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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 540/2019
SAREGAMA INDIA LIMITED

..... Plaintiff

Represented by: Mr. Parag Tripathy, Mr. C.M. Lall,
Sr. Advs. with Mr. Ajay Bhargava,
Mr. Ankur Sangal, Ms. Sucheta Roy,
Mr. Shiva Tokas, Ms. Richa
Bhargava, Advs.

versus

MADDOCK FILMS PRIVATE LIMITED

..... Defendant

Represented by: Mr. Sandeep Sethi, Sr. Adv. with Ms.
Radhika Dubey, Adv. for Defendant.
Mr. Sudhir Nandrajog, Sr. Adv. with
Mr. Rishi Agrawala, Mr. Vaibhav
Shukla, Mr. Amit Jamsandekar, Ms.
Niyati, Mr. Pratham Vir Agarwal,
Advs. for SONY MUSIC
ENTERTAINMENT India Pvt. Ltd.

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **26.09.2019**

I.A. 13445/2019 (u/S 151 CPC by P)

Exemption allowed subject to just exceptions.

I.A. 13448/2019 (u/S 151 CPC by P)

1. Necessary Court fees be filed within one week.
2. Application is disposed of.

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I.A. 13447/2019 (u/S 151 CPC by P)

1. By this application the plaintiff seeks to place on record the compact disk and pen drive containing the Audio Clip of the plaintiff's song, an audio-clip of the recreated song and a video of the trailer of the defendant cinematograph film containing the recreated song in the present suit.
2. Application is disposed of taking on record the compact disk and pen drive.

I.A. 13446/2019 (u/O 11 R 1(4) of Comm. Court Act by P)

1. Additional documents be filed within four weeks.
2. Application is disposed of.

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1. Plaint be registered as suit.
2. Issue summons in the suit. Learned counsel for the defendant accepts summons.
3. Written statement be filed within the statutory period of 30 days. Replication within four weeks thereafter.
4. 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.
5. 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 deponents shall indicate their position with regard to the documents against the

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particulars of each document.

6. List before the learned Joint Registrar for completion of pleadings and admission/denial of documents on 26th November, 2019.

7. List the suit before Court on 19th December, 2019.

I.A. 13444/2019 (u/O 39 R 1&2 CPC by P)

1. Notice. Learned counsel for the defendant accepts notice. Reply affidavit to this application be filed within two weeks. Rejoinder affidavit within one week.

2. This Court has heard arguments on behalf of learned counsel for the parties on the ad-interim injunction. The dispute between the parties relates to the song “*Ke Odhni Odhu Odhu Ne Udi Jaye*” in the defendant’s film ‘*Made in China*’ which was released on 19th September, 2019. The defendant had earlier applied for a license from the plaintiff and a license fee of ₹8 lakhs was sought by the plaintiff, however the final terms between the parties could not be agreed upon, as according to the plaintiff it insisted that the said license fee was only for the purposes of putting the song in the film and the plaintiff would retain the rest of the rights for commercial exploitation of the underlying work. The right of the commercial exploitation of the underlying work in the song by the plaintiff was not acceptable to the defendant who later took the stand that the plaintiff was not even entitled to the license fee as it did not hold any right in the song or the underlying work.

3. Though not made a party, learned counsel appears for SONY MUSIC ENTERTAINMENT India Pvt. Ltd. (in short SONY) before this Court and states that the lyrical works are a folk song in which no one can claim

ownership and thus cannot be assigned to anybody, and the underlying work of composition including sound recording of defendant in the song has already been assigned to SONY. Thus without impleading SONY no relief can be sought by the plaintiff.

4. Considering the fact that the underlying rights in the composition have already been assigned to a third party who has not been impleaded as a defendant in the suit, at this stage this Court does not find it fit to grant an ad-interim injunction, however is giving a short date so that the injunction application can be heard and decided finally.

5. However, in the meantime de-hors the stand of the defendant that the plaintiff has no rights either in the song or the underlying work for the reason that the gramophone company which is the predecessor-in-interest of the plaintiff only received limited rights and the plaintiff is not entitled to any license fee, this Court as a matter of ad-interim measure directs defendant to furnish a security for a sum of ₹25 lakhs to the satisfaction of the Registrar General of this Court within one week.

6. List this application on 4th November, 2019.

7. Order dasti under the signature of the Court Master.

MUKTA GUPTA, J.

SEPTEMBER 26, 2019

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