

dik

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION (L) NO. 223 OF 2016
IN
SUIT (L) NO. 46 OF 2016**

Pritish Nandy Communications Ltd. ...Applicant/Plaintiff
VS
Bharat Sanchar Nigam Ltd. & Ors. ...Defendants

.....
Mr Shailesh Menon i/b R.M.Partners for the Plaintiff
.....

CORAM : S.C. GUPTE, J.

JANUARY 27, 2016

P.C. :

Heard learned Counsel for the Plaintiff.

2 In this matter, ad-interim orders in the nature of “John Doe order” are sought against unknown persons, who are likely to infringe the copyright of the Plaintiff in a film about to be released on 29 January 2016, in addition to thirty six known Defendants, all of whom are internet service providers. All the known Defendants have been served with a copy of the plaint and the Notice of Motion and also with the notice of today's ad-interim application through email. Defendant Nos. 36 to 39 are joined in representative capacity representing parties, who are, according to the Plaintiff, though unknown, likely to infringe the Plaintiff's copyright in the film titled “Mastizaade”.

3 It is the Plaintiff's case that the Plaintiff is the producer of the movie “Mastizaade” and is entitled to copyright in the movie. The movie is claimed to have been produced on a budget of Rs.19 Crores, and promoted and marketed with a further budget of Rs.9 Crores. The Plaintiff's film is to be released in about 2500 screens (worldwide) on 29 January 2016. The Plaintiff's grievance is that it

has come across and learnt about nearely 322 links or URL's on the internet which claim to offer free downloads,viewing, streaming, copying, of the movie "Mastizaade" in breach of the Plaintiff's copyright. It is a known phenomenon that websites, which appear to be dormant for the time being, suddenly become active once a movie is released and pirated, offering downloads or copying themselves or redirecting the users to other websites which, in turn, make available the movie for downloading or viewing. It is the Plaintiff's case that once this is done, it is nearly impossible to monitor further propagation and exhibition of the movie in the hands of those who have accessed pirated copies by downloading the same from these sites. The Plaintiff, in the premises, applies for what has come to be known as a "John Doe order".

4 Having regard to the material placed by the Plaintiff before the Court including screen shots of various download offers on the net, the Plaintiff's apprehensions, on the basis of which ad-interim reliefs are sought in the present Notice of Motion, appear to be well founded. There is a case made out for ad-interim reliefs.

5 Our Court, like several other High Courts in the country, has passed similar orders based on apprehensions of breach of copyright, several of which orders have been noted in the order passed by this Court in **Abis Rizvi Films Vs Hathway Cable and Datacom Ltd. & Ors.**¹

6 As in those cases, even in the present case, the injunction sought does not pertain to any internal dispute regarding the production of the film, but seeks only to restrain potential damage and loss likely to be caused to the Plaintiff, if pirated copies are allowed to be circulated in the market.

7 In the premises, there shall be an ad-interim relief in terms of prayer clauses a(i) to a(iv) of the Notice of Motion. The concerned Police Station, in the jurisdiction of which such pirated copies, if any, are found to be circulated, are directed to render assistance to the Plaintiff in accordance with prayer clause

1 Notice of Motion (L) 2407 of 2014 in Suit (L) No.1016 of 2014 decided on 7 November 2014

a(iv). The Plaintiff shall be at liberty to publish in all available media an authenticated copy of this Order by setting out a substance of the order. The order/ its substance may also be prominently displayed by advertising on television as also in cinemas, as the Plaintiff may desire. All police authorities are directed to act on production of an authenticated copy of this order.

8 Replies to be filed and served within a period of four weeks from today. Rejoinder, if any, within two weeks thereafter. Place the Motion for hearing after 8 weeks.

9 The Plaintiff is granted leave to amend the plaint in terms of the draft amendment handed in, marked "X" for identification. Such amendment to be carried within a period of two weeks from today. Re-verification of the plaint is dispensed with.

(S.C.GUPTA J.)