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

+ CS(COMM) 364/2019

VIJAY ABBOT Plaintiff

Through: Mr. Harish Malhotra, Sr. Adv. with
Mr. Vijay K. Singh, Ms. Kanishka Prasad,
Mr. Harsimran Singh, Mr. Samridh Ahuja,
Mr. Kartikeya & Ms. Khushboo Tomar,
Advs.

Versus

SUPER CASSETTES INDUSTRIES

PRIVATE LIMITED & ORS. Defendants

Through: Mr. Harsh Kaushik
Mr. Abhay Chattopadhyay,
Ms. Nikita Chitale, Mr. Varun Tandon &
Mr. Harshvardhan Jha, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **23.07.2019**

Caveat No.724/2019

1. The counsel for the defendant/caveator has appeared.
2. Caveat stands discharged.

**CS(COMM) 364/2019, IA No.9775/2019(u/O.XXXIX R-1 & 2
CPC), IA No.9776/2019(exemption) & IA No.9777/2019(u/O.II R-
2(3) CPC)**

3. The senior counsel for the plaintiff and the counsel for the defendant/caveator have been heard.
4. Though I am prima facie not satisfied about the rights claimed by the plaintiff but the only concern is, whether the film with the impugned title causes any damage to the reputation of the plaintiff. Part watching of the trailer of the film, though does not indicate so.

5. I have suggested to the counsel for the defendant/caveator that without prejudice to the rights and contentions of the defendant/caveator, the defendant/caveator, before the scheduled release of the film on 2nd August, 2019, show the film to the plaintiff Dr. Vijay Abbot, the senior counsel for the plaintiff Mr. Harish Malhotra and Ms. Kanishka Prasad, Advocate for the plaintiff, to allay any such apprehension.

6. The counsel for the defendant/caveator, after taking instructions, states that though the defendant/caveator is ready to so show the film but the apprehension of the defendant/caveator is that the plaintiff and his counsels after watching the film and before release thereof may make statements to the public, media or otherwise, about the film.

7. The Senior counsel for the plaintiff under instructions states that no such statement shall be made and no information qua the film will be divulged to anyone whatsoever.

8. The counsel for the defendant/caveator has also stated that the plaintiff, after watching the film may make an argument of the same defaming the plaintiff, when the plaintiff, after the trade mark registrations have lapsed in the years 2010 and 2005, and when as per the documents of the plaintiff himself, the mark *Khandani Shafakhana*, has not been used since 3rd September, 2013.

9. In this context, it is also suggested that the film, in the viewing suggested, be seen by the undersigned also, so that the argument, if any, made can be dealt with.

10. The plaintiff, if finds any affect to its reputation after seeing the film, cannot be deprived of the right of contending so. It will however be judicially decided, whether there is any merit in the said challenge. All that can be said is, that prima facie it appears on the basis of the material released till now, that there is no damage to the reputation of the plaintiff.

11. Tentatively, the viewing aforesaid is scheduled for 26th July, 2019 and on making arrangements thereof, the counsel for the defendant/caveator to intimate to counsel for the plaintiff as well as to the undersigned.

12. List on 29th July, 2019.

Dasti to both the counsels under signatures of the Court Master.

RAJIV SAHAI ENDLAW, J

JULY 23, 2019

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