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

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Date of decision: 6th February, 2025

+ CS(COMM) 214/2022

STAR INDIA PVT. LTD. & ANR.Plaintiffs
Through: Mr. Angad Singh Makkar and
Mr. Vivek Kumar, Advocates.

versus

ASHAR NISAR & ORS.Defendants
Through: Mr. Manish Mohan, CGSC with
Mr. Jatin Teotia, Ms. Aishani Mohan
and Mr. Varenym Singh, Advocates.
Mr. Shoumendu Mukherji, SPC with
Ms. Megha Sharma, Ms. Anirudha
Ghosh and Mr. Prashant Rawat,
Advocates.

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. Since 5th February, 2025 was declared a Court holiday, the matters listed on 5th February, 2025 are being taken up today i.e. 6th February, 2025.
2. The present suit has been filed seeking relief of permanent injunction restraining the defendants from illegally and unauthorizedly disseminating and broadcasting the plaintiffs' works/ content through their rogue websites and mobile applications, along with other ancillary reliefs.



CASE SETUP IN THE PLAINT

3. The plaintiff no.1 is an entertainment and media company that operates more than seventy (70) channels in over in eight languages, including channels such as Star World, Star Movies, Star Bharat, Movies Ok, Star Gold, Jalsha Movies, Star Sports I, Star Sports HOI, Star, Sports Select I, Star Sports Select HD 1, Star Sports 1 Hindi, Star Sports 1 HD Hindi, Star Sports I Tamil, Maa Movies, Suvama Plus, etc. (*hereinafter collectively referred to as "STAR Channels"*).

4. Plaintiff no.2 is an affiliate company of plaintiff no.1. Plaintiff no.2 owns and operates the online video streaming platform/website '*www.hotstar.com*' and the mobile application '*Disney+ Hotstar*'. On the aforesaid platforms, plaintiff no. 2 streams various events in respect of which plaintiff no.1 has the exclusive digital rights (Internet and Mobile).

5. The plaintiffs are the producers of various TV shows, films, and/or web series, which are communicated through the STAR Channels and/or Disney+ Hotstar, and they hold the exclusive rights to publicly exhibit and communicate the said content through any medium or mode, including but not limited to the STAR Channels or Disney+ Hotstar. The plaintiffs have given the details of their copyrighted works in paragraphs 4 to 8 of the plaint (*hereinafter collectively referred to as "Plaintiffs' Works"*).

6. In view of the exclusive rights acquired by the plaintiffs from the ICC, the plaintiffs enjoy broadcast reproduction rights as contemplated and confirmed under Section 37 of the Copyright Act, 1957.

7. Defendants no.1 to 6 and 35 to 66 (*hereinafter "infringing mobile applications"*) are third-party Android-based mobile applications that



communicate, make available for viewing, and provide access to the content of the plaintiffs and various right owners either free of cost (or at minimal subscription) and without any authorisation.

8. Defendants no. 7 to 12 and 67 to 153 (hereinafter “Rogue Websites”) are third-party websites that serve as a repository of illicit and infringing mobile applications and allow users of Android- based devices to download such illegal infringing mobile applications directly onto their devices.

9. Defendants no. 13 to 22 are the domain name registrars of the rogue websites.

10. Defendants no. 23 to 31 are various internet service providers, defendant no. 32 is the Department of Telecom (DoT), and defendant no.33 is the Ministry of Electronics and Information Technology (‘MeitY’).

PROCEEDINGS IN THE SUIT

11. On the first date of hearing, 6th April 2022, this Court issued summons in the present suit and granted an *ex-parte* injunction in favour of the plaintiffs and restrained the defendants from infringing the plaintiffs' exclusive rights, copyrights, and broadcast reproduction rights by communicating, hosting, storing, reproducing, streaming, broadcasting, re-broadcasting, causing to be seen or heard by the public on payment of charge, and/or making available for viewing the plaintiffs' content through unauthorized apps, websites, and platforms.

12. Since none had entered appearance on behalf of defendants no.1 to 12, this court, *vide* order dated 1st May 2023, directed to proceed *ex-parte* against defendants no.1 to 12. Additionally, on the same date, this court confirmed the interim order dated 6th April 2022 till the final adjudication of the suit.



13. During the course of the suit, the plaintiffs identified additional infringing mobile applications and rogue websites, defendants no. 35 to 66 and defendants No. 67 to 153, respectively, indulging in similar illegal and infringing activities as the original defendants. Consequently, the plaintiffs filed an application being I.A. 11050/2024 under Order I Rule 10 of the Code of Civil Procedure, 1908 ('CPC'), seeking impleadment of the proposed defendants no. 35 to 153.

14. *Via* order dated 15th May 2024 passed by the Joint Registrar, the aforesaid application was allowed, and the proposed defendants no.35 to 153 were impleaded as defendants in the present suit. It was further directed that the order dated 6th April 2022 shall also operate *qua* the freshly impleaded defendants.

15. The plaintiffs have filed an affidavit of service dated 16th October 2024 in terms of which all the newly added defendants have been served the summons in the suit.

15.1. Despite service, none has entered appearance on behalf of the defendants.

15.2. *Vide* order dated 15th January 2025, the Joint Registrar closed the right of the defendant no. 35 to 153 to file a written statement.

16. With regard to the additional rogue apps and rogue websites, the plaintiffs have filed one hundred thirty-one (131) additional affidavits stating that the plaintiffs have notified the ISPs, DoT and MeitY for the blocking of the additional rogue websites via email.

ANALYSIS

17. I have heard the counsel for the plaintiffs and gone through the record of the case.



18. The plaint has been duly verified and is also supported by the affidavit of the plaintiff. In view of the fact that no written statement has been filed on behalf of the defendants, all the averments made in the plaint have to be taken to be admitted. Further, since no affidavit of admission/denial has been filed on behalf of the defendants in respect of the documents filed with the plaint, in terms of Rule 3 of the Delhi High Court (Original Side) Rules 2018, the same are deemed to have been admitted. Therefore, in my opinion, this suit does not merit trial, and the suit is capable of being decreed in terms of Order VIII Rule 10 of CPC.

19. Based on the averments made in the plaint, it is clear that the defendants are actively and knowingly creating, developing, distributing and making available the infringing mobile applications and Rogue Websites with the common object of exploiting copyright-protected works and infringing the plaintiffs' copyright and broadcasting rights.

20. The defendants' activities have caused irreparable harm to the plaintiffs, as these infringing mobile applications and Rogue Websites not only violate and infringe the exclusive rights of the various right holders like the plaintiffs, but also erode and dilute the value of the said copyrights by taking away significant revenues from all the stakeholders.

21. At this stage, it may be relevant to note that despite service of summons, none of the defendants have contested the present suit by filing a written statement.

22. In view of the discussion above, I am of the view that the defendants, being infringing mobile applications and rogue websites, have indulged in piracy of the copyright content of the plaintiffs.



23. Since the defendants have failed to take any requisite steps to contest the present suit, despite having suffered an *ad interim* injunction order, it is evident that they have no defence to put forth on merits.

24. Accordingly, the plaintiffs are entitled to restrain the aforesaid defendants from disseminating and communicating to the public the plaintiffs' works, fully or in part, without an authorization license from the plaintiffs.

RELIEFS

25. In view of the foregoing analysis, a decree of permanent injunction is passed in favour of the plaintiff in following terms:

I. A decree of permanent injunction is passed in favour of the plaintiffs and against defendants no. 1 to 6 and defendants no. 35 to 66 their owners, partners, officers, and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, are restrained from in any manner communicating, streaming, and/ making available for viewing and downloading, without authorization, on their websites or other platforms, through the internet in any manner whatsoever, the plaintiffs' Works/ Content through their Rogue Apps (*viz*, Ninja TV, RTS TV, Kyte TV, Picaso TV, Stream India and Hotstar Mod App), or any other App, including ones whose names/ branding/ trademark recall is deceptively or substantially similar to the Rogue Apps identified;

II. A decree of permanent injunction is passed in favour of the



plaintiffs and against defendants no. 7 to 12 and defendants no. 67 to 153 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, are restrained from in any manner infringing and/or authorising the infringement by *inter alia* facilitating and materially contributing to the 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 plaintiffs' content.

26. Counsel for the plaintiffs submit that reliefs sought in prayer clause 98 (iii)(a) to (j) have already been satisfied. Therefore, he does not wish to press the same.
27. Counsel for the plaintiffs do not wish to press for the reliefs sought in prayer clauses 98 (iv) to (ix) of the plaint.
28. Let the decree sheet be drawn up.
29. All pending applications stand disposed of.

AMIT BANSAL, J

FEBRUARY 6, 2025

Vivek/-