



\$~27

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

+ CS(COMM) 700/2022

STAR INDIA PVT LTD & ANR. Plaintiffs

Through: Mr.Sidharta Chopra, Mr.Yatinder
Garg, Mr.Angad Singh Makkar,
Ms.Rimjhim Tiwari & Mr.Raunak
Das Sharma, Advs.

versus

SERIALGHAR.ME & ORS. Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **11.10.2022**

I.A. 16483/2022 (Exemption)

1. Allowed, subject to all just exceptions.

I.A. 16484/2022

2. This is an application filed on behalf of the plaintiffs seeking leave to file additional documents, which are not in the power, possession, control or custody of the plaintiff at the moment.

3. The plaintiffs may file the additional documents strictly in accordance with the provisions of the law.

4. The application stands disposed of.

I.A. 16485/2022

5. This is an application filed on behalf of the plaintiffs under Section 80 read with Section 151 of the Code of Civil Procedure, 1908 (in short, 'CPC') seeking exemption from issuing notice to the defendant nos. 36, 39, 44 and 45.

6. Having perused the contents of the application, the same is allowed.



CS(COMM) 700/2022

7. Let the plaint be registered as a suit.
8. Issue summons to the defendants to be served through all permitted modes, including electronically, returnable on 15th December, 2022 before the learned Joint Registrar (Judicial).
9. The summons to the defendant(s) shall indicate that the written statement(s) to the plaint shall be positively filed within a period of 30 days from the date of receipt of summons. Along with the written statement(s), the defendant(s) shall also file the affidavit(s) of admission/denial of the documents of the plaintiffs, without which the written statement(s) shall not be taken on record.
10. Liberty is given to the plaintiffs to file the replication(s) within a period of 15 days of the receipt of the written statement(s). Along with the replication(s), if any, filed by the plaintiffs, the affidavit(s) of admission/denial of documents of the defendant(s) be filed by the plaintiffs, without which the replication(s) shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

I.A. 16482/2022

11. Issue Notice.
12. On the plaintiffs taking steps, let notice be served on the defendants through all permissible modes, including electronically, returnable on 15th December, 2022 before the learned Joint Registrar (Judicial).
13. The plaintiffs have filed the present suit seeking an injunction to restrain the illegal and unauthorised dissemination of the plaintiffs' original content/works in the '*general entertainment*' category, which fall within the



definition of '*cinematograph films*' under Section 2(f) of the Copyright Act, 1957 (in short, 'the Act'). It is the case of the plaintiffs that they are the producers of the cinematograph films and as such have exclusive rights enumerated under Section 14(d) of the Act, including *inter-alia* to publicly exhibit and communicate the said content/works through any media.

14. The plaintiff no. 1 herein is a leading entertainment and media company in India engaged, *inter-alia*, in the production of popular content broadcast on its STAR channels. The plaintiff no. 1, along with its affiliates, is the owner of an extensive portfolio of more than seventy channels in over eight languages. The STAR Channels and the content aired therein occupy a commanding position and have acquired tremendous goodwill and reputation in the entertainment industry and amongst the general public. By virtue of the necessary uplink and downlink permissions issued by the Ministry of Information and Broadcasting, Government of India (in short, 'MIB'), the plaintiff no. 1 has the sole and exclusive right to broadcast and distribute STAR Channels in India.

15. The plaintiff no. 2, owns and operates the online audio-visual streaming platform and website, www.hotstar.com and the mobile application, '**Disney+ Hotstar**'. '**Disney+ Hotstar**' offers over 8 Lakh hours of TV shows and movies across 8 languages, Disney+ originals, exclusive new content from the '**Hotstar Specials**' label, regional and national news, and coverage of every major global sporting event.

16. It is asserted that apart from owning and managing '**Disney+ Hotstar**', the plaintiff no. 2 is also the producer/exclusive assignee/licensee of web-series original content in various languages including in Hindi and English, which is made accessible only on '**Disney+ Hotstar**'.



17. The present suit has been filed by the plaintiffs, against the following defendants:

- a) The defendant nos. 1 to 27 are claimed to be '*rogue websites*';
- b) The defendant nos. 28 to 34 are the Domain Name Registrars (hereinafter referred to as 'DNRs') of the domain names used by the '*rogue websites*';
- c) The defendant nos. 35 to 43 are the Internet Service Providers (hereinafter referred to as the 'ISPs');
- d) The defendant nos. 44 and 45 are the Department of Telecommunication (in short, 'DoT') and the Ministry of Electronics and Information Technology (in short, 'MEITY'), respectively;
- e) The defendant no. 46 has been impleaded as '*John Doe*' in the name of '*Ashok Kumar*'.

18. The content on '**Disney+ Hotstar**' and the STAR Channels produced by the plaintiffs forms the subject matter of the instant suit. As described in paragraph nos. 6 and 7 of the plaint, the plaintiffs are the producers of various TV Shows, films and/or web-series which are communicated on STAR Channels and/or '**Disney+ Hotstar**' and have the exclusive distribution rights to publicly exhibit and communicate the said content through any medium or mode including on the STAR Channels or '**Disney+ Hotstar**'. They are protected as '*cinematograph films*' under Section 2(f) read with Section 13 of the Act.

19. It is asserted that the defendant nos. 1 to 27 are liable for infringement of copyright under various provisions of Section 51 of the Act. The various 'exclusive rights' that, *inter alia*, would be deemed to have been infringed/ violated by the defendant nos. 1 to 27 are:



- a) The right of making a copy of the plaintiffs' cinematograph films including the storing of it in any medium by electronic or other means;
- b) The right of communicating the plaintiffs' cinematograph films to the public.

20. Having considered the contents of the plaint and documents filed therewith, and having heard the learned counsel for the Plaintiffs, the Court is of the opinion that the plaintiffs have made out a *prima facie* case for grant of an *ex-parte ad-interim* injunction, which is also a dynamic injunction. The balance of convenience lies in favour of the plaintiffs and irreparable injury would be caused if the interim injunction is not granted. Disclosure orders are also liable to be passed against the DNRs, and further, the defendant nos. 44 and 45 ought to also issue blocking orders to all the ISPs, to block the said rogue websites. Considering the investment which the plaintiffs have made in producing these works, any illegal broadcasting would severely affect the monetary interest of the plaintiffs, and also diminish the value of the rights of works.

21. Accordingly, till further orders, an *ad-interim ex-parte* order in terms of the prayer made in paragraph 11(i) of the present application is passed against the defendant nos. 1 to 27.

22. The DNRs shall also immediately block the said domain names and maintain *status quo* thereof. The said DNRs shall also disclose to the plaintiffs the following:

- a) Complete details (such as Name, Address, Email Address, Phone Number, IP Address etc.) of the defendant nos. 1 to 27 and such other websites which are discovered during the course of the proceedings



and notified on affidavit by the plaintiffs to have been infringing the plaintiffs' exclusive rights, copyrights and broadcast reproduction rights.

b) Mode of Payment along with payment details used for registration of domain name by the Registrant, that is the defendant nos. 1 to 27 and such other websites which are discovered during the course of the proceedings and notified on affidavit by the plaintiffs to have been infringing the plaintiffs' exclusive rights, copyrights and broadcast reproduction rights.

c) Details of other websites registered by the defendant nos. 1 to 27 and such other websites which are discovered during the course of the proceedings and notified on affidavit by the plaintiffs to have been infringing the plaintiffs' exclusive rights, copyrights and broadcast reproduction rights using similar details, same credit card, payment gateway etc. (disclosed as per Clause b above) with the defendant nos. 28 to 34.

d) Details of Complaints received by the defendant nos. 28 to 34 in past against the defendant nos. 1 to 27 and such other websites which are discovered during the course of the proceedings and notified on affidavit by the plaintiffs to have been infringing the plaintiffs' exclusive rights, copyrights and broadcast reproduction rights.

23. The defendant nos. 44 and 45, as also the ISPs, shall block the defendant nos. 1 to 27 websites. The said blocking orders shall be issued by the defendant no. 44 within 24 hours after service of this order. Pursuant to the said blocking order/s, all the ISP's, that is, the defendant nos. 35 to 43, shall block access to the URL's, as also the mobile applications within 24



hours and shall not permit the download of these applications or the streaming of the rogue websites.

24. If the plaintiffs discover other mirror websites or rogue websites which are broadcasting and/or telecasting the cinematograph films which are covered by the present suit, they may:

a) File an affidavit in this regard before the Court along with evidence thereof. The said websites shall stand blocked with immediate effect, upon notice being issued by the plaintiffs to the defendant no. 44 and ISPs that such an affidavit has already been filed before this Court.

b) Upon the defendant no. 44 receiving the notices and communications from the plaintiffs that the affidavits have been filed before the Court, the orders for blocking such further rogue websites shall be passed, immediately and in any case, within 24 hours, so that the websites do not continue to stream infringing content in any manner whatsoever.

25. Compliance with Order XXXIX Rule 3 of the CPC be made by within a period of two days.

26. *Dasti.*

NAVIN CHAWLA, J

OCTOBER 11, 2022/rv/AB