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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

INTERIM APPLICATION (L) NO.17865 OF 2024
IN
COM IPR SUIT (L) NO.17863 OF 2024

Karan Johar
(Also known as Rahul Kumar Johar

...Applicant /
Plaintiff

Versus

Indian Pride Advisory Pvt. Ltd. & Ors.

...Defendants

Zal Andhyarujina, Senior Counsel, Rashmin Khandekar, Shayan Bisney, Parag Khandhar, Tapan Radkar, Krupa Yagnik and Pramita Saboo and Anaheeta Verma i/b. DSK Legal for the Plaintiff.

CORAM : R.I. CHAGLA J.

DATE : 13TH JUNE, 2024

ORDER :

1. Heard Mr. Zal Andhyarujina, the learned Senior Counsel for the Applicant / Plaintiff.

2. The urgency in moving the Interim Application for ad-interim relief has been made out for the subject film “Shadi Ke Director Karan Aur Johar” / “Shadi Ke Director Karan Johar”

("subject film) which is scheduled to be released tomorrow i.e. 14th June, 2024. The Defendants have been served with the Interim Application and the Plaint filed in the above Suit and this is borne out from the Affidavits of Service dated 12th June, 2024 which have been tendered to this Court and taken on record and marked 'X' collectively for identification. The Defendants have been served by the emails, WhatsApp, Facebook as well as by hand delivery and those present at the address of the Defendant No.1 have acknowledged the receipt of the Plaintiff's Advocate notice, enclosing the papers and proceedings in the above Suit as well as have received intimation of the matter being listed before this Court. In spite of service, the Defendants have failed to remain present.

3. By this Interim Application, the Applicant / Plaintiff has sought an order and direction of temporary injunction restraining the Defendants and their associates / representatives from using the Plaintiff's name or any other attributes of the Plaintiff or reference to the name of the Plaintiff "Karan Johar", together or in parts or in any other manner, in the title or in the promotion, endorsement and publicity of the subject film, directly or indirectly or in any manner whatsoever. Further, the Applicant / Plaintiff has sought order of

injunction restraining the Defendants from releasing the subject film on any mode or medium whatsoever including in theatres or running any promotional materials in relation to the subject film on any mode or social media platform, including but not limited to, the said trailers, until the Defendants remove the name of Plaintiff “Karan Johar” together or in parts, or his attributes from title of the said film. At present, the aforesaid prayers which are prayers ‘a’ and ‘b’ are being pressed.

4. Mr. Zal Andhayarujina has referred to the averments in the Plaint and in particular, the celebrity status of the Plaintiff ‘Karan Johar’ and this is borne out from the blockbuster films which the Plaintiff has directed as set out in paragraph 6 of the Plaint and which have played a great role in transforming the Bollywood film industry and launched the careers of several successful actors.

5. Mr. Zal Andhayarujina has submitted that the Plaintiff is aggrieved by the subject film containing his name and thereby making an unauthorized / unlawful use of Plaintiff’s name and making direct reference to the Plaintiff. Further, there is clear attributes to the Plaintiff in the title of the subject film “Shadi Ke

Director Karan Aur Johar” / “Shadi Ke Director Karan Johar” and referring to ‘Director’ along with “Karan Johar”. He has submitted that the Defendants are evidently using the Plaintiff’s name with malafide intention to mislead the public to believe that the subject film is associated with the Plaintiff. The trailers indicate that the subject film is in respect of individuals having the name “Karan” and “Johar” who collaborate to become Bollywood Director and are shooting a Bollywood film. Such premise of the subject film further make it evident that the Defendants are using the personality of the Plaintiff.

6. Mr. Zal Andhayarujina has submitted that the Defendants are engaged in the same line of business as that of Plaintiff and therefore they ought to have been aware of the brand name of Plaintiff. Therefore, by consciously using such brand name of the Plaintiff, the Defendants are with malafide intention using the brand seeking to obtain unjust profits / unlawful gain and cause wrongful loss to the Plaintiff.

7. Mr. Zal Andhayarujina has submitted that it is a well settled position of law that an entity who has obtained celebrity

status has personality rights, rights of publicity and right to privacy and unless his consent is taken for using his personal attributes such as his name and profession there is violation of such rights.

8. Mr. Zal Andhayarujina has placed reliance upon the decision of the Madras High Court in *Mr. Shivaji Rao Gaikwad Vs. Varsha Productions¹*, wherein the Madras High Court recognizes privacy rights which in that case concerned the renowned actor Rajnikant. The Court has upon considering the earlier law on right of publicity which has evolved from the right of privacy and can inhere only in an individual or in any indicia of an individual's personality like his name, personality trait, signature, voice, etc. has opined that the personality rights vests on those persons, who have attained the status of celebrity. The contention of the Defendant that the name of Rajnikant is a common name and as such does not refer to Plaintiff alone has been rejected. Further, the contention of the Defendant that personality rights have not been recognized under statute in India has not found favour with the Court as it has been held by the Court that personality rights have been recognized by Courts in India in various judgments referred to therein. The Court accordingly

¹ Application No.735 of 2014 and Civil Suit No.598 of 2014 decided on 3rd February, 2015.

granted injunction in favour of the Plaintiff.

9. Mr. Zal Andhayarujina has placed reliance upon the decisions of the Delhi High Court in *Anil Kapoor Vs. Simply Life India and Ors.*², *Arun Jaitley Vs. Network Solutions Private Ltd. & Ors.*³ and *Titan Industries Ltd. Vs. M/s. Ramkumar Jewellers*⁴, where personality rights have similarly been protected.

10. Mr. Zal Andhayarujina has submitted that the personality rights of the Plaintiff is required to be protected as had been protected in the aforementioned decisions and ad-interim order of injunction be passed in terms of prayer Clauses (a) and (b) of the Interim Application.

11. Having considered the submissions and taking note of the fact that the Defendants though served with papers and proceedings in the above matter as well as intimated of the mentioning of the matter today, as well as upon mentioning the placing of the matter at 2.30 p.m. has failed to make an appearance.

2 2023 SCC OnLine Del 6914.

3 2011 SCC OnLine Del 2660.

4 2012 SCC OnLine Del 2382.

Further, it is necessary to note that inspite of the Plaintiff issuing a cease and desist notice dated 6th June, 2024, which is annexed at Exhibit F to the Suit, the Defendants have failed to respond to the cease and desist notice. It is obvious from the conduct of the Defendants that they have not bothered to contest the claim of the Plaintiff as well as appear before this Court.

12. In my prima facie view, a strong case has been made out by the Applicant / Plaintiff to protect his personality rights which vests in him, considering that he has celebrity status as borne out from the several blockbuster films which he has directed. These blockbuster films have been referred to in paragraph 6 of the Plaint and there is no manner of doubt that the Plaintiff has played a great role in transforming the Bollywood film industry and launching the careers of several successful actors.

13. I am of the prima facie view that the subject film titled as “Shadi Ke Director Karan Aur Johar” / “Shadi Ke Director Karan Johar” co-produced by the Defendant No.1 and Defendant No.2 and Written and Directed by Defendant No.3 which is scheduled to be released in the theaters tomorrow i.e. 14th June, 2024 makes an

unauthorized / unlawful use of Plaintiff's name. Further, the use of the word "Director" with "Karan Johar", prima facie makes it evident that the Defendants are using the personality of the Plaintiff. The Defendants are thus creating confusion in the minds of the public at large that the subject film is associated with the Plaintiff as the general public will identify and associate the use of the Plaintiff's name "Karan Johar" with the title of the subject film solely upon becoming aware of the subject film.

14. The Madras High Court as well as Delhi High Court in the aforementioned decisions relied upon by Mr. Zal Andhayarujina have time and again protected the personality rights vesting in persons who have attained the status of the celebrity. In the present case, the Plaintiff is seeking protection of his personality rights as also protection of his privacy. The Defendants by making an unauthorized / unlawful use of Plaintiff's name and the personal attributes of Plaintiff inter alia his name and his profession, have in my prima facie view violated the personality rights, right to publicity and right to privacy of the Plaintiff.

15. In view thereof, this is a fit case for grant of ad-interim

relief in terms of prayer Clauses (a) and (b) of the Interim Application, which read thus:-

(a) Pending the hearing and final disposal of this Suit, pass an order an direction of temporary injunction restraining the Defendants and their associates / representatives from using the Plaintiff's name or any other attributes of the Plaintiff or reference to the name of Plaintiff "Karan Johar", together or in parts or in any manner, in the title of the said Film or in the promotion, endorsement and publicity of the said Film, directly or indirectly or in any manner whatsoever, including but not limited to all goods, promotional materials, advertisements, film posters, letterheads, signs, labels and all other things produced by the Defendants, or on behalf of the Defendants, which may be in the possession, custody or control of the Defendants, which are intended to be sold, promoted or otherwise distributed in relation to the said film.

(b) Pending the hearing and final disposal of this Suit, pass an order and direction of temporary injunction restraining the Defendants and their associates / representatives, from releasing the said Film on any mode or medium whatsoever including in theatres or running any promotional materials in relation to the said Film on any mode or social media platform, including but not limited to, the said 1 trailers, until the Defendants remove the name of Plaintiff "Karan Johar", together or in parts, or his attribute's from title of the said Film;

16. The Advocates for the Plaintiff shall serve notice of this Order on the Defendants.

17. The Defendants are at liberty to seek variations, modifications and / or vacation of the ad-interim relief by giving at least seven working days notice.

18. It is made clear that the ad-interim relief which has been granted shall apply to existing use of the Plaintiff's name or any attributes of the Plaintiff in any manner whatsoever.

19. The Interim Application shall be placed for further consideration on 10th July, 2024.

20. Parties to act upon an authenticated copy of this Order.

[R.I. CHAGLA J.]