

IN THE HIGH COURT OF DELHI AT NEW DELHI**CS(OS) 896/2014****SUSHANT SUPRIYA Plaintiff****Through: Mrs. Pratibha Singh, Senior Advocate with Ms. Swati Sukumar, Ms. Anu Paarcha and Ms. Suhasini Raina, Advs.****versus****N TIWARI AND OTHERS Defendant****Through: Mr. Sudhanshu Batra, Senior Advocate with Ms. Meghna Mishra, Mr. Lavin Hirani, Mr. Akhil Sarkar, Ms. Fareha A Khan, Ms. Niyati Kohli and Ms. Apeksha Gupta, Advs. for D-1, D-2, D-6 and D-7.****Mr. Jayant Bhushan, Senior Advocate with Mr. Neel Mason, Mr. Sankalp Dalal and Ms. Kritika Seth, Advs. for D-3, D-4 and D-5.****CORAM:****HON'BLE MR. JUSTICE A.K. PATHAK****ORDER****04.04.2014****CS (OS) 896/2014****Written statement be filed within four weeks. Replication, if any, be filed within four weeks thereafter.****List before Joint Registrar on 7th July, 2014 for admission/denial of the documents.****I.A. No. 5781/2014 (u/O 39 R 1 and 2 CPC)****Reply be filed within four weeks. Rejoinder thereto be filed within four weeks thereafter.****List on the date fixed before the Joint Registrar for completion of pleadings.****Learned senior counsel for the plaintiff presses for immediate stay on the ground that the film ?Bhoothnath Returns? is going to be released on 11th April, 2014.**

Arguments heard and material available on record perused. I have compared the story of the plaintiff with the synopsis of the film script as well as watched the trailer of the movie 'Bhoothnath Returns' and am of the, prima facie, view that there may be some semblances between the story of the plaintiff and the movie 'Bhoothnath Returns', since both are based on the 'ghosts', however, there is no substantial semblance between the story and the script of the film.

As per the plaintiff's story a ghost was wandering in a locality in

cloudy weather when he witnessed an accident wherein a person gets injured. Since no one from the public helped the injured, the ghost

named 'Bhoothnath' takes the injured to a government hospital in a rickshaw. When Bhoothnath returns from the hospital he sees a residential colony at some distance and a park nearby. At one end of the park, there was a banyan tree and Bhoothnath makes this banyan tree as his residence. He becomes friendly with the children of the area, who used to come to play in the park. He introduces himself as 'Bhoothnath' to them. With the passage of time Bhoothnath becomes beloved uncle of the children. There was a hand pump near the park where women of the area used to come to fetch water. Bhoothnath was helping old and ill women to fill drinking water. With the passage of time he also became friendly with the aged persons visiting the park. Bhoothnath told everyone that he was a ghost but no one believed him. Bhoothnath becomes popular in the whole area as he used to help each and everyone. Women tied rakhi to him on Rakshabandhan. When area became afflicted by thefts and dacoities and the police personnel showed their inability to extend any help as they being on VIP and election duty. It is Bhoothnath, who rounds up all the goons and thieves of the area and hands them over to the police. The roads were in poor condition, inasmuch as, there was scarcity of water in the area. Bhoothnath by using his magical powers repairs the roads and solve the problem of water, electricity etc. He became immensely popular amongst the people of the area, who asked him to contest Lok Sabha and Vidhan Sabha elections but he refused. He used to play cricket, hockey and football. However, he refused to become part of the Indian cricket team as well as National hockey and football team though he was requested to join the said teams. He had forgotten his caste and religion as he had died 50-60 years ago. People of different castes/religions started claiming that Bhoothnath belonged to their religion/caste and fought over the issue, which led to communal violence. This disturbed the Bhoothnath and he left the area. Hindus built a temple and installed his idol and started worshipping him. Muslims claimed that he was a fakir and built a 'mazaar'. After his departure most of the people started believing that Bhoothnath was a ghost whom they had lost due to their mistakes.

As against this, the film is sequel to the earlier film Bhoothnath which was released in the year 2008 but the production started in the year 2006 which period relates to even prior to the story written by the plaintiff. In the film it is shown that after Bhoothnath returns to 'Bhoot World' he is greeted with taunts and condemnation from other

ghosts for bringing disrepute to the ghost community for getting bullied by the child whom he eventually befriended in the earlier film.

Boothnath seeks to redeem himself by returning to earth as a ghost for scaring kids. However, he fails in his endeavour to scare children, despite all his efforts. He meets one child, namely, Akhrot who lives in the slums of Dharavi in Mumbai to whom he is visible and becomes his friend. Bhoothnath is invisible to all other characters in the film.

There was a project of some builders stuck up because of the reasons that the area was haunted by ghosts. In order to help Akhrot, by right methods to earn money and not by misusing his magical powers. Bhoothnath approaches ghosts and persuades them to leave the area and return to ?Bhoot World?. In the process, Akhrot earns money from Real Estate Developers. Bhoothnath comes across various corrupt government officials while persuading ghosts to leave the area, who eventually fall in line due to Bhoothnath's harmless yet persuasive ways of dealing with them. There is a corrupt politician in the area, namely, Bhau whose 300 crore

project is haunted by ghosts. He approaches Akhrot for help and offers him huge sum of money as well. Bhoothnath meets ghosts and was told by them that they had lost their lives, when they challenged Bhau and his goons. Whoever came in the way of Bhau used to be either killed or bribed. Akhrot suggests Bhoothnath to contest in upcoming elections and defeat Bhau as he could not have been killed being a ghost. Initially, Bhoothnath does not agree to the same but later on agrees to contest election but as a ghost. Bhau creates problem for Bhoothnath but Bhoothnath wins the election. Bhoothnath does not misuse his powers as a ghost. He decides to tame officials who were not performing their job by using his ingenious ways and not by misusing his powers. The film is based about the relationship between a ghost and the child and in the process ghost does certain good acts helping the people of Dharavi area.

In nutshell, film ?Bhoothnath Returns? depicts the friendship between a ghost and the child, namely, Akhrot and in the process he tries to solve certain problems. He does not repair roads and solve electricity or water problems by using magical tricks which is contrary to the story of plaintiff. There is no communal violence in the film on the question of religion/caste of Bhoothnath.

Plaintiff has placed reliance on the judgment dated 6th September, 2012 passed by the Division Bench of Bombay High Court in appeal No.322/2012 titled Kapil Chopra vs. Kunal Deshmukh and others 2013 (2) BOM CR 815. I have perused the judgment carefully and find the same to be in the context of different facts. In the said case, plaintiff had filed suit for infringement of copyright and for breach of confidence. Plaintiff was a script writer. He alleged that he had discussed the story with the defendant No.1 several times. He had given script to defendant no.1. Plaintiff alleged that from the promos of the film he came to know that defendant nos.1 and 2 had made the film based on his story. In this context, script written by the plaintiff and story of the film was considered and the court found that defendants had adopted the script of the plaintiff with insignificant and minor variations. It has been further observed that defendant no.1 had also breached the

confidence reposed on him by the plaintiff. In the light of foregoing discussions, I am of the view that plaintiff has failed to make out a, prima facie, case for ad interim injunction. Plaintiff shall also not suffer any irreparable loss and injury, since plaintiff has himself claimed damages and ultimately, if court comes to conclusion after trial that defendants have infringed the copyright, damages, if proved, can be awarded. Balance of convenience, is also not in favour of the plaintiff. Accordingly, I find no reason to stay the release of the film, as has been pressed today.

A.K. PATHAK, J.

APRIL 04, 2014

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