

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL NOTICE OF MOTION (L) NO.625 OF 2017
IN
COMMERCIAL SUIT (L) NO.549 OF 2017

Novex Communications Pvt. Ltd. ... Applicant
(Orig. Plaintiff)

In the matter between:

Novex Communications Pvt. Ltd. ...Plaintiff

vs.

Hitech Events Private Limited & Ors. ...Defendants

Mr.Rashmin Khandekar a/w. Mr. Kunal Parekh and Ms. Priti Naik i/b
Thakore Jariwala and Associates for the Plaintiff/Applicant.
None for the Defendants.

CORAM : K.R.SHRIRAM, J.
DATE : 28th SEPTEMBER, 2017

P.C.:

1. Heard Mr.Khandekar, learned counsel for the Plaintiff. Mr. Khandekar tenders an affidavit of service of Mohammed Waseem Sayed affirmed on 28/9/2017. Learned counsel states that Defendant Nos.2 and 3 are the directors of Defendant No.1 and service was accepted by son of Defendant No.2 at the address mentioned in the forwarding letter dated 27/9/2017.

2. Mr.Khandekar, learned counsel states that the Plaintiff has been assigned all ground performance rights of songs in films list of which is annexed at Exhibit A-1 to Exhibit C-2. It is averred in the plaint that on 24/9/2017, the plaintiff's representative, one Mr.Narendra Chauhan, apprehending violation of its rights, visited a Navratri celebration-"Meeras Navratri 2017" at Kutchi ground, situated near Aura Hotel, Link Road, Borivali West, Mumbai, Maharashtra. The event is being organized by

Defendant No.1 and Defendant No.2 as per the ticket sold, copy whereof is at Exh.F to the Plaint. Upon visiting, the Plaintiff's representative noticed that the defendant was infringing the plaintiff's copyrights by playing songs from a movie viz., Goliyon Ki Raasleela Ram-Leela. The plaintiff immediately sent a notice on 25/9/2017 and there has been no reply. Even though the Plaint and Notice of Motion has been served nobody is present for Defendant Nos.1 and 2. Ofcourse, the time given is too short for the Defendants to respond. At the same time, Navratri festival is coming to an end on 30/9/2017 and therefore, there is an extreme urgency in the matter.

3. Having considered the pleadings and having heard the counsel for Plaintiff and counsel giving an undertaking that the Plaintiff will file an undertaking under Rule 148 of the Bombay High Court (Original Side) Rules within a period of one week from today, ad-interim relief in terms of prayer clause (a) is granted. Prayer clause (a) reads as under:

“(a) that this Hon'ble Court be pleased to issue perpetual order of injunction restraining Defendants, its partners, directors, their servants, employees, agents assignees, licensees, representatives and/or any person claiming through them or acting on their behalf, from publicly performing or in any manner communicating the sound recordings/musical compositions of the songs assigned and authorised to the Plaintiff or allowing their premises or any premises under their control to be used for the said purposes, without license from the Plaintiff, or otherwise infringing the copyright in any work owned and protected by the Plaintiff.”

4. Plaintiff shall forward a copy of this order to the Defendants and annex to their forwarding letter the list of films/songs over which the Plaintiff has copyright.

5. All concerned to act on the authenticated copy of this order.

6. Stand over to 12/10/2017 for directions.

(K.R. SHRIRAM, J.)

