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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CM(M) 1380/2016

M/S NOVEX COMMUNICATIONS PVT LTD..... Petitioner

Through Ms.Shilpi Chowdhary, Mr.Bharat
Aggarwal and Mr.Jasdeep, Advs.

versus

M/S PICCADILY HOTEL

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **23.12.2016**

The petitioner has filed the suit before the District Court for permanent injunction to restrain infringement of copyrights and rendition of accounts. It is stated that the petitioner's repertoire consists of highest number of famous and popular hindi film songs and it is also the authorised agent of Yashraj Films Private Limited and U.TV Software and communications ltd. Reliance is placed on Section 13(1)(c) of the Copyright Act to submit that copyright of the sound recordings of the songs contained in the films vests with the petitioner. Reliance is placed on a deed of assignment dated 11.8.2015 executed with Zee Entertainment Enterprises Limited.

Learned counsel for the petitioner submits that despite several hearings before the trial court the trial court has not disposed of the injunction application. She relies on various orders of this court where under similar facts and circumstances ex parte injunction has been granted to the petitioner. She submits that forthcoming Christmas and New Year

celebrations would result in irreparable loss and damage to the petitioner as maximum revenue is generated in this period.

This Court in CS(Comm) 328/2016 titled Novex Communication Private Limited vs. Hotel Crowne Plaza on 7.4.2016 passed the following injunction order:-

“ The submission of learned counsel for the plaintiff is that the plaintiff has been assigned the copyright in the sound recordings – details whereof are contained in Annexure A-3, by the original copyright owner i.e. Zee Entertainment Enterprises Pvt. Ltd. Copy of the assignment deed dated 11.08.2015 is placed on record.

Learned counsel for the plaintiff submits that the consideration amount has been redacted as it is confidential information. The grievance of the plaintiff is that the defendants are playing the sound recordings – the copyright of which are vested in the plaintiff, in their hotel for entertainment purposes.

The plaintiff has made out a prima facie case for grant of ex-parte ad interim orders of injunction. Accordingly, till the next date, the defendant is restrained in terms of prayer (1) made in the application.”

To the above effect are also the orders passed by this Court in CS(Comm) 385/2016 titled Novex Communication Private Limited vs. The Royal Plaza dated 22.4.2016, CS(Comm)1086/2016 titled Novex Communication vs, M/s Sky Lounge Bar Svenska Design hotel dated 12.8.2016 and so on.

Petitioner has made out a prima facie case. Balance of convenience is also in favour of the petitioner. Accordingly, the respondents are restrained from playing the sound recording of the songs as per schedule annexed to annexure A-7 of the present petition.

This order has been passed merely on prima facie observations and is subject to variation/modification or confirmation by the trial court after hearing the application under Order 39 Rule 1 and 2 CPC which is coming up for hearing on 24.1.2017. The respondents are also at liberty to file appropriate application/reply before the trial court regarding the stay application to press for vacation of this order.

Petition stands disposed of. All pending applications, if any, also stand disposed of accordingly.

Dasti.

JAYANT NATH, J

DECEMBER 23, 2016

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