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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(COMM) 193/2016

MRS. CHITRA JAGJIT SINGH Plaintiff

Through: Ms. Pratibha M. Singh, Senior Advocate along with Ms. Mahua Roy Choudhury, Mr. Sanjay Visen & Mr.Devanshu Khanna, Advocates.

versus

M/S THE INDIAN PERFORMING RIGHTS SOCIETY & ORS.

..... Defendants

Through:

**CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI**

ORDER
14.03.2016

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I.A. No. 3431/2016

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CS(COMM) 193/2016 and I.A. No. 3430/2016

3. Issue summons in the suit and notice in the application to the defendants returnable on 16.03.2016. Notice be served to the defendants dasti as well as through e-mail.
4. Learned senior counsel for the plaintiff has drawn the attention of the

Court to proviso to Section 33(1), second proviso to Section 33(3A) as also to the letter written by defendant No.1/ IPRS to the Government of India. A perusal of the said letter shows that IPRS itself has claimed that it is no longer a society within the meaning of Section 2 (ffd) read with Section 33 of the Copyright Act. The relevant extract from the said letter reads as follows:

“We have been directed to inform you by Governing Council (based on legal opinion), that we are not a Copyright Society within the meaning of Section 2(ffd) of the Act. As you are aware, under the second proviso to Section 33A we were to be registered within a period of one year from the date of commencement of the Copyright (Amendment) Act, 2012. In other words, we were to be registered on or before 21.6.2013. Since the Central Government failed to register the Indian Performing Rights Society (IPRS) as a Copyright Society, the old Registration Certificate granted to IPRS CS / 02/ Musical Work / 96 and office memo No. 4 - 1/ 96 – IC dated 27th March 1996, as also the application filed by IPRS dated 8th May 2013 is deemed to have lapsed.

Without prejudice, We have also been directed to inform you that IPRS is legally disabled from adhering to any of your conditions mentioned in your letter/s dated 24th May 2013 and 3rd June 2013 as a pre-condition for registration of IPRS as a Copyright Society in view of court orders passed restraining under Section and hence not eligible to be registered as one, hence cannot be “desirous” of carrying on business as a Copyright Society.

We also inform you further that without prejudice to the above, since the earlier Certificate issued to IPRS dated 27th March 1996 and the application dated 8th May 2013 is deemed to have lapsed, IPRS does not deem it necessary to withdraw the same. However, it were ever to be understood otherwise, the Certificate of Registration hereby stands surrendered and the

application dated 8th May 2013 be considered as withdrawn. Be that as it may on 3rd September 2013 an Civil Court of Ludhiana ruled that IPRS is not registered copyright society under section 33 of the Copyright Act, 1957.”

5. From the above, it is clear that the defendant No.1 is not competent to grant license in respect of the works, wherein the plaintiff claims copyright as her own works, and the works produced by her late husband Sh. Jagjit Singh (in respect of which she has obtained Letters of Administration from the Bombay High Court).

6. The grievance of the plaintiff is that defendant No.1 continues to issue license, even though, it is no longer a copyright society registered under the Copyright Act-even as per its own admission. In this regard, reference is made to the license issued in favour of defendant No.2 for a concert held in Mumbai for which the defendant No.1 collected fee of Rs.49,140/-. Learned senior counsel submits that not a penny has been paid to the plaintiff by the IPRS, or defendant No.2, in respect of the concert held at Mumbai.

7. It is further pointed out that defendants No.2 & 3 are now advertising to hold a concert in Delhi on 18.03.2016. Attention has been drawn to the advertisement published on the website of defendant No.3, wherein the picture of late Jagjit Singh has been prominently displayed with the caption “*Ek Ehsaas Jagjit Singh Live in Concert*”. It further states to the effect that Jagjit Singh “*Sings again for Charity*”.

8. Learned senior counsel submits that Sh. Jagjit Singh passed away in the year 2011, and the said advertisement is completely misleading. The names of the artists, *inter alia*, disclose the name of one Jagjit Singh, who

apparently is some other person, and obviously not the famous late Sh. Jagjit Singh. It is pointed out that the plaintiff had filed a civil suit in the Bombay High Court in relation to the concert held by defendant No.2 in Mumbai. However, the defendant had taken the defence that defendant No.1/ IPRS (who was not a party to that suit) had granted a license in favour of defendant No.2 herein. At that stage, the plaintiff was not aware of the legal status of defendant No.1 – that defendant No.1 is no longer entitled to grant a license in respect of the works of the artists such as the plaintiff and late Sh. Jagjit Singh. Consequently, injunction was not granted to the plaintiff in the said suit.

9. In view of the aforesaid submissions, defendant No.1 is forthwith restrained from granting any license in respect of the works of the plaintiff and of late Sh. Jagjit Singh and recover any license fee from any third party in respect of the said works. The grant of interim relief in respect of other defendants shall be considered on the next date.

10. A copy of this order shall accompany the notice.

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

VIPIN SANGHI, J

MARCH 14, 2016

B.S. Rohella