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

+ CS(OS) 881/2015

MULTI SCREEN MEDIA PRIVATE LIMITED &ANR. .... Plaintiffs

Through Mr.Saikrishna Rajagopal,  
Mr.Siddharth Chopra, Ms.Sneha Jain,  
Mr.Subhajit Banerji and Ms.Payal Kakra,  
Advocates

versus

NAGESH KALABURGY & ORS

..... Defendants

Through

**CORAM:**

**HON'BLE MS. JUSTICE HIMA KOHLI**

**ORDER**

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**27.03.2015**

**I.A.6514/2015 (exemption)**

Subject to the plaintiffs producing the original documents at the time of admission and denial of documents and whenever directed thereafter, the application is allowed and disposed of.

**I.A.6515/2015 (exemption)**

1. Allowed, subject to just exceptions.
2. The application is disposed of.

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1. The plaint be registered as a suit.
2. Issue summons to the defendants on the plaintiffs taking necessary steps by ordinary process, speed post, courier, *dasti* as well,

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returnable before the Joint Registrar on 24<sup>th</sup> April, 2015 for completion of service and pleadings as also for admission and denial of documents.

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 18<sup>th</sup> May, 2015 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. 6512/2015 (u/O XXXIX R 1 & 2 CPC)**

1. Notice for the date fixed.

2. Learned counsel for the Plaintiffs submits that plaintiff No.1 Company (i.e. Multi Screen Media Pvt. Ltd.) is the owner of a network of channels such as Sony Entertainment Television (SET), SONY MAX, SONY SIX, SONY SIX HD, SAB, MIX, PIX etc. amongst others. Plaintiff No. 2 (i.e. MSM Discovery Pvt. Ltd.) is stated to be the exclusive distributor of "The One Alliance" Group of channels in India which includes channels such as SET, Sony MAX, Sony SAB, Sony PIX, Sony MIX, SONY SIX, SONY SIX HD etc. of the plaintiff No. 1 in India.

3. The plaintiff No. 1 has been granted the exclusive media and broadcasting rights in respect of the Indian Premier League (IPL), an annual Twenty20 cricket tournament founded in 2008, by the Board of Control for Cricket in India (BCCI) including the upcoming 2015 season of Pepsi IPL, by virtue of an exclusive license agreement dated 25th June, 2010, with the BCCI. The said 2015 season of the Indian Premier League (IPL) will be telecasted live in India on certain channels of the plaintiff no.1 i.e. SONY MAX, SONY SIX, SONY KIX, SONY AATH and SONY SIX HD, which are exclusively distributed in India by the plaintiff No. 2.

4. It is submitted by learned counsel that the 2015 season of IPL will commence on 08.04.2015 and is scheduled to end on 25.05.2015 and as always, it will garner tremendous viewership in India. It is also submitted that in case any third party wishes to broadcast / re-broadcast / transmit / re-transmit the signals of the Plaintiffs' channels, then such third parties can do so only if they are duly authorized by the plaintiff No.2 in writing by executing an agreement.

5. In the present suit, the plaintiffs apprehend that the defendants No.1 to 23, who have been named and the defendants No.24 to 60 who are un-named (i.e. Ashok Kumars) will infringe their copyrights

and exclusive broadcast reproduction rights in the 2015 season of IPL slated to be exclusively telecasted on the plaintiffs' channels i.e. SONY MAX, SONY SIX, SONY KIX, SONY AATH and SONY SIX HD from 08.04.2015 to 25.05.2015.

6. Learned counsel contends that the named defendants and unnamed defendants (i.e. Ashok Kumars), who have been categorized as Multi System Operators, Local Cable Operators and other similarly placed distribution platform operators having their networks in various towns and cities across the length and breadth of the country, are likely to infringe upon their exclusive broadcast reproduction rights by illegally broadcasting/re-broadcasting/ transmitting/re-transmitting or communicating to the public through any medium whatsoever, the plaintiffs' aforementioned channels on which the upcoming 2015 season of IPL are to be broadcast.

7. The Court has heard the learned counsel for the Plaintiffs, perused the plaint and examined the accompanying documents, including various ex-parte ad interim injunction orders passed by this Court in similar circumstances, including one passed by a Division Bench in the matter concerning the 2010 season of IPL in FAO(OS)No.111/2010 filed during the period of those matches when

piracy of the Plaintiffs' exclusive broadcasting rights in respect of an earlier IPL cricket series in India by cable operators, etc., was detected and vide its order dated 1.4.2010, the Division Bench had opined that a strong prima facie case was made out in favour of the appellant therein.

8. In the instant case too, this Court is of the opinion that the plaintiffs have been able to make out a prima facie case for grant of an ad interim injunction order in their favour. Accordingly, till the next date of hearing, the defendants their directors, partners, proprietors, their officers, servants, agents, assigns, representatives, franchisees, head-ends, and all others in capacity of Principal or Agents acting for and on their behalf as the case may be, as also all other persons who are presently unknown but are found to be similarly infringing the copyright / exclusive broadcasting rights of the upcoming 2015 season of IPL of the Plaintiffs, are hereby restrained from broadcasting/re-broadcasting/transmitting /re-transmitting or communicating to the public through any medium whatsoever including their subscribers, through cable TV network(s) or otherwise, the channels SONY MAX,

SONY SIX SONY KIX, SONY AATH and SONY SIX HD, unless and until they have paid subscription to or obtained license from the plaintiff No. 2, on behalf of the plaintiff No.1.

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

**I.A. No.6513/2015 (Order XXVI Rule 9 r/w Order XXXIX Rule 7 CPC)**

1. Learned counsel for the plaintiffs submits that ten Local Commissioners may be appointed to visit the premises of each one of the known Defendants as well as the other un-known defendants who may subsequently be identified by the plaintiffs and found to be infringing their copyright/exclusive broadcasting rights of the upcoming 2015 season of IPL for carrying out the directions prayed for in this application. For the reasons stated hereinabove, the request made on behalf of the plaintiffs appears to be justified and is acceded to.

2. Accordingly, the following Local Commissioners are appointed to execute the commission in the States identified by learned counsel for the plaintiffs and mentioned against their names :-

(a) Mr. Ashwarya Sinha, Advocate (Mobile No.9818911510) is directed to visit the premises of the defendants located in the State of Bihar, such as defendant Nos. 5, 6, etc. as well such other unknown defendants whose whereabouts will be known at a later stage.

(b) Mr. Abhay Raj Varma, Advocate (Mobile No. 9899404819) is directed to visit the premises of the defendants, located in the State of Rajasthan, such as defendant Nos.14, 15 etc. as well such other unknown defendants whose whereabouts will be known at a later stage.

(c) Mr. Sonal Singh, Advocate (Mobile No.9958555776) is directed to visit the premises of the defendants, located in the State of Karnataka, such as defendant Nos.1, 2, etc. as well as such other unknown defendants whose whereabouts will be known at a later stage.

(d) Mr. Yajur Bhalla, Advocate (Mobile No.09654745777) is directed to visit the premises of the defendants, located in the State of Assam, such as defendant Nos.8, etc. as well as such other unknown defendants whose whereabouts will be known at a later stage.

(e) Ms. Divya Krishnan, Advocate (Mobile No.08939581161) is directed to visit the premises of the defendants, located in the State of Haryana, such as defendant Nos.17, 18, 19, etc. as well as such other unknown defendants whose whereabouts will be known at a later stage.

(f) Mr.Gaurang Kanth, Advocate (Mobile No.9810810005) is directed to visit the premises of the defendants, located in the State of Gujarat, such as defendant Nos.22, 23, etc., as well as such other unknown defendants whose whereabouts will be known at a later stage.

(g) Mr. Rajat Malhotra, Advocate (Mobile No.9810054623) is directed to visit the premises of the defendants, located in the State of Uttar Pradesh, such as defendant Nos.13, 16, etc. as well as such other unknown defendants whose whereabouts will be known at a later stage.

(h) Mr. Rajat Arora, Advocate (Mobile No.9810176964) is directed to visit the premises of the defendants, located in the State of Maharashtra, such as defendant Nos.21, etc. as well as such other unknown defendants whose whereabouts will be known at a later stage.



(i) Ms. Lekha G.V. , Advocate (Mobile No.8750520322) is directed to visit the premises of the unknown defendants, located in the State of Madhya Pradesh, whose whereabouts will be known at a later stage.

(j) Mr. Vikrant Pachnanda, Advocate (Mobile No.9871138313) is directed to visit the premises of the defendants, located in the State of West Bengal, whose whereabouts will be known at a later stage.

3. The Local Commissioners appointed above shall execute the commissions by undertaking the following steps:-

(i) To ascertain whether the 2015 session of IPL is being exhibited, communicated or made available for viewing by the public on SONY MAX, SONY SIX, SONY KIX, SONY AATH and SONY SIX HD channels at the premises to be visited by the Local Commissioners;

(ii) To serve a copy of the Order of injunction passed by this Court on the person(s) in-charge of the establishment, located at the premises to be visited by the Local Commissioners;

(iii) To search and make an inventory of all equipment which is being used for the unauthorized broadcast, telecast or communication of

SONY MAX, SONY SIX, SONY KIX, SONY AATH and SONY SIX HD channels to the defendants subscribers/public, found at such premises or any other premises where the infringing activity is taking place;

(iv) To seize/take into custody all Equipment which is being used for the unauthorized broadcast / re-broadcast / transmit / re-transmit or communication of SONY MAX, SONY SIX, SONY KIX, SONY AATH and SONY SIX HD channels showing the 2015 season of IPL to the defendants' subscribers / public, and thereafter seal the same in suitable packing material/containers;

(v) To hand over the seized goods on 'superdari' to the defendants or their representatives, or the person(s) in-charge of the premises, who may be directed to give an appropriate undertaking that the seized goods will be produced before this Court, as and when directed.

(vi) To take photographs and video recordings of the unauthorized broadcasting, re-broadcasting, transmitting, re-transmitting, exhibiting, exploiting, communicating and / or making available, SONY MAX, SONY SIX, SONY KIX, SONY AATH and SONY SIX HD channels showing the 2015 season of IPL and also of the

commission proceedings, and take assistance of the plaintiffs' representatives or the technical experts of the plaintiffs for such purpose;

(vii) To direct the persons in-charge of such premises visited by the Local Commissioner (a) to disclose the legal status (i.e. sole proprietorship, partnership, company etc.) of the entity located at such premises and (b) to disclose the names and details of persons responsible for owning and managing the said entity;

4. It is clarified that in case any of the defendants would be willing to obtain a licence at the time of their visits, the representatives of the plaintiffs shall give the same as per law.

5. The Local Commissioners shall be entitled to seek the help of the plaintiffs' representatives and/or their technical experts for proper execution of the commission and they shall also be entitled to obtain police assistance from the local police stations and the SHOs of all the concerned police stations which shall be so rendered, if a request in that regard is received for the execution of the directions of this Court.

6. The defendants, their employees, agents, etc., are directed to co-operate with the Local Commissioners to enable them to execute the commissions in terms of the directions issued in para 3 above. The fee of the Local Commissioners is fixed at ₹1,25,000/- each apart from out of pocket expenses, which shall be borne by the plaintiffs when they visit any of the defendant's addresses or the premises of other unknown defendants identified by the plaintiffs. The plaintiffs are granted the liberty to take the services of any of the Local Commissioners listed hereinabove on the match days at any of the cities, but with prior intimation to them. The fees of the Local Commissioners shall however be paid on a lump-sum basis. The Local Commissioners shall submit their reports within two weeks from the date of conclusion of the commission.

7. The application is disposed of.

Copy of this order be given ***dasti*** to the counsel for the plaintiffs under the signatures of the Court Master.

**HIMA KOHLI, J**

**MARCH 27, 2015**

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