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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(COMM) 1150/2016

NOVEX COMMUNICATION PRIVATE LTD. Plaintiff

Through: Ms. Shilpi Chowdhary, Advocate with
Mr. Jasdeep S. Dhillon and Mr. Bharat Aggarwal,
Advocates

versus

M/S. 3 PEGS DOWN & ORS.

..... Defendants

Through: None

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

% **24.08.2016**

I.A. 10234/2016 (exemption)

Subject to the plaintiff filing the original/certified/legible/typed copies of the documents annexed with the plaint within four weeks, the application is allowed and disposed of.

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1. The plaint be registered as a suit.
2. Issue summons in the suit in the prescribed form to the defendants on the plaintiff filing the process fee within one week, by ordinary process, speed post and courier, returnable before the Joint Registrar on 18.10.2016 for completion of service and pleadings and submission of statements of admission/denial of documents.

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3. The summons to be issued to the defendants shall indicate that written statements be filed within the prescribed timeline, with copies to the other side, who shall file replications thereto before the next date of hearing.
4. List in Court on 07.02.2017 for framing of issues.
5. The parties shall exchange their respective issues proposed to be framed one week before the next date of hearing and produce the same in Court.

I.A. 10233/2016 (by the plaintiff u/O XXXIX R 1 and 2 CPC)

1. Notice for the date fixed.
2. The plaintiff has instituted the accompanying suit for permanent injunction against the defendants, restraining infringement of copyrights, rendition of accounts, damages etc.
3. Learned counsel for the plaintiff states that the plaintiff/company was incorporated in the year 2002 and has been licensing sound recordings for “non-physical” use, i.e. for all forms of exploitation of copyright in sound recordings except the manufacture and sale thereof. The plaintiff’s repertoire consists of a large number of songs belonging to the film and non-film genre, both in Hindi and regional languages. The plaintiff is the assignee of the owner of the copyright, Zee Entertainment Enterprise Limited and is entitled to the exclusive rights flowing from the Deed of Assignment dated 11.08.2015, whereunder the assignment of ‘On Ground Performance Rights’ in the ‘sound recordings’ of the songs contained in the films that are part of the repertoire of the Zee Entertainment Enterprise Limited has been given in its favour.

4. Learned counsel draws the attention of the Court to the list of films, songs whereof have been assigned to the plaintiff by Zee Entertainment Enterprise Limited w.e.f. 15.05.2015 to 14.11.2016 and states that the plaintiff issues public performance licenses for events and on annual/background basis to various entities.

5. The defendant No.1 is stated to be a Bar-cum-Lounge that is operating from Saket and is under the management and control of the defendant No.2 and the defendant No.3 is a private limited company that is involved in the business of hotels, camping sites and short-stay accommodations. It is submitted that both the defendants No.1 and 2 are under the management and control of the defendant No.3.

6. Learned counsel submits that it has come to the knowledge of the plaintiff that the defendants are using the plaintiff's "sound recordings" of songs contained in films assigned to it, for the entertainment of their guests and despite numerous letters and reminders issued to them, they have failed to obtain the requisite license/permission from it in this regard. In fact, the plaintiff's notice dated 28.07.2016 addressed to the defendant No.3 for assignment of the "On Ground Performance Rights" in the "sound recordings" of the songs in films, which are a part of the repertoire of Zee Entertainment Enterprise Ltd., has not elicited any response. Hence, the present suit.

7. The Court has heard the learned counsel appearing for the plaintiff, perused the averments made in the plaint and the documents enclosed therewith and is of the opinion that the plaintiff is entitled to grant of an *ex parte ad interim* injunction in its favour.

8. Accordingly, till further orders, the defendants, their partners, directors, employees, representatives etc. are restrained from publicly performing or in any manner communicating the sound recording works of the songs in the films listed in the Schedule annexed with the plaint and marked as Annexure P-3 assigned to the plaintiff, without obtaining a prior license for the said purpose.

9. Provisions of Order XXXIX Rule 3 of the Code of Civil Procedure be complied with within one week from the date of receipt of this order.

DASTI.

HIMA KOHLI, J

AUGUST 24, 2016

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