

\$~39 to 42

- * **IN THE HIGH COURT OF DELHI AT NEW DELHI**
- + **RFA(OS) 87/2016, CM APPLN. 40298/2016 & CM 40300/2016**
SAREGAMA INDIA LIMITED Appellant
Through Mr. Chander M. Lall, Senior
Advocate with Mr. Ankur Sangal and
Ms. Sucheta Roy, Advocates
- versus
- THE INDIAN SINGERS RIGHTS ASSOCIATION & ANR
..... Respondents
Through : Mr. Sudhir Chandra, Senior Advocate
with Mr. Pravin Anand, Ms. Udit
Palko and Mr. Shamim Nooreydzan
- + **RFA(OS) 88/2016, CM APPLN. 40301/2016 and CM 43803/2016**
SAREGAMA INDIA LIMITED Appellant
Through Mr. Chander M. Lall, Senior
Advocate with Mr. Ankur Sangal and
Ms. Sucheta Roy, Advocates
- versus
- THE INDIAN SINGERS RIGHTS ASSOCIATION & ANR
..... Respondents
Through : Mr. Sudhir Chandra, Senior Advocate
with Mr. Pravin Anand, Ms. Udit
Palko and Mr. Shamim Nooreydzan
- + **RFA(OS)(COMM) 9/2016, CM APPLN. 40132/2016 &
CM 40133/2016**
SUPER CASSETTES INDUSTRIES PRIVATE LIMITED
..... Appellant
Through Mr. Ankit Relan, Mr. Uday S. Chopra
and Ms. P.Vennela, Advocates
- versus
- THE INDIAN SINGERS RIGHTS ASSOCIATION & ANR
..... Respondents
Through : Mr. Sudhir Chandra, Senior Advocate
with Mr. Pravin Anand, Ms. Udit

Palko and Mr. Shamim Nooreyezdan

+ **RFA(OS)(COMM) 10/2016, CM APPLN. 40139/2016 & CM
APPLN. 40140/2016**
SUPER CASSETTES INDUSTRIES PRIVATE LIMITED

..... Appellant

Through Mr. Ankit Relan, Mr. Uday S. Chopra
and Ms. P.Vennela, Advocates

versus

THE INDIAN SINGERS RIGHTS ASSOCIATION & ANR

..... Respondents

Through : Mr. Sudhir Chandra, Senior Advocate
with Mr. Pravin Anand, Ms. Udit
Palko and Mr. Shamim Nooreyezdan

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **16.11.2017**

1. The appellants in these appeals are aggrieved by the *ex-parte* judgments, whereby subject Suits have been decreed, *inter-alia*, restraining the defendants from communicating to the public, the plaintiff's repertoire comprising of performances of all its members and that of the members of its sister societies without paying royalties and obtaining a clearance from the plaintiff society or doing any other act infringing the plaintiff's performers rights through any medium.

2. The appellants contend that they are owners of all rights in the songs in its repertoire and have the sole and exclusive right in each and every component of the song: being the lyrics melody of the song, song recording which homogenizes the lyrics and the melody as well

as the performances of the singers, musicians, chorus, artists etc. that are embodied in the song. It is contended that being the owner of all rights in the song, the appellants and not the respondent no. 1 had the exclusive right of an owner under Section 14(a), 14(e), 38(A) and 55 of the Copyright Act. It is contended that without impleading the appellants as a party in the suit, the respondent no. 1 has misled the Court in decreeing the suit against the defendants, who in any eventuality were not before the Court and did not defend the suit.

3. Reliance is placed on the judgment of this Court in RFA (OS) (COMM) 16/2017, 'Saregama India Limited Vs. Indian Singers Rights Association & Anr.' and batch of appeals decided vide judgment dated 02.11.2017.

4. Since the appellants were not parties to the suits and have raised claims identical to the ones which have been raised by the appellants in the Suits which were subject matter of the judgment dated 02.11.2017 referred to above, we are of the opinion, that the Appellant should seek recourse of the remedy of review and approach the learned Single Judge, in the first instance.

5. In case the application is filed within two weeks, the same shall be heard on its merit. Rights and contentions of all the parties are reserved. It is clarified that the Court has neither examined nor considered the rival claims of the parties, urged under the Copyright Act, 1957, and leave the same to be considered by the Single Judge, uninfluenced by the observations made in this order, in accordance

with law, if so approached.

6. The appellants are also at liberty to move an application under Order I Rule 10 of the Code of Civil Procedure (CPC), to show their locus and the rights to contend that the relief claimed by the plaintiffs could not have been granted.

7. Order Dasti under signatures of Court Master.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

NOVEMBER 16, 2017

‘8b’

