

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

**NOTICE OF MOTION IN COMMERCIAL
DIVISION MATTERS (L) NO. 3208 OF 2018
IN
COMMERCIAL (IP) SUIT (L) NO.1767 OF 2018**

Novex Communication Private Limited ...Applicant

Versus

KGA Hotel & Resorts Pvt. Ltd. ...Respondent

Mr.Rashmin Khandekar a/w Mr.Kunal Parekh i/b Dua Associates
AOR for the Applicant/Original Plaintiff.

CORAM : SMT.BHARATI H. DANGRE, J.

**DATE : 26th DECEMBER 2018
(VACATION COURT)**

P.C.

1. The plaintiff who claims to be the owner and/or assignee and/authorised agent of sound recordings has instituted the Suit seeking declaration that the defendant KGA Hotel and Resorts Pvt. Ltd., through its partners, directors etc., be restrained from publicly performing or in any manner communicating the sound recording of the songs assigned to the plaintiff. It is the claim of the plaintiff that he owns the exclusive copy right in relation to ground performance of the sound recordings and its repertoires includes large number of songs of film and non-film genre, in Hindi

and Regional languages.

2. The Notice of Motion is also taken out restraining the defendants from performing or playing the sound recording during the events which are Scheduled to be held at the end of the year on account of the New Year eve.

The matter was called out in the morning session and the learned counsel for the plaintiff Shri.Khandekar informed that he has served the defendants. But since none appeared for defendant, the matter was posted at 3.00 p.m.

3. In the afternoon session the learned counsel for the plaintiff has placed on record a copy of the Trail mail received from the defendant dated 26th December 2018. Perusal of the said document placed on record disclose that the plaintiff had communicated the details of the Novex Licence Fee for 2 days event. In response to the said communication, the defendant has reciprocated in the following words:-

“Refer to meeting today, kindly note that for the new year we are conducting only 50 Pax (In house DJ) at our sky grill restaurant. Kindly issue license for the same at the earliest. For out Banquet hall, we are arranging International DJ for new-year function, hence Bollywood

song are not playing.”

The said e-mail produced by Mr.Khandekar is taken on record and it is exhibited as Exhibit-X.

4. In light of the said undertaking on behalf of the defendant as contained in the e-mail, Notice of Motion does not survive and hence stands disposed of.

(SMT.BHARATI H. DANGRE, J.)