

SHEPHALI

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION (L) NO. 1940 OF 2016**

IN

SUIT (L) NO. 694 OF 2016

Balaji Motion Pictures Ltd. & Anr. ...Plaintiffs
Versus
Bharat Sanchar Nigam Ltd. & Ors. ...Defendants

Mr. V. R. Dhond, Senior Advocate, a/w Mr. Shailesh Mandon, Mr. N. Rodriguse, i/b R. M. Partners, for the Plaintiffs.

**CORAM: G.S. PATEL, J
DATED: 1st July 2016**

PC:-

1. Not on board. Mentioned. Taken on board.
2. The matter is moved on production at 3.00 p.m. It seeks a "John Doe/Ashok Kumar" order in the now common form in respect of a film *Great Grand Masti*. The release date of the film is 22nd July 2016.
3. The Plaint has the usual array of the Defendants: some cable operators, some intermediaries and, of course, the usual John Doe / Ashok Kumar generic Defendants. It also has a list of some 800

websites (not individual download links) against which sweeping reliefs are sought. This list of website URLs runs from pages 14 to 29 of the Complaint. The list does not include one single link to a specific digital file for download. These URLs all point to, and only to, entire websites.

4. I am not prepared to give a general direction against any of these websites. Such an order assumes, *ex hypothesi*, that every single bit of digital matter on every single one of these websites is not just illicit, but that all of this matter on all these websites relates to, and only to, illicit downloads of the Plaintiffs' film. There is absolutely nothing to support this.

5. I am now informed that the immediate concern is the Torrent link at page 61 of the Complaint. There is also a screenshot of a Twitter post that apparently reports a leak of the censor copy of the film. I do not know what to make of this Twitter post for the simple reason — and this is not disputed today — that the Torrent link at page 61 is admittedly defunct and no longer active. In other words, there is nothing in the Complaint beyond the Twitter post to point to any active illicit download link. There is no demonstrable basis for the relief sought.

6. Given this, I do not see at this stage what relief can legitimately be sought against a raft of websites on a pleading as sketchy and formless as this. Some of those websites may indeed have legitimate content. An order like the one the Plaintiffs seek would result in a large-scale blocking of all these websites, and a

denial of access to all their content, even legitimate content; and that, too, without any assessment of what that content actually is.

7. While this Plaint does refer to a previous order I passed recently, it is equally true that in that very order, a copy of which is at page 65, I even then expressed a reservation about such unrestricted widespread orders. In that matter, I required the Plaintiffs to produce a list of individual links to downloads. I have no such list before me today.

8. Thus, the only order I can possibly make today is to grant the Plaintiffs liberty to renew their application on more appropriate and cogent material. To leave no room for controversy as to what I mean by this, the Plaintiffs must ensure that they place on Affidavit a list (the length does not matter) of individual links that point to illicit downloads of the film. That list on Affidavit must be verified by some responsible, technically qualified person; and the Affidavit must state that a technically competent officer of the Plaintiffs has checked, if not all, at least a sufficient sampling of these links so as to warrant the grant of an injunction.

9. I am also making it clear that any such injunction may be subjected to further terms, and, specifically that I propose to time-limit the order to some reasonable period and not to allow it to continue indefinitely.

(G. S. PATEL, J.)