

IN THE HIGH COURT OF DELHI AT NEW DELHI

26.08.2011

Present: Mr. Rajiv Nayar, Sr. Adv. with Mr. Rishi Agrawal and Ms. Shikha Sarin, Advs. for the Plaintiff.

I.A. No. 13476/2011 (under Section 151 CPC)

Typed and clear copies of dim annexures be filed within 4 weeks.

Application is disposed of with the above direction.

I.A. No. 13475/2011 (under Section 151 CPC)

Original copies be filed within 4 weeks.

Application is disposed of with the above direction.

CS(OS) No. 2066/2011

Plaint be registered as Suit. Summons be issued to the defendants through ordinary manner, registered A.D. post and courier service, returnable for 30th September, 2011. Process fee etc. be filed within a week.

I.A. No. 13474/2011 (under Order 39 Rules 1 and 2 r/w Section 151 CPC)

Notice for the date fixed.

Plaintiff is engaged in the business of production and distribution of cinematograph films and other entertainment business. Plaintiff is the producer of cinematograph film ?Bodyguard?. Plaintiff has copyright over the said film. In view of the past experience plaintiff apprehends that by using advanced technology, the movie ?Bodyguard? would be copied and distributed in the market on DVDs/CDs as also exhibited on cable and internet by defendant nos. 1 to 9 and other unknown persons who have been impleaded as defendant nos. 10 to 30 in the assumed name Ashok Kumar. In case the film is shown on cable, internet and/or through any other medium by the persons, who are not being authorized by the plaintiff to do so, cine goers may not go to theaters to watch the film, resulting in huge financial losses to the plaintiff. Factum of copying and distributing the film by such unscrupulous persons on CDs/DVDs/Blue-ray discs/VCDs and through various other mediums has been noticed in the past in respect of new releases not only by the plaintiff but other producers as well. It is contended that with regard to such unknown persons ?John Doe? practice has to be resorted to, which is otherwise well recognized not only in India but in various other countries such as United States of America, Canada, England and Australia. I do find force in this contention. In Taj Television vs. Rajan Mandal and Ors. 2003 FSR 22 at page 407 principles of ?John Doe? order has been recognized and followed for

passing appropriate directions against such unknown and unscrupulous cable operators. A Single Judge of this Court in CS (OS) No. 821/2011 titled UTV Software Communications Limited vs. Home Cable Network Ltd. and Ors., has noted that court has jurisdiction to pass an order in nature of a ?John Doe? injunction order against unknown persons in the circumstances, as has been pleaded by the plaintiff in the present case. Past practice of unauthorized persons indulging in such illegal activities of copying the film on CDs/DVDs/Blue-ray discs and distributing the same has also been taken note in the said order. One can also not lose sight of the fact that film piracy in respect of such new release is not uncommon and judicial note of this fact can be taken. In the facts of this case as detailed above, in my view plaintiff has succeeded in making a, prima facie, case in its favour. Plaintiff has exclusive copyright over the film ?Bodyguard? which is yet to be released. In case, CDs/ DVDs/Blue-ray discs/VCDs are made and the film is copied by using any other device and uploaded on internet by the defendant Nos. 1 to 9 and other unidentified persons and distributed and shown on cable TV, DTH, internet, MMS, Tapes and CAS, plaintiff will indubitably suffer irreparable loss and injury. For the forgoing reasons, defendants and other unnamed and undisclosed persons, are restrained 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 ?Bodyguard? in any manner without a proper license from the plaintiff or in any other manner which would violate/infringe the plaintiff?s copyright in the said cinematograph film ?Bodyguard? through different mediums like CD, DVD, Blue-ray disc, VCD, Cable TV, DTH, Internet services, MMS, Tapes, Conditional Access System or in any other like manner. Plaintiff is permitted to publish the ?John Doe? injunction order passed today in the local newspapers. Compliance of Order 39 Rule 3 be made within a week. Copy of the order be given Dasti under the signatures of the Court Master.

A.K. PATHAK, J.
August 26, 2011/ga