

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
NOTICE OF MOTION (L) NO. 139 OF 2018
IN
NOTICE OF MOTION (L) NO. 857 OF 2017
IN
COMMERCIAL SUIT (L) NO. 755 OF 2017

Novex Communication Private Limited ... Plaintiff

Versus

Chinagate Restaurants Private Limited
and others ... Defendants

Mr. Rashmin Khandekar alongwith Ms. Priti Naik instructed by M.P. Savla & Co. for the Plaintiff.

Mr. Archis Bhatt with Mr. S. Memon instructed by Mr. S. Kansara for the Defendants (Chinagate Restaurants).

CORAM : S.J. KATHAWALLA, J.
DATED : 7th FEBRUARY, 2018

P.C.:

1. Not on board. Upon mentioning, taken on board.
2. On 5th February, 2018, the Plaintiff had informed this Court that the Defendants have breached the order passed by this Court dated 29th December, 2017 and also produced the DVDs before the Court showing that the music in which they have a copyright was being played between 7 p.m. of 3rd February, 2018 and 1.30 a.m. of 4th February, 2018 at the Restaurant of the Defendants called 'Bora

Bora' at Andheri (West). At that time, the Learned Advocate appearing for the Defendants in presence of Mr. Krishna Tamang, owner of the Restaurant informed the Court that they have CCTV footage from which it can be established whether they have breached the order passed by this Court dated 29th December, 2017. The Advocate was therefore asked to produce CCTV footage on 6th February, 2018. On 6th February, 2018, four CDs/DVDs were handed over to this Court stating that the said CDs/DVDs contains same CCTV footage as directed by this Court in its order dated 5th February, 2018. Today, an application made by the Advocate for the Plaintiff stating that the CCTV footage is provided without any audio which does not serve the purpose. It is pertinent to note that Advocate appearing for the Defendants on notice states that there is no audio available, if that be so, there is no reason as to why the Advocate for the Defendants informed the Court on 5th February, 2018 that they are in possession of the CCTV footage and the same shall be useful in determining the issue whether the Defendants have breached the order passed by this Court dated 29th December, 2017. In view thereof, Mr. Ketan Trivedi, Commissioner of Taking Accounts and Mr. Shakil Shaikh, Assistant Registrar (IT) are sent as Commissioners alongwith Advocates for the Plaintiff Mr. Devendra Rai, Mr. Pradip C. and Ms. Pritin Naik, to visit the Restaurant 'Bora

Bora' and go through the entire CCTV footage available with the Defendants at the said Restaurant and submit report to this Court conforming that there is no audio available alongwith CCTV footage and whether play list in which the Plaintiff has copyright of sound recording for on ground public performance is played and/or available on laptops of the Defendants.

(S.J.KATHAWALLA, J.)

