

IN THE HIGH COURT OF DELHI AT NEW DELHI**CS(OS) 893/2014****MULTI SCREEN MEDIA PVT LTD Plaintiff****Through: Mr. Abhishek Malhotra, Advocate.****versus****WWW.VIMEO.COM and ORS Defendants****Through: Mr. Sudeep Chatterjee, Advocate for D-17.****CORAM:****HON'BLE MR. JUSTICE V.K. SHALI****ORDER****28.03.2014****I.A. No.5767-5768/2014 (for exemption)****1. Allowed, subject to the deficiency being rectified within four weeks.****2. The applications stand disposed of.****I.A. No.5769/2014****1. This is an application under Section 149 CPC seeking exemption from filing the court fees.****2. Allowed, subject to the deficiency being rectified within two weeks from today.****3. The application stands disposed of.****C.S. (OS) No.893/2014 and I.A. No.5765/2014 (u/O 39 R 1 and 2 CPC)**

1. The plaintiff has filed the present suit for permanent injunction restraining the defendants from infringement of copyright and rendition of accounts.

2. The plaintiff along with M/s. Pooja Entertainment and Films Ltd.

claim to be jointly owning the copyright in the film ?Youngistaan? to be released across the theatres on 28.3.2014, i.e., today. The defendants are various websites, Internet Service Providers, Multi System Operators and cable operators, detailed as under :-

(a) The defendant Nos.1 to 13 are websites engaged in the business of uploading pirated and unlicensed content including films to the public. The plaintiff alleges that these entities are targeting their infringing business activity in respect of the said film by transmitting/communicating through the medium of the internet and the websites owned or controlled by these defendants.

(b) The defendant Nos.14 to 27 are Internet Service Providers (ISP) who are engaged in the business of providing basic telephony, mobile services and broadband network all over the world and provide a medium to access World Wide Web (www) and telecommunication services through wired and wireless telephony to their respective customers. The said defendants allow access to various websites and web pages resulting in infringement of copyright works such as the said film belonging to the plaintiff.

(c) The defendant Nos.28 to 35 and 36 to 75 are Multi System Operators and Cable Operators which are engaged in unauthorized and unlicensed reproduction and broadcast of various copyright contents through their cable network; however, they are not licensed by the plaintiff to distribute and/or broadcast the said film.

(d) The defendant Nos.76 to 100 are all presently unknown persons who the plaintiff apprehends will infringe the copyright of the plaintiff in the upcoming film ?Youngistaan? and the plaintiff seeks proactive order to protect its copyright in the said film. For convenience of reference, the plaintiff has named them ?Ashok Kumar? and is seeking an injunction in the nature of a ?John Doe Order? against these defendants.

3. The plaintiff's case is that the defendants, their partners, proprietors, directors, shareholders, officers, servants and agents, their representatives, franchisees, nominees and other known and unknown parties are likely to communicate, making available, distribute, duplicate, display, release, show, upload, download, exhibit, play and/or defray the movie ?Youngistaan? through different mediums like CD, DVD, Blu-ray, VCD, Cable TV, DTH, Internet, MMS, Tapes, Condition Access System or in any other like manner and that the present suit is necessitated for the reasons that the entertainment industry has experienced large scale violations of intellectual property rights in some of the recent films released in the Indian film industry.

4. The learned counsel for the plaintiff has stated that the only effective remedy available to it is to seek an injunction against the known defendants and an injunction in the nature of ?John Doe Order? for the unknown defendants in order to ensure that its intellectual property rights are not infringed. In this regard, the learned counsel for the plaintiff has placed reliance on the orders of this court passed in C.S. (OS) No.384/2011 dated 18.2.2011, C.S. (OS) No.821/2011 on 4.4.2011, C.S. (OS) No.1724/2011 on 20.7.2011, C.S. (OS) No.2066/2011 on 26.8.2011 and C.S. (OS) No.2352/2011 on 21.9.2011 where similar injunctions were granted. Therefore, on grounds of parity and uniformity, a similar order deserves to be passed.

5. Issue summons in the suit and notice of the application to the defendants by all modes, returnable before the Joint Registrar on 5th May, 2014. Mr. Sudeep Chatterjee, the learned counsel accepts notice on behalf of defendant No.17.

6. I have heard the learned counsel for the plaintiff and have perused the plaint, application and the supporting documents. It is contended that the plaintiff would earn maximum revenue from the theatrical release of the film ?Youngistaan? in cinemas in the first week of the release of the said film and these revenues are for the purpose of covering the costs incurred in the production of the film and for making profits and after a short period of release, the movies are published on different mediums like CDs, DVDs, Blu-ray discs, VCDs etc., which is the second stage of revenue generation by the producer. The producers generate revenue from distribution of the movie on a broadcast network for exploitation on television and finally, the revenue is generated by permitting download and streaming of the film over the internet for a fee. It is further submitted that actions of the defendants would not only amount to unlicensed and illegal exploitation of the film but also interferes with the established industry practice thereby causing immense loss to the producers such as the plaintiff.

7. It is further stated that since the violators are unknown, general orders need to be passed and have been passed in the past by this court stemming out such violations at the very outset which are commonly known as ?John Doe? orders which were first passed by the United States Courts and this principle has been accepted and adopted by this court as a proactive measure of protection for the copyright holders. It is contended that the plaintiff is the owner of the rights in the film and apprehends that the defendants are likely to violate the plaintiff?s copyright in the said film ?Youngistaan? once it is released today.

8. I have considered the submissions. I feel that the learned counsel for the plaintiff has been able to satisfy the court that it prima facie has a good case. The balance of convenience is also in favour of the plaintiff as the plaintiff has spend huge money towards the production of the film and also towards the marketing, promotion and publicity of the said film. Further, the plaintiff would suffer irreparable loss in case the defendants are not restrained from, in any manner, communicating

unlicensed copies of the said film to the public in any of the modes alleged by the plaintiff.

9. Accordingly, an interim injunction is granted in favour of the plaintiff and the defendants, their partners, proprietors, directors, shareholders, officers, servants and agents, their representatives, franchisees, nominees and other known and unknown parties are restrained from communicating, making available, distributing, duplicating, displaying, releasing, showing, uploading, downloading, exhibiting, playing and/or defraying the movie ?Youngistaan? in any manner without proper license from the plaintiff or in any other manner which would violate/infringe the plaintiff?s copyright in the said cinematograph film ?Youngistaan? through different mediums like CD, DVD, Blu-ray, VCD, Cable TV, DTH, Internet, MMS, Tapes, Condition Access System or in any other like manner. The defendant Nos.14 to 27 are directed to block URLs upon receiving particulars of the infringing websites from the plaintiff.

10. Provisions of Order 39 Rule 3 CPC be complied within a week.

I.A. No.5766/2014

1. This is an application filed on behalf of the plaintiff under Order 26 Rule 9 and Order 39 Rule 7 CPC for appointment of a local commissioner.

2. Issue notice of the application to the defendants for the dated fixed, i.e., 5.5.2014.

3. A copy of the order be given dasti to the learned counsel for the parties.

V.K. SHALI, J.

MARCH 28, 2014

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