

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

COMMERCIAL NOTICE OF MOTION NO. 609 OF 2017

IN

COMMERCIAL SUIT NO. 684 OF 2017

Novex Communications Private Limited Applicant

IN THE MATTER BETWEEN

Novex Communications Private Limited Plaintiff

Vs.

Kamatah Hotels (India) Limited Defendant

Mr. Ravi Kadam, Sr. Counsel a/w. Mr. Rashmi Khadekar with Mr. Kunal Parekh I/b. Thakore Jariwala and Associates for the Plaintiff.
Mr. Atul Damle, Sr. Counsel a/w. Ms. Aarti P. Bhide for the Defendant.
Mr. Narendra Pai, Representative of Kamat Hotel (India) Ltd present.

Coram : G.S. KULKARNI, J.

Date : 21 DECEMBER 2017

P.C:

1. Heard Mr. Kadam, learned senior counsel for the applicant/plaintiff and Mr. Damle, learned senior counsel for the defendant.

2. After this motion was heard for some time, Mr. Damle, learned senior counsel for the defendant on instructions states that as informed by

the defendant by its letter dated 11th December, 2017 addressed to the plaintiff, the defendant shall apply to the plaintiff for a licence for playing of songs in respect of which copyright has been claimed by the plaintiff at the event which would be hosted by the defendant at Orchid Hotel, Mumbai to be held on 31st December, 2017. Mr. Damle states that the defendant shall apply for such a licence to the plaintiff on or before 22nd December, 2017. If the defendant does not obtain the licenses from the plaintiff for the event to be undertaken on 31st December, 2017 then in that event, the defendant is restrained from playing any of the songs in respect of which the rights are assigned to the plaintiff.

3. Mr. Kadam, learned senior counsel for the plaintiff states that, in the event the defendant makes such an application for a license and pay the appropriate licence fees, the plaintiff shall forthwith issue such licences to the defendant.

4. Apart from the above event to be undertaken by the defendant the other concern of the plaintiff as Mr. Kadam, learned senior counsel for the plaintiff would point out is in regard to the “Karaoke events” conducted by the defendant. It is stated that these events are undertaken by the

defendant on all days of the week except Mondays. It is submitted that a license to play the songs of which copyright is owned by the plaintiff would be required to be obtained by the defendant and if such license is not obtained in that event there would certainly be a breach of the copyrights of the plaintiff.

5. Mr. Damle, learned senior counsel for the defendant has no immediate instructions to make any submission in regard to this concern as urged on behalf of the plaintiff.

6. If that be so and if the defendant is undertaking "Karaoke events" on week to week basis and if the defendant intends to play the songs in which the plaintiff has a copyright then prima facie considering the documents as placed on record, it would be necessary for the defendant to obtain a license from the plaintiff as being done by the defendant for the other events.

7. In the above circumstances there shall be an injunction restraining the defendant from playing the songs in respect of which the plaintiff has copyrights, without obtaining a licence from the defendant in regard to

the “Karaoke event”. Ordered accordingly.

8. List this motion for hearing on 23rd January, 2018.
9. Parties to act on the authenticated copy of this order.



(G.S. KULKARNI, J.)