

IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) 3078/2012

VIACOM 18 MOTION PICTURES Plaintiff

Through Mr. Vibhu Bhakru, Sr. Adv. with

Mr. Harshvardhan Jha, Adv.

versus

JYOTI CABLE NETWORK and ORS Defendant

Through

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR

ORDER

10.10.2012

IA 18781/2012(S. 149)

Let deficient court fee be filed within a period of six weeks.

Application stands disposed of.

IA 18780/2012

Exemption as sought is allowed subject to plaintiff filing the original documents before admission/denial of documents.

Let certified copies be filed within a period of six weeks.

Application stands disposed of.

CS(OS) 3078/2012 and IA No. 18778/2012(O. 39 R.1and 2 of CPC)

Summons of the suit and notice in the application be issued to the defendants by ordinary process, regd. A. D. covers and through speed post, returnable on 27.11.2012.

Arguing the present stay application, Mr. Vibhu Bhakru, learned Senior Advocate appearing for the plaintiff submits that under the Cinematograph Act, 1952 read with the Copyright Act 1957, the producer of the film is the copyright holder of the film. Counsel also submits that ANURAG KASHYAP FILMS PRIVATE LIMITED is the co-producer of the film ?AIYYAA? and vide agreement dated 6.9.2012 executed between the plaintiff and the co-producer ANURAG KASHYAP FILMS PRIVATE LIMITED, the plaintiff has acquired exclusive exploitation rights for domestic and international theatrical rights in perpetuity. All the proprietary rights relating to distribution, exploitation, marketing and publicity of the said film on all formats also vest with the plaintiff. Counsel further submits that without license from the plaintiff, no person is entitled to distribute the said film ?AIYYAA? in the entire world. Counsel further submits that it is a matter of fact that maximum revenue is earned by the producers from the theatrical release of the movies in cinemas in the first week of the release and after the theatrical release, the movies are displayed on different mediums like CDs, DVDs, Blue-ray discs, VCDs etc. Counsel also submits that the option of publishing the movie on mediums like ?You Tube? has also become available where the movie is exclusively licensed for showing through the internet to persons who have subscribed for such services on payment of fee. Counsel further submits that in the past there have been violations of the copyright of movies by unauthorized persons operating in the market. Counsel submits that the defendant no. 1 to 3 are the cable operators in the city of Delhi and are governed by the Cable Network Regulation Act 1995 and the Telecom Regulatory Authority of India Act, 1997. Counsel further submits that the defendant

no.4 is an internet service provider and is covered by the Information Technology Act, 2000, while the defendant no.5 is a person who has been duplicating, selling and making available tapes, compact discs, digital versatile discs etc. Counsel also submits that all these defendants have not been given any license by the plaintiff or by the co-producer to show the said film ?AIYYAA? through any mode or medium. Counsel also submits that the defendant nos. 6 to 30 are presently unknown persons and the plaintiff seriously apprehends that these unknown persons will also infringe the copyright of the plaintiff in the upcoming film ?AIYYAA? and therefore to protect the rights of the plaintiff a general order needs to be passed in terms of the past precedents and therefore the plaintiff in the present suit has claimed passing of an order commonly known as a ?John Doe? order?. For passing a ?John Doe? order counsel for the plaintiff has invited attention of this court to the case of Taj Television Vs. Rajan Mandal and Ors. 2003 FSR 22. Counsel also submits that if the ex-parte stay order is not granted in favour of the plaintiff, then the plaintiff will suffer irreparable loss and injury and on the other hand the defendants will earn illegal money not only at the cost of the loss of Government revenue but by causing loss of revenue to the plaintiff as well.

I have heard learned counsel for the plaintiff and gone through the documents placed on record.

Having considered the arguments advanced by the counsel

for the plaintiff and on scrutinizing the said documents placed on record, this court finds that the plaintiff has made out a prima facie case for grant of ex-parte ad interim injunction in its favour. The balance of convenience also lies in favour of the plaintiff and if ex-parte injunction is not granted, irreparable loss and injury would be caused to the plaintiff.

The defendants, their partners, proprietors, directors, shareholders, officers, servants and agents, their representatives, franchisees, nominees and other known and unknown parties are accordingly restrained from in any way communicating, displaying, releasing, showing, uploading, downloading, exhibiting, playing, defraying the movie ?AIYYAA? (without license from the plaintiff) or in any other manner violating the plaintiff's copyright in the cinematograph film ?AIYYAA? through any different media like CD, DVD, Blue-ray, VCD, Cable TV, DTH, Internet, MMS, Tapes, Conditional Access System or in any other like manner till further orders.

The plaintiff is directed to comply with the provisions of Order 39 Rule 3 of CPC within a period of three days from today.

This order shall become effective from the date it is served on the defendants.

Copy of this order be given DASTI under the signature of

Court Master.

KAILASH GAMBHIR, J

OCTOBER 10, 2012

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