

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION (L) NO.1680 OF 2016  
IN  
SUIT (L) NO. 593 OF 2016**

Eros International Films Pvt Ltd  
and Another ..Applicants

IN THE MATTER BETWEEN

Eros International Films Ltd and Another ..Plaintiffs  
Vs.

Bharat Sanchar Nigam Ltd and Others ..Defendants

Mr. Nikhil S. Rodrigues i/b M/s R. M. Partners, for the Applicants/  
Plaintiffs.

Ms. Lopa Joshi i/b Vandana Jaisingh, for Defendant No.40.

CORAM :- **B.P.COLABAWALLA, J.**  
**(VACATION BENCH)**

DATE :- **JUNE 1, 2016.**

**P. C.:**

1. Heard Mr. Rodrigues the learned counsel for the Plaintiffs  
and Ms. Lopa Joshi, appearing for Defendant No.40.

2. The Plaintiffs have filed the present Suit seeking an injunction restraining the Defendants, known and unknown, from in any way infringing the copyright of the Plaintiffs in the film known as **“HouseFull-3”** (the **“said Film”**) through different mediums.

3. The apprehension of the Plaintiffs is that there is every likelihood of a breach of their copyright by the Defendants who include various Internet service providers (ISPs) and cable TV operators who are arrayed as Defendant Nos.1 to 36 and 39 to 44 respectively.

4. The present Suit is a combined or a hybrid action. It seeks orders based on the provisions of Order 1 Rule 8 read with Section 151 of the Code of Civil Procedure, 1908 as well as on the principle governing the issue of John Doe orders. In similar cases in the past, such orders have been granted.<sup>1</sup> It is also stated by Mr. Rodrigues that there is no internal dispute between the co-producers of the said Film, namely the Plaintiffs. The Plaintiffs

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<sup>1</sup> Notice of Motion (L) No.1052/16 in Suit (L) No.303/16 dated 30<sup>th</sup> March, 2016; Notice of Motion (L) No.3511 of 2015 in Suit (L) No.1314/15 dated 17<sup>th</sup> December, 2015; Notice of Motion (L) No.1658/16 in Suit (L) No.576/16 dated 25<sup>th</sup> May, 2016; Notice of Motion (L) No.1657/16 in Suit (L) No.575/16 dated 25<sup>th</sup> May, 2016.

only seek to restrain potential damage and the loss that the Plaintiffs are likely to suffer if pirated and illicit copies are made available over various Internet based links and websites. The present action is therefore a *quia timet* action. The scheduled release date of the said Film in theatrical format is 3<sup>rd</sup> June, 2016.

5. Having regard to the statements in the plaint and the annexures thereto, and looking to the nature of the reliefs sought, the material shown and the apprehension expressed, I am satisfied that a prima facie case is made out for grant of urgent ad-interim reliefs. Therefore, there will be ad-interim injunction in terms of prayer clauses (ai) to (aiii) of the Notice of Motion which read as under:-

*“(ai) 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.*

*(aii) 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 Movie, including a*

*photograph/poster of any image forming part thereof, (ii) to sell or give on hire, or offer for sale or hire, any copy of the Movie, regardless of whether such copy has been sold or given on hire on earlier occasions, (iii) to communicate the Movie 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/ communicating to the public via the Internet, telecasting / broadcasting / distributing / sharing / uploading / reproducing or otherwise making available to the public via the Internet or any other means for the said Film and said work.*

*(aiii) grant an order of injunction restraining the Defendants from facilitating access to websites/web pages and urls within 24 hours from the receipt of the order from this Hon'ble Court and thereby blocking all or any of the contents that relate to the said Movie, in any manner, thereby restraining the unauthorized copying transmission, sharing, 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 in writing from the Plaintiff Company or anti-piracy company or its authorized representatives."*

6. Where necessary, the local police authorities are directed to render all possible assistance to the Plaintiffs in the enforcement of this order. In addition, the Plaintiffs are at liberty to publicize in all available media an authenticated copy or the substance of this order. This may also be prominently displayed in on-line advertising, television, cinemas, hoarding and in the newspapers.

7. Should the Plaintiffs find any actual instance of piracy or infringement, the Plaintiffs will be at liberty to immediately take action without having to move this Court once again. For this purpose, the Plaintiffs will be entitled to take assistance of the Police Authorities in the area(s) concerned. These authorities shall act on production of an authenticated copy of this order.

8. Affidavit-in-Reply, if any, to be filed and served on or before 17<sup>th</sup> June, 2016. Liberty to the Plaintiffs to apply to have the Notice of Motion placed for hearing and final disposal.

**( B. P. COLABAWALLA, J.)**