under the signatures of Court Master.

**V. KAMESWAR RAO, J**

**MAY 12, 2016/ak**