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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 659/2023 & I.A. 18466/2023, I.A. 18467/2023,
I.A. 18468/2023, I.A. 18469/2023

VIACOM18 MEDIA PRIVATE LIMITED Plaintiff
Through: Mr. Saikrishna Rajgopal, Mr.
Sidharth Chopra, Ms. Sneha Jain, Mr.
Yatinder Garg, Mr. Akshay Maloo and Mr.
Priyansh Kohli, Advs.

versus

LIVE.SMARTCRIC.COM & ORS. Defendants
Through: None

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER
21.09.2023

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(Through Video Conferencing)

I.A. 18469/2023 (under Order XI Rule 1(4) of CPC) in CS(COMM) 659/2023

1. This is an application, under Order XI Rule 1(4) of the Code of Civil Procedure, 1908 (CPC) as amended by the Commercial Courts Act, 2015, seeking permission to file additional documents.
2. For the reasons stated in the application, the plaintiff is permitted to file additional documents within four weeks from today in accordance with the protocol envisaged by Order XI Rule 1(4) of the CPC.
3. The application is allowed accordingly.



I.A. 18467/2023 (under Section 151 of CPC) in CS(COMM) 659/2023

4. Subject to the plaintiff filing legible copies of any dim or illegible documents on which it may seek to place reliance within four weeks from today, exemption is granted for the present.

5. The application is allowed accordingly.

I.A. 18468/2023 (under Section 80 of CPC) in CS(COMM) 659/2023

6. Given the urgent nature of the relief sought in the plaint, exemption is granted for the present from serving notice under Section 80 of the CPC on the official defendants.

7. The application is allowed accordingly.

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8. The plaintiff provides broadcasting services. Plaintiff also owns the online streaming platform/website www.jiocinema.com and the corresponding Mobile App – ‘JioCinema’, which enables viewers to watch serials, sports, movies and the like.

9. The plaint asserts that, vide agreement dated 12 September 2023 executed between the Board of Control for Cricket in India (BCCI) and the plaintiff, exclusive global media rights, for streaming/transmitting, over the television and digital media, events conducted by the BCCI, including the cricket tournaments which are to take place between Australia Tour of India 2023, Afghanistan Tour
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of India – 2024, England Tour of India – 2024, Bangladesh Tour of India-2024, New Zealand Tour of India – 2024, West Indies Tour of India – 2025, South Africa Tour of India – 2025, New Zealand Tour of India – 2026, Afghanistan Tour of India – 2026, West Indies Tour of India – 2026, Sri Lanka Tour of India – 2026, Australia Tour of India 2027, England Tour of India 2028 (“BCCI Events”) during the period from September 2018 to March 2028, have been granted to the plaintiff.

10. By virtue of this agreement, the plaintiff asserts exclusive rights to make available to the public the events relating to cricket tournaments conducted by the BCCI during the aforesaid period of 5 years i.e. 2023 to 2028, on any platform including the internet and mobile. Any such transmission or broadcasting of the said event by any other entity, it is submitted, would be infringing the exclusive copyright held by the plaintiff in that regard, emanating from the agreement dated 12 September 2023.

11. Defendants 1 to 8 are stated to be rogue websites, engaged in making available to public, third-party content and information through internet and mobile transmission.

12. The websites are stated to be streaming and providing access, as well as transmitting and broadcasting recently concluded Asia Cup 2023 which commenced on 30 August 2023 without any authorisation. Also, defendants 2 to 8 websites are stated to be streaming ‘India Tour of West-Indies 2023’ without authorization from the plaintiff. Some of these websites have also announced live



steaming of the upcoming BCCI Event – ‘Australia Tour of India’ commencing from 22 September 2023.

13. In these circumstances, the plaintiff sent notices dated 18 September 2023 to the domain name registrars (DNRs, Defendants 9 to 15) and internet service providers (ISPs, Defendants 16 to 23), calling on them to block access to the websites of Defendants 1 to 8.

14. It is in these circumstances that the plaintiff has approached this Court by means of the present suit, seeking protection against infringement of copyright.

15. The plaintiff seeks, by means of the prayers in the suit, an injunction against Defendants 1 to 8 from making available to the public, essentially by transmitting or broadcasting, in any manner, whether over the television or over any digital platform or the internet, the content relating to the events conducted by BCCI as broadcasted by the plaintiff in their channels including “JioCinema”. Other directions, to the remaining defendants, towards implementation of the said injunction is also sought.

16. *Prima facie*, there is substance in the grievance of the plaintiff. It is a matter of common knowledge that such rogue websites come into being before such events takes places and, without any licence or authorisation, start streaming and broadcasting the events over which copyright is held by others.

17. This Court finds itself inundated with such suits, which keep



cropping up every now and then. It may be useful for the Legislature to formulate some kind of a policy by which such disputes can avoid being taking up the time of the courts. That said, as the plaintiff has a clear prima facie case, it would be entitled to an injunction as sought.

18. In the circumstances, let the plaint be registered as a suit.

19. Issue summons in the suit. Let summons issue to the defendants by all modes.

20. Written statement, if any, accompanied by affidavit of admission and denial of the documents filed by the plaintiff be filed within 30 days with advance copy to learned Counsel for the plaintiff who may file replication thereto, accompanied by affidavit of admission denial of documents filed by the defendants within 30 days thereof.

21. List before the Joint Registrar (Judicial) on 23 November 2023 for completion of pleadings, admission/denial of documents and marking of exhibits, whereafter the matter would be placed before the Court for case management and further hearing.

I.A. 18466/2023 (under Order XXXIX Rules 1 and 2 of CPC)

22. This is an application by the plaintiff under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure 1908 (CPC) seeking *ad interim* protection.



23. My attention has been invited to earlier orders passed by this Court in which similar directions had been issued in similar circumstances.

24. Accordingly, the following interlocutory directions are passed, to remain in force till the next date of hearing:

(i) Defendants No. 1 to 8 (and such other mirror/redirect/alphanumeric websites of Defendants 1 to 8 which are discovered during the course of the proceedings and notified on Affidavit by the Plaintiff to have been infringing the Plaintiff's exclusive rights and copyrights), their owners, partners, proprietors, officers, servants, employees, and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, shall stand restrained from communicating, hosting, streaming, and/or making available for viewing and downloading, without authorization, on their websites or other platforms, through the internet in any manner whatsoever, the content over which the plaintiff has exclusive copyright, so as to infringe the Plaintiff's exclusive rights, copyrights and broadcast reproduction rights.

(ii) Defendant 9 is directed to suspend the domain name registration of Defendant Nos. 1 and 6 in respect of the websites - live.smartcricket.com and buffstreams.app .

(iii) Defendant 10 is directed to suspend the domain name registration of Defendant No. 2 in respect of the website - me.webcricket.com.



(iv) Defendant 11 is directed to suspend one of the domain name registrations of Defendant No. 3 in respect of the website - mhdtvworld.me.

(v) Defendant 12 is directed to suspend one of the domain name registrations of Defendant 3 in respect of the website mhdtvworld.org.

(vi) Defendant 13 is directed to suspend the domain name registration of Defendant No. 4 in respect of the websites - mc5.crichd.com and crichd.vip and b5.crichd.tv and crichd.live.

(vii) Defendant 14 is directed to suspend the domain name registration of Defendant No. 5 in respect of the website - watch.cricstream.me.

(viii) Defendant 15 is directed to suspend the domain name registration of Defendant No. 7 and 8 in respect of the websites - cricweb.info and crickethighlights2.cricket.

(ix) Defendants 9 to 15 are directed to disclose, on affidavit, (a) complete details such as name, address, email address, phone number, IP address, etc. (b.) Mode of payment along with payment details used for registration of domain name by the registrant(s) and (c.) details of other websites registered by the Defendant Nos. 1 to 8 using similar details, same credit card, payment gateway etc. (disclosed as per subclause (b) above) with the Defendant Nos. 9 to 15.

(x) Defendants 16 – 23 are directed to block access to the



Defendants 1 – 8's, websites identified by the plaintiff and enumerated in the serial no.1 in the documents annexed to the plaint.

(xi) To facilitate implementation of the aforesaid directions, Defendants 24 and 25 are directed to issue a notification, calling on internet and telecom service providers registered under the said defendants, to block access to the aforesaid websites identified by the plaintiff and enumerated in the serial no.1 in the documents annexed to the plaint.

25. Mr. Saikrishna Rajagopal, Learned Counsel for the plaintiff, also seeks, in order that the plaintiff is not constrained to approach this Court time and again against new infringing websites which may mushroom during the course of these proceedings, that an order of dynamic injunction be granted, whereby access to the said websites would be blocked on the plaintiff's filing an affidavit with Defendants 16 to 25, immediately on filing of the said affidavit. He undertakes, in order to maintain transparency in the process, that the plaintiff would also, side-by-side, file the affidavit before this Court.

26. He draws my attention, in this context, to para 93 of the judgment of a Coordinate Bench of this Court in *UTV Software Communication Ltd v. 1337X.To and Ors.*¹.

27. Accordingly, Defendants 16 to 25 are directed to block access to any similar/alphanumeric/redirect/mirror website of the defendant

¹ (2019) 78 PTC 375
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websites which is communicated, to them, by the plaintiff, on affidavit, to be indulging in infringing activities similar to those in which Defendants 1 to 8 in the present plaint are indulging.

28. The plaintiff would also, immediately, file a copy of the said affidavit before this Court.

29. The aforesaid directions shall remain in force till the next date of hearing.

30. The plaintiff is directed to comply with the provisions of Order XXXIX Rule 3 of the CPC qua the defendants who are unrepresented today within a period of one week from today by all modes possible.

31. List this application before the Court on 15 January 2024.

C. HARI SHANKAR, J.

SEPTEMBER 21, 2023

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