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

CS(COMM) 886/2017 & IA No.15535/2017(u/OXXXIX R-1&2 CPC)

THE INDIAN SINGERS' RIGHTS ASSOCIATION ..... Plaintiff

Through: Mr. Sudhir Chandra Agarwal, Sr. Adv.  
with Mr. Pravin Anand, Mr. Dhruv  
Anand, Ms. Udit Patro & Mr. Shamim  
Nooreydzan, Advs.

Versus

AMIT KUMAR CHAUHAN & ANR ..... Defendants

Through: Mr. Amit Sibal, Sr. Adv. with Mr. Neel  
Mason, Mr. Ankit Relan, Ms. Ridhima  
Pabbi, Mr. Uday S. Chopra & Ms. P.  
Vennela, Advs. for Super Cassettes  
Industries Pvt. Ltd.  
Mr. C.M. Lall, Sr. Adv. with Mr. Ajay  
Bhargava, Mr. Ankur Sangal, Ms.  
Pragya Mishra & Ms. Richa Bhargava,  
Advs. for Saregama India Ltd.

**AND**

CS(COMM) 888/2017 & IA No.15549/2017 (u/O XXXIX R-1&2 CPC)

THE INDIAN SINGERS' RIGHTS ASSOCIATION ..... Plaintiff

Through: Mr. Sudhir Chandra Agarwal, Sr. Adv.  
with Mr. Pravin Anand, Mr. Dhruv  
Anand, Ms. Udit Patro & Mr. Shamim  
Nooreydzan, Advs.

Versus

PRIYANSHU SUKHEJA & ANR ..... Defendants

Through: Mr. Amit Sibal, Sr. Adv. with Mr. Neel  
Mason, Mr. Ankit Relan, Ms. Ridhima  
Pabbi, Mr. Uday S. Chopra & Ms. P.  
Vennela, Advs. for Super Cassettes  
Industries Pvt. Ltd.  
Mr. Ankur Sangal, Ms. Pragya Mishra &  
Ms. Richa Bhargava, Advs. for  
Saregama India Ltd.

**AND**

+ CS(COMM) 896/2017 & IA No.15581/2017 (u/O XXXIX R-1&2 CPC)  
THE INDIAN SINGERS' RIGHTS ASSOCIATION ..... Plaintiff

Through: Mr. Sudhir Chandra Agarwal, Sr. Adv.  
with Mr. Pravin Anand, Mr. Dhruv  
Anand, Ms. Udit Patro & Mr. Shamim  
Nooreydzan, Advs.

Versus

HARMINDER SINGH SUNJEJA & ANR ..... Defendants

Through: Mr. Amit Sibal, Sr. Adv. with Mr. Neel  
Mason, Mr. Ankit Relan, Ms. Ridhima  
Pabbi, Mr. Uday S. Chopra & Ms. P.  
Vennela, Advs. for Super Cassettes  
Industries Pvt. Ltd.  
Mr. Ankur Sangal, Ms. Pragya Mishra &  
Ms. Richa Bhargava, Advs. for  
Saregama India Ltd.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

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**04.01.2018**

**IA No.15583/2017 in CS(COMM) No.896/2017**

**IA No.15551/2017 in CS(COMM) No.888/2017**

**IA No.15537/2017 in CS(COMM) No.886/2017 (All for exemptions)**

1. Allowed, subject to just exceptions.
2. The applications are disposed of.

**IA No.15582/2017 in CS(COMM) No.896/2017**

**IA No.15550/2017 in CS(COMM) No.888/2017**

**IA No.15536/2017 in CS(COMM) No.886/2017 (All under Order XI Rule 1(4) CPC)**

3. Time for filing additional documents is extended till the date of filing of replication.
4. The applications are disposed of.

**CS(COMM) 886/2017, CS(COMM) 888/2017 & CS(COMM) 896/2017**

5. The plaintiff, a copyright society, within the meaning of the Copyright Act, 1957, of singers, has instituted these suits against hotels / restaurants, all in Delhi,

for permanent injunction restraining the defendants from violating the rights of the members of the plaintiff and for ancillary reliefs.

6. The senior counsel for the plaintiff has contended that Parliament, in the year 1994, by insertion of Section 38 in the Copyright Act, for the first time created 'performers rights' and by amendment of the year 2012, the said rights were further crystallized and made stronger.

7. I have enquired from the senior counsel for the plaintiff, whether the repertoire qua which the plaintiff has instituted the present suit is of performances by the members of the plaintiff post 1994 and / or post 2012 only inasmuch as it *prima facie* appears that the rights so created by the amendments aforesaid of the year 1994 and 2012 to the Copyright Act are prospective and would not vest in the performances of prior to 1994/2012.

8. The senior counsel for the plaintiff however contends that the rights are in all performances made by the members of the plaintiff, even if of prior to the amendments aforesaid for the benefit of the singers.

9. The senior counsel for Super Cassettes Industries Pvt. Ltd. and senior counsel for Saregama India Ltd. appear and state that they seek impleadment in the suits.

10. The senior counsel for the plaintiff opposes the impleadment.

11. I am of the view that for considering and adjudicating the legal question which arises as aforesaid and for further considering and adjudicating, what are the rights of the members of the plaintiff; whether the rights of the members of the plaintiff are only in the voice which alone they contribute; and, whether rights also subsist when the said voice is only a part of the performance comprising of several other elements not performed by the said members and in which the members of the plaintiff do not have any right, etc. the presence of Super Cassettes Industries Pvt. Ltd. and Saregama India Ltd. which appear to controvert the rights

claimed/asserted by plaintiff in these suits, is essential. It also appears that the defendants, against whom the suits have been filed, may not even be interested in contesting the suits and the *ex parte* decree for injunction if any which may follow, in favour of the plaintiff and against the said defendants would not bind the parties seeking impleadment.

12. The senior counsel for the plaintiff however contends that the parties seeking impleadment may be heard on the legal issues only but should not be allowed to otherwise participate in these suits.

13. Since the legal issues still to be adduced may govern the said aspect, it is deemed appropriate to allow Super Cassettes Industries Pvt. Ltd. and Saregama India Ltd. to at present intervene in the suits, not by filing written statement at this stage but by filing an affidavit along with documents setting up their contentions on the legal issues which arise. After the decision on the said legal issues, it will be considered whether to implead the said persons as defendants to the suits and allow them to participate in the trial, if any required.

14. Issue summons of the suit and notice of the applications to the defendants by all modes including dasti, returnable before the Joint Registrar on 8<sup>th</sup> February, 2018.

15. The counsel for the plaintiff to supply paper books of the suit files to the counsels for the interveners.

16. The aforesaid Super Cassettes Industries Pvt. Ltd. and Saregama India Ltd. to file their affidavits aforesaid with documents within four weeks of today.

17. Replies, if any, thereto be filed within further four weeks thereafter. Since the issues are only legal, need for a rejoinder at this stage is not felt.

18. List before the Court on 22<sup>nd</sup> March, 2018.

19. The counsel for the plaintiff points out that besides these suits, CS (COMM) Nos.1546/2016, 1624/2016, 1623/2016, 1547/2016 & 487/2017

entailing the same issue are pending before Justice Jayant Nath and listed next on 24<sup>th</sup> January, 2018, CS(COMM) No.356/2016 also entailing the same issue is pending before the Bench last presided by Justice Mukta Gupta and listed in the category of “Finals” and Review Petitions No.535/2017 & 517/2017 by the interveners in CS(OS) Nos.3958/2014 & 2068/2015 in which *ex parte* decree against others were passed by Justice Dr. S. Muralidhar and by Justice V.K. Rao respectively are listed before the respective benches next on 9<sup>th</sup> February, 2018.

20. In this view of the matter, subject to orders of Hon’ble the Chief Justice, list these suits as well as other suits / proceedings aforesaid, before the same bench, on 22<sup>nd</sup> March, 2018.

**RAJIV SAHAI ENDLAW, J**

**JANUARY 04, 2018**

‘gsr’ ..