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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(COMM) 885/2018

FOX STAR STUDIOS INDIA PVT. LTD. Plaintiff

Through: Ms. Sneha Jain, Advocate with
Mr. Sidharth Chopra, Mr. Yatinder Garg
and Ms. Snehima Jauhari, Advocates.

versus

SUMIT SINGH & ORS.

..... Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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16.05.2018

I.A.6836/2018 in CS(COMM) 885/2018

Keeping in view the averments in the application, plaintiff is exempted from filing the certified/clearer/proper/translated copies of documents at this stage.

Needless to say, this order is without prejudice to the rights and contentions of the parties.

Accordingly, present application stands disposed of.

I.A.6837/2018 (Section 80) in CS(COMM) 885/2018

Issue notice to defendants No.58 and 59 by all modes including dasti, returnable for 29th May, 2018 before Court.

CS(COMM) 885/2018

Let the plaint be registered as a suit.

Issue summons in the suit to the defendants No.1 to 34 by e-mail and the remaining defendants by all modes including dasti, returnable for 29th May, 2018 before the Court.

The summons to the defendants shall indicate that a written statement to the plaint shall be positively filed within four weeks of the receipt of the summons. Liberty is given to the plaintiffs to file a replication within two weeks of the receipt of the advance copy of the written statement.

The parties shall file all original documents in support of their respective claims along with their respective pleadings. In case parties are placing reliance on a document which is not in their power and possession, its detail and source shall be mentioned in the list of reliance which shall be also filed with the pleadings.

Admission/denial of documents shall be filed on affidavit by the parties within two weeks of the completion of the pleadings. The affidavit shall include the list of the documents of the other party. The deponent shall indicate its position with regard to the documents against the particulars of each document.

I.A.6835/2018 (U/o 39 Rules 1 & 2) in CS(COMM) 885/2018

Issue notice to defendants No.1 to 34 by e-mail and remaining defendants by all modes including dasti, returnable for 29th May, 2018 before Court.

It is pertinent to mention that present suit has been filed for permanent injunction, rendition of accounts, damages etc.

It is stated in the plaint that the plaintiff is a leading production and

distribution company in India and the exclusive licensee of Media Rights with respect to various films across varied genres and languages. It is stated in the plaint that the defendant no. 35 is the author/producer of the film “DEADPOOL-2”, slated to be released theatrically in India on 18th May, 2018, under Section 2(d) of the Copyright Act and is the owner of the Copyright in the film as per Section 17 of the Copyright Act and also has exclusive rights as enumerated under Section 14(d) of the Copyright Act. It is stated in the plaint that the plaintiff and the defendant no.35 entered into a special arrangement, in terms of which the plaintiff has acquired various exclusive rights from defendant no.35 in the film “DEADPOOL-2” and the plaintiff is therefore the exclusive licensee of the film. It is stated in the plaint that no entity can, without authorization from the plaintiff and the defendant No.35, upload, stream, make available download, broadcast, rebroadcast and/or communicate to the public, the plaintiff’s original content in any manner whatsoever.

It is averred in the plaint that defendants No. 1 to 34 are a network of rogue websites which are primarily indulging in the business of online piracy by hosting, streaming, making available for viewing and download and communicating to the public third party content and information through medium of internet and mobile transmission. The content which is offered by defendants No.1 to 34 is pre-dominantly pirated and illegal, infringing the rights of legitimate intellectual property right owners.

Learned counsel for the plaintiff states that the plaintiff employed the services of an investigating agency Markscan and found out that the defendants No.1 to 34 are providing illegal content for viewing and download through defendants No.36 to 57/Internet Service Providers thereby infringing

plaintiff's exclusive rights and causing losses to them.

She further states that the plaintiff apprehends that the exclusive rights of the plaintiff's film "DEADPOOL-2" is also likely to be infringed by illegal activities of these rogue websites.

It is stated that this is not the first case of this nature that has been instituted in the Court. In the recent past, several similar suits like CS(OS) No.384/2011, CS(OS) No.821/2011, CS(OS) No.1724/2011, CS(OS) No.2066/2011, CS(OS) No.2352/2011, CS(COMM) 376/2017 and CS(COMM) 541/2017 have been filed by various entities against rogue websites and directions have been issued by the Court to the internet service providers to disable access to the rogue websites.

Keeping in view the aforesaid, this Court is of the opinion that a *prima facie* case is made out in favour of the plaintiff and balance of convenience is also in its favour. Further, irreparable harm or injury would be caused to the plaintiff if an interim injunction order is not passed.

Consequently, till further orders, the defendants No. 1 to 34, their owners, partners, proprietors, officers, servants, employees and all others in capacity of principal or agent acting for and/or on their behalf are restrained from communicating, hosting, streaming, making available for viewing and downloading without authorisation, on their websites or other platforms through the internet, the film "DEADPOOL-2" in any manner whatsoever. Defendants No.36 to 57 shall ensure compliance of this order by blocking the websites of the defendants No.1 to 34 and the access to the rogue websites identified in the memo of parties.

Defendants No.58 and 59 are directed to issue requisite Notifications directing defendants No.36 to 57 and other internet and telecom service

providers registered under them to block the websites of defendants No.1 to 34 and those that have been identified in the memo of parties.

Defendants No. 36 to 57 and defendant Nos. 58 and 59 are also directed to, on receipt of communication from the plaintiff of any other website hosting the said movie, block such website also.

Let provisions of Order 39 Rule 3 CPC be made by way of e-mail within a period of one week.

Order dasti under the signature of the Court Master.

MANMOHAN, J

MAY 16, 2018

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