

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

NOTICE OF MOTION (L) NO. 3511 OF 2015
IN
SUIT LODGING NO. 1314 OF 2015

Eros International Media Ltd. .. Plaintiff

In the Matter Between:

Eros International Media Ltd. .. Plaintiff

Vs.

Bharat Sanchar Nigam Ltd. & Ors. .. Defendants

...

Mr. Shailesh Mendon a/w Ms. Maheshwari, Mr. Nikhil Rodrigues i/b.
M/s. R. M. Partners, for plaintiff.

Mr. Rajendra Jain i/b. M/s. Thakore Jariwala & Associates for defendant
No. 5.

Mr. Venkatesh Dhond a/w Punit B. Anand i/b. Mr. Punit B. Anand, for
defendant No. 7.

CORAM : A. K. MENON, J.

DATE : DECEMBER 17, 2015.

PC.:

The suit is filed on behalf of producers of the feature film
“Bhajirao Mastani” to prevent infringement of their copyright. The film
be scheduled to be released for public exhibition tomorrow, 18th
December 2015. The plaintiff seeks urgent ad-interim protection.
Extreme urgency in the matter since the suit has been filed quia timet
action since they anticipate large scale piracy upon release of the film
which will deprive of them of right to exclusively exploit the copy right

vesting in them.

2. The plaintiff also seeking reliefs in the nature of the *John Doe* action against the persons unknown, as is necessary in view of the nature of the infringement anticipated. The suit is filed in a representative capacity on principle analogous to the *John Doe*. Defendant no.7 is represented by Mr.Dhond who clarified that if the URLs are blocked, the defendant No. 7 would not be able to provide any access to the said URLs. Defendant no.5 is also represented and submits to the order of the court.

3. In paragraph 9 of the plaint they have set out that film is ready for release and has been produced at a large budget of Rs. 120 Crores and it will be released on 3500 screens worldwide. The URL links on the Internet, particulars of which are provided in paragraph 10 and 10-A of the plaint indicates that more than 200 websites are offering access to the URLs listed in the plaint and in at Exhibit B-1.

Accordingly it is submitted that unless urgent ad-interim relief is granted there is every likelihood that this dormant link will be activated and once these are activated, upon release of the film, there will be large scale downloads of the film which may also result in illegal copies being made of the film.

4. In the circumstances they seek urgent orders against the defendants which include several Internet Service Providers (ISPs) through whom these URLs may be accessed. Accordingly there will be an order interns of prayer clause (a)(i), a(ii) and a(iii) except the bracketed portion in prayer clause a(iii) where in place of the bracketed words the word “URLs” will stand substituted. The prayers a (i), a(ii), a(iii) read as follows

a(i) that the Defendants by themselves, their servants, agents, licensees, franchisees, partners, proprietors and/or otherwise howsoever be restrained by an order of mandatory injunction of this Hon'ble Court from exhibiting/disseminating/communicating to the public via the Internet, telecasting/broadcasting / distributing / reproducing or otherwise making available to the public via the internet or any other means for the said Film and said Work.

a(ii) that the Defendants by themselves, their servants, agents, licensees, franchisees, partners, proprietors and/or otherwise howsoever be restrained by an order of mandatory injunction of this Hon'ble Court from (I) making a copy of the said Film and said Work, including a photograph of any image forming part thereof, (ii) to sell or give on hire, or offer for sale or hire, any copy of the said Film and said Work, regardless of whether such copy has been sold or given on hire on earlier occasions, (iii) to communicate the Said Film and Said Work to the public in any manner whatsoever including by way of but not limited to exhibiting/disseminating/ communicating to the

public via the internet, telecasting / broadcasting / distributing / reproducing or otherwise making available to the public via the internet or any other means for the said Film and said Work.

- a(iii) grant an order of temporary injunction restraining the Defendants from facilitating access to URLs (web pages / web links) thereby blocking all or any of the contents that relate to the said Film and said Work, in any manner, thereby restraining the unauthorized copying, transmission, communication or make available or display or release or show or upload or download or exhibit or play and/or in any manner communicate in and/or through the internet services provided by them, immediately upon receipt of details of such infringing (websites/web pages)URLs in writing from the Plaintiff company or its authorized representatives.

5. The motion is made returnable on 8th January 2015. In the meantime the plaintiff shall comply with the provisions of Rule 148 of the High Court (O.S) Rules and also Provisions of Order XXXIX Rule (3). All concerned shall act on a copy of this order certified by the Associate of this Court.

6. List the motion on 18th January 2015.

(A. K. MENON, J.)