

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
INTERIM APPLICATION (LODGING) NO. 37134 OF 2022  
IN  
COMMERCIAL IP SUIT (LODGING) NO. 37130 OF 2022

Phonographic Performance Limited ... Applicant / Orig. Plaintiff  
vs.  
TBSE Hotels Private Limited ... Defendants

Mr. Sharan Jagtiani, Senior Counsel a/w. Mr. Amogh Singh, Mr. Asmant Nimbalkar, Mr. Hero Ramchandani and Mr. Neeraj Nawar, i/by. Mr. D. P. Singh for applicant/plaintiff.

CORAM : MANISH PITALE, J  
DATE : 13<sup>th</sup> DECEMBER, 2022

PC. :

. Learned senior counsel submits that this application was on board yesterday and that it is directed to be kept for consideration today.

2. The plaintiff claims to own and control as licensee the public performance rights of around 400 music labels, with more than 45 lakhs of international and domestic sound recordings. It claims to be exclusively entitled to grant licences for communication to the public/public performance of its repertoire of sound recordings under Section 30 of the Copyright Act, 1957. It is stated that the details of such sound recordings are available on its website, as specifically mentioned in paragraph No.6 of the plaint.

3. The learned senior counsel appearing for the plaintiff submits that the plaintiff has been issuing event-specific or annual licences for broadcast of such sound recordings in which, the plaintiff holds copyrights and assignment deeds have been executed with various third parties in this context.

4. It is alleged that in the premises of the defendant, sound recordings of which, the plaintiff holds copyrights, have been unauthorizedly broadcasted, thereby infringing the rights.

5. Insofar as the defendants being put to notice, the affidavit of service is handed over, which is taken on record. The said affidavit shows that the defendants were served on 6<sup>th</sup> December, 2022 with the application and the suit. But, they have chosen not to appear before this Court.

6. Learned senior counsel for the plaintiff has pressed for grant of urgent ad-interim reliefs, for the reason that the actions of the defendants are resulting in continuous infringement of the copyrights held by the plaintiff. The learned senior counsel further states that in the absence of ad-interim relief, the plaintiff is likely to suffer grave and irreparable loss, due to the continuing infringement of its copyrights. This Court is convinced that balance of convenience is also in favour of the plaintiff. The defendants have chosen not to appear before this Court, despite service and hence, ad-interim relief deserves to be granted.

7. In view of the above, there shall be ad-interim relief in terms of prayer clause (a), which reads as follows:

“(a) That pending the hearing and final disposal of this Suit, this Hon'ble Court be pleased to issue an order of injunction against restraining Defendant, its partners, directors, their servants, employees, agents, assignees, licensees, representatives, third party event management companies, or otherwise and/or any person claiming through them or acting on their behalf, from publicly performing or in any manner communicating the sound recordings 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 obtaining non-exclusive public performance rights in sound recordings from the Plaintiff, or otherwise infringing the copyright in any work owned and protected by the Plaintiff;”

8. The application be listed for further consideration on 10<sup>th</sup> February, 2023.
9. Ad-interim relief shall continue to operate till the next date of listing.

**(MANISH PITALE, J)**

*Priya Kambli*