

S-OS-13

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CS(COMM) 15/2019

RAJAT SHARMA & ANR. Plaintiff
Through Mr.Sandeep Sethi, Sr.Adv. and
Mr.Amit Sibal, Sr.Adv. with Mr.T.Singhdev,
Ms.Ritika Talwar and Mr.Tarun Verma, Advs.

versus

ASHOK VENKATRAMANI & ANR. Defendant
Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% 11.01.2019

IA No.382/2019 & 383/2019

Exemption allowed subject to all just exceptions.

Applications stand disposed of.

CS(COMM) 15/2019

Let the plaint be registered as suit. Issue summons to the defendants by speed post and ordinary process, returnable for 10.4.2019.

IA No.381/2019

1. Issue notice to the defendants by speed post and ordinary process, returnable for the date fixed above.
2. This is an application under Order 39 Rule 1 and 2 CPC seeking ex parte ad interim injunction directing the defendant to immediately take down the impugned advertisement from all forms of media, including print, electronic, outdoor hoardings etc. Other connected reliefs are also sought.


Court Master
High Court of Delhi
New Delhi

The accompanying suit is filed for permanent injunction, dilution, damages, rendition of accounts etc. It has been prayed that a decree be passed declaring the impugned advertisement of the defendant as false, misleading, incorrect and disparaging. Mandatory injunction is also sought.

3. The case of the plaintiff is that since 1993 the plaintiff has been running the show Aap Ki Adalat on Zee TV. Thereafter it was telecast on Star Plus and now is being telecast on plaintiff No.2's channel India T.V. It is pleaded that now the defendants have started an advertisement/promotion campaign against the show run by the plaintiff. An advertisement was published in the front page of Hindustan Times dated 9.1.2019 whereby reference is made to the aforesaid programme of the plaintiff and the plaintiff is named. It is pleaded that the advertisement is misrepresenting and also violates the intellectual property rights of the plaintiff. It is further pleaded that the defendants have by the impugned advertisement deliberately and maliciously disparaged plaintiff No.1 and 2's television show Aap Ki Adalat of which plaintiff No.1 is the host.

4. I have heard learned senior counsel for the plaintiff. Learned senior counsel has also relied upon the judgments of the Madras High Court in *Mr. Shivaji Rao Gaikwad (Rajinikanth) vs. M/s. Varsha Productions, 2015-1-L.W. 701* and of this court in *Titan Industries Limited vs. M/s. Ram Kumar Jewellers, 2012 SCC Online Delhi 2382* to plead that the impugned advertisement apart from being disparaging also refers to the plaintiff No.1 which without permission of plaintiff No.1 is strictly prohibited.

5. A perusal of the impugned advertisement shows that the defendant has used the phrase "INDIA ME AB RAJAT KI ADALAT BAND".

6. Reference may be had to the judgment of the Madras High Court in


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Mr. Shivaji Rao Gaikwad vs. M/s. Varsha Productions, (supra) where the court held as follows:-

“23. From the reading of the above said judgments, it is seen that if any person uses the name of a celebrity without his/her permission, the celebrity is entitled for injunction, if the said celebrity could be easily identified by the use of his name by the others. As observed earlier, in the instant case, on seeing the name of Rajinikanth in the title of the impugned movie, the persons, who are coming across the title of the impugned movie, are identifying the name only with the plaintiff herein, which is evident from the website pages hosted by different persons. Therefore, in my opinion, even assuming for a moment that the impugned movie is not a biopic of the plaintiff, since the name found in the title of the impugned movie is identifiable only with the plaintiff, who happens to be a celebrity and not with any other person, the defendant is not entitled to use the said name without the permission of the plaintiff/celebrity, particularly when he had chosen to advertise the movie with a title ‘Hot Kavita Radheshyam As Sex Worker For Rajinikanth’.”

7. Reference may also be had to the judgment of this court in *Titan Industries Ltd. vs. M/s. Ramkumar Jewellers (supra)* where the court held as follows:-

“15.....**Haelan Laboratories v. Topps Chewing Gum [202 F2d 866]**

“A man has a right in the publicity value of his photograph, i.e., the right to grant the exclusive privilege of publishing his picture, and that such a grant may validly be made ‘in gross,’ i.e., without an accompanying transfer of a business or of anything else.

This right might be called a ‘right of publicity’. For it is common knowledge that many prominent persons (especially actors and ballplayers), far from having their feelings bruised through public exposure of their likenesses, would feel sorely deprived if they no longer received money for authorizing advertisements, popularizing their countenances, displayed in


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message of endorsement and the message is false and misleading. Further, since Mr. Amitabh Bachchan and Mrs. Jaya Bachchan are clearly identifiable there would be an infringement of the right of publicity for it is not tied down to any proof of falsity. The right to publicity extends beyond the traditional limits of false advertising laws.”

8. Keeping in view the above legal position, in my opinion, reference to the name of plaintiff No.1 in the impugned advertisement is prima facie illegal and the defendant cannot be permitted to do the same. Balance of convenience is also in favour of the plaintiff.
9. The defendants are restrained from issuing any advertisements in the print media, TV channels or otherwise which contains the name of the plaintiff. They will within three days remove any hoarding which has reference to the name of the plaintiff.
10. Plaintiff to comply with provisions of Order 39 Rule 3 CPC within three days.
11. A copy of this order be given dasti under signatures of the Court Master.

JAYANT NATH, J

JANUARY 11, 2019

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Court Master
High Court of Delhi
New Delhi