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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**NOTICE OF MOTION (L) NO. 2366 OF 2014**  
**IN**  
**SUIT (L) NO. 993 OF 2014**

Red Chillies Entertainments Private Limited ...Plaintiffs  
*Versus*  
Hathway Cable & Datacom Limited & ors. ...Defendants

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**Mr. V.R. Dhond, Senior Advocate, with Rohaan Cama, Ajay Vazirani, Dinesh Pednekar, Deepan Desai, Swapnil Gupte, i/b Hariani & Co., for the Plaintiffs.**  
**None for the Defendants.**

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**CORAM: G.S. PATEL, J**  
**DATED: 14th October 2014**

**PC:-**

1. I have heard Mr. Dhond, learned senior counsel for the Plaintiff. An ad-interim order sought is in the nature of a “*John Doe*” order in the sense that it seeks reliefs against a person or persons unknown in addition to the present Defendants Nos. 1 to 3. An affidavit of service on Defendants Nos. 1 to 3 has been filed.

2. Defendants Nos. 1 to 3 have been served. Defendant No. 4 is joined in a representative capacity on behalf of those who, according to the Plaintiff, though persons known and unknown, are likely to infringe the copyright of the Plaintiff in a film about to be released and titled '**HAPPY NEW YEAR**'.

3. The apprehension of the Plaintiff, based on previous experience, is that there is a likelihood of pirated copies of this film being released on different media, including Blu-Ray, CD, DVD, VCD etc., and even of a film being transmitted through the service of Defendants Nos. 1 to 3 or through cable service operators.

4. Various High Courts have in the past issued similar orders. There is a detailed order of 14th June 2002, for instance passed by the Delhi High Court in *TAI Television Limited V Rajan Mandal*,<sup>1</sup> as also an order of the Chennai High Court in *Viacom 18 Motion Pictures v Jyoti Cable Network & ors.*<sup>2</sup> Our own High Court has passed such an order in *Viacom 18 Motion Pictures V Sonali Cable Vision Private Limited & ors.*<sup>3</sup>

5. Mr. Dhond makes a statement that 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 these pirated copies are allowed to flood the market. The suit is, therefore, brought as a *quia timet* action to prevent any such irreversible or irredeemable damage.

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<sup>1</sup> 2003 FSR 22

<sup>2</sup> Order dated 23rd December 2011

<sup>3</sup> Order dated 15th June 2012.

6. Having regard to the statements made in the plaint, and to the nature of the reliefs sought, I am satisfied that urgent ad-interim orders are necessary. There will, therefore, be an ad-interim injunction in terms of prayer clauses (b), (c) and (d) of the Notice of Motion, which read as follows:

“(b) that pending the hearing and final disposal of the suit 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 telecasting/broadcasting/distributing/putting on the cable TV network/disseminating/ reproducing or otherwise making available to the public, the film “Happy New Year;

(c) that pending the hearing and final disposal of the suit 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 said film, including a photograph of any image forming part thereof, (ii) to sell or give on hire, or offer for sale or hire, any copy of the said film, regardless of whether such copy has been sold or given on hire on earlier occasions, (iii) to communicate the film to the public in any manner whatsoever including by way of but not limited to telecasting and/or re telecasting the said film, or even otherwise dealing with the rights in the said film which vest exclusively in the Plaintiff, in any manner whatsoever.

(d) that pending the hearing and final disposal of this suit, this Hon'ble Court be pleased to pass an order and temporary injunction, restraining the Defendants, their partners, proprietors, directors, shareholders, officers, servants and agents, their representatives, franchisees, nominees and other known and unknown parties, from communicating or making available or distributing, or duplicating, or displaying, or releasing, or showing, or uploading, or downloading or exhibiting, or playing, and/or defraying the movie "HAPPY NEW YEAR" in any manner without proper license from the Plaintiff or in any other manner which would violate/infringe the Plaintiffs copyright in the said cinematograph film "HAPPY NEW YEAR" through different mediums like CD, DVD, Blu-ray, VCD, Cable TV, DTH, Internet, MMS, Tapes, Conditional Access System or in any other like manner;

7. The Plaintiff shall be at liberty to publicize in all available media an authenticated copy of this order, including setting out the substance of the order. This may also be prominently displayed in on-line advertising, television as also in cinemas and in newspapers.

8. Mr. Dhond also points out that should anyone be found pirating Plaintiff's copyright work, the Plaintiff should be at liberty to immediately take action without having to move the Court once again. For this purpose, police assistance may be necessary. In that view of the matter, there will also be an order in terms of prayer clause (g) of the Notice of Motion, which reads as follows:

"(g) that pending the hearing and final disposal of this suit pass an order directing the concerned police

station(s) to render necessary assistance to the Plaintiff in restraining the Defendants from violating/infringing the Plaintiffs Copyright in the film "HAPPY NEW YEAR".

9. All police authorities are directed to act on production of an authenticated copy of this order.

10. Affidavits in Reply to be filed and served on or before 14th November 2014. Affidavit(s) in Rejoinder to be filed and served on or before 24th November 2014.

11. Liberty to the Plaintiff to apply thereafter for reliefs in terms of the remaining prayers of the Notice of Motion and to have the Notice of Motion placed for final hearing.

**(G. S. PATEL, J.)**