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

% *Date of decision:* 07.02.2018

+ CS(COMM) 273/2018

SUPER CASSETTES INDUSTRIES PVT LTD Plaintiff

Through Mr. K. K.Khetan, Adv.

versus

HOME CABLE NETWORK PVT LTD Defendant

Through Ex parte.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J.(ORAL)

1. The present suit is filed by the plaintiff seeking an order of permanent injunction to restrain the defendant, their officers, agents, etc. from recording, distributing, broadcasting, etc. or in any manner exploiting the cinematograph films, sound recordings, literary works and musical works or any other work or any part thereof that is owned by the plaintiff including all works whereon the plaintiff has shown its copyright under Section 52A of the Copyright Act. Other connected reliefs are sought.

2. The plaintiff claims itself to be one of the largest and most reputed music companies in the country. It has been engaged in the business of manufacturing and marketing audio-cassettes. Presently, the business of the plaintiff includes production and marketing of video cassettes, CDs, television sets, etc. under the brand name "T-SERIES". It is pleaded that the plaintiff is the owner of large repertoire of copyright works comprising of

cinematographic films, sound recordings and underlying musical and literary works. It has also been stated that the plaintiff's repertoire is easily identified by the public since all the CDs/DVDs/VCDs apart from "T-SERIES" logo contain the following copyright notice is required under Section 52A of the Copyright Act.

"© & (P) Manufactured at Noida (U.P) by SUPER CASSETTES INDUSTRIES LIMITED, E-2/16, White House, Ansari Road, Darya Ganj, New Delhi-110 002 (INDIA) All rights of the producer and the owner of the recorded work reserved. Unauthorized copying, public performance, broadcasting, usage, publishing adapting, synchronization, hiring or rental of this recording prohibited. Offenders shall be liable to damages and prosecution. Tel.:0120-2515102, 2515116, 2515117, 2515118. Fax: 0091-1202515110 &2515121."

3. Reliance is also placed on various other suits filed by the plaintiff where injunction has been granted in favour of the plaintiff.

4. The defendant is said to be a limited company incorporated under the Companies Act. It is a multi system operator carrying out business of providing cable television services to various subscribers operating in Delhi/New Delhi under the logo 'HOME DIGITAL' and 'HOME CINEMA'. It is pleaded that the defendant is broadcasting/communicating to the public sound recordings, underlying works (lyrics and musical compositions) and audio visual songs and other works of the plaintiff through their Cable network, namely, 'HOME DIGITAL' and 'HOME CINEMA' without a license . It is pleaded that the defendant have infringed the copyrights of the plaintiff. A notice was issued on 23.07.2014 to the defendant requesting them to obtain the requisite public performance licence

from the plaintiff. The plaintiff in their legal notice specifically stated that the defendant have been communicating songs from the films like ‘Son of Sardar’, ‘Khiladi 786’, ‘Houseful’, ‘Jism-2’, ‘Body Guard’, ‘Kaminey’, ‘Delhi-6’, ‘Blue’ etc. Similarly, a CD recording of the broadcasts of the defendant on 28.08.2014 shows violation of the copyrights of the plaintiff. It is pleaded that the plaintiff have suffered monetary losses on account of the acts of the defendant. Hence, it is pleaded that the defendant have committed repeated illegal exploitation of the plaintiff’s copyright. The defendant have declined to pay the license fee to the plaintiff and have shown even intention of continuing to commit similar infringements. Hence, the present suit.

5. The defendant had entered appearance. However on 27.05.2015, as none appeared for the defendant, the defendant were proceeded ex parte.

6. The defendant have also not filed their written statement.

7. The plaintiff has filed evidence by way of affidavit of Mr.S.K Datta, PW-1 and Mr. Sunil Puri, PW-2.

8. Learned counsel for the plaintiff has also relied upon the following judgments rendered by this court in support of the plaintiff for copyright violation by other parties.

(i) CS(COMM) 554/2016 titled as ***Super Cassettes Industries Pvt. Ltd. vs. Rajasthan Infotech Media Pvt. Ltd.*** dated 06.12.2017.

(ii) CS(COMM) 1594/2016 titled as ***Super Cassettes Industries Pvt. Ltd. vs. RCN Channel*** dated 04.01.2018.

(iii) CS(COMM) 146/2016 titled as ***Super Cassettes Industries Pvt. Ltd. vs. Om Shivam Cable Network*** dated 29.01.2018.

9. As defendant have failed to file their written statement, the suit is

decreed in favour of the plaintiff and against the defendant under Order 8 Rule 10 CPC in terms of para 38(i) of the plaint.

10. In the supplementary evidence of Mr. S.K.Dutta, PW-1, the plaintiff has stated that subscriptions rate of the plaintiff for per account is Rs.18/- per month. Hence, it is pleaded that on account of said rate for one month, if there were 15,000 subscribers, the loss of the plaintiff was Rs.2,70,000/-.

11. Keeping in view the above unrebutted evidence of the plaintiff, the plaintiff is awarded damages of Rs.10,00,000/- as damages. A decree is passed in favour of the plaintiff accordingly. The plaintiff shall also be entitled to costs. The plaintiff shall also be entitled to simple interest @ 10% per annum from the date of decree till recovery.

12. The suit stands disposed of.

13. Pending applications, if any, also stands disposed of.

FEBRUARY 07, 2018

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JAYANT NATH, J