

IN THE HIGH COURT OF DELHI AT NEW DELHI**CS(OS) 1373/2012****VIACOM 18 MOTION PICTURES Plaintiff****Through : Mr.Akhil Sibal and Mr.Harshvardhan
Jha, Advs.****versus****JYOTI CABLE NETWORK and ORS Defendants****Through****CORAM:****HON'BLE MR. JUSTICE G.S.SISTANI****ORDER****14.05.2012****IA.No.9096/2012 (u/O.26 R.9 CPC)****Dismissed as not pressed at this stage.****IA.No.9097/2012 (EXEMPTION)****This is an application filed by plaintiff seeking exemption from
filing certified/original copy of documents/orders.****Exemption allowed subject to plaintiff's filing certified/original
copy of documents, sought to be relied upon, within ten weeks from today.****Application stands disposed of.****CS(OS) 1373/2012 and IA.No.9095/2012 (STAY)****Plaintiff has filed the present suit for permanent injunction and
rendition of accounts.****Issue summons in the suit and notice in the application to
defendants, returnable on 23.08.2012.****Counsel for the plaintiff submits that plaintiff is engaged in the
business of production and distribution of cinematograph films and other
entertainment businesses. Plaintiff is the co-producer of cinematograph
film 'DEPARTMENT' along with wide Frames Pictures. Plaintiff has
copyright over the said film. Counsel further contends that in view
of the past experience plaintiff apprehends that by using**

advanced technology, the movie 'DEPARTMENT' would be copied and distributed in the market on DVDs/CDs as also exhibited on cable and internet by defendant nos.1 to 5 and other unknown persons who have been impleaded as defendant nos.6 to 30 in the assumed name Ashok Kumar. Mr.Sibal next submits that in case the film is shown on cable, internet and/or through any other medium by the persons, who are not being authorized by the plaintiff to do so, cine goers may not go to theaters to watch the film, resulting in huge financial losses to the plaintiff. It has also been submitted by counsel for the plaintiff that factum of copying and distributing the film by such unscrupulous persons on CDs/DVDs/Blue-ray discs/VCDs and through various other mediums has been noticed in the past in respect of new releases not only by the plaintiff but other producers as well. It is contended that with regard to such unknown persons 'John Doe' practice has to be resorted to, which is otherwise well recognized not only in India but in various other countries such as United States of America, Canada, England and Australia.

I have heard counsel for the plaintiff and also perused the plaint, application and the documents filed along with the plaint. I do find force in the submission made by counsel for the plaintiff. In Taj Television vs. Rajan Mandal and Ors., reported at 2003 FSR 22 at page 407, principles of John Doe order has been recognized and followed for passing

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appropriate directions against such unknown and unscrupulous cable operators. A Single Judge of this Court in CS (OS) No.821/2011 titled UTV Software Communications Limited vs. Home Cable Network Ltd. and Ors., has noted that court has jurisdiction to pass an order in nature of a 'John Doe' injunction order against unknown persons in the circumstances, as has been pleaded by the plaintiff in the present case. Past practice of unauthorized persons indulging in such illegal activities of copying the film on CDs/DVDs/Blue-ray discs and distributing the same has also been taken note in the said order. One can also not lose sight of the fact that film piracy in respect of such new release is not uncommon and judicial note of this fact can be taken. ?

I am satisfied that it is a fit case for grant of ex parte ad interim injunction. Balance of convenience is also in favour of the plaintiff. Prima facie the plaintiff has been able to establish that plaintiff has the exclusive copyright over the film 'DEPARTMENT' which is yet to be released. In case, CDs/ DVDs/Blue-ray discs/VCDs are made and the film is copied by using any other device and uploaded on internet by the defendant nos.1 to 5 and other unidentified persons and distributed and shown on cable TV, DTH, internet, MMS, Tapes and CAS, the purpose of filing of the present suit shall be defeated and the plaintiff will suffer irreparable loss and injury.

For the forgoing reasons, defendants, their partners, proprietors, directors, shareholder, officers, servants, agents, representatives,

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franchisees, nominees and other unnamed and undisclosed persons, are restrained from communicating without license or displaying, releasing, showing, uploading, downloading, exhibiting, playing, and/or defraying the movie ?DEPARTMENT? in any manner without a proper license from the??plaintiff or in any other manner which would violate/infringe the plaintiff?s copyright in the said cinematograph film ?DEPARTMENT? through different mediums like CD, DVD, Blue-ray disc, VCD, Cable TV, DTH, Internet services, MMS, Pen drives, Hard drives, Tapes, CAS 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 Court Master.

G.S.SISTANI, J

MAY 14, 2012

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