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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(COMM) 651/2019

SUPER CASSETTES INDUSTRIES PRIVATE LIMITED... Plaintiff

Represented by: Mr.Amit Sibal, Sr.Advocate with
Mr.Neel Mason, Mr.Vihan Dang,
Ms.Sneha Sharma and Ms.Aditi,
Advocates.

versus

MOHALLA TECH PRIVATE LIMITED

..... Defendant

Represented by: None.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

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O R D E R
29.11.2019

I.A. 16800/2019 (exemption)

1. By this application, plaintiff seeks exemption from filing printouts of the electronic record.
2. Plaintiff has placed on record a compact disc comprising of its metadata of its entire copyrighted works as Ex.B and however, when the CD was played in Court, the same could not work. Hence the application is disposed of permitting the plaintiff to file the proper CD within one week.

I.A. 16799/2019 (under Order XI Rule 1 (4) Commercial Courts Act, 2015)

1. Additional documents, if any, including the assignment/license deeds agreements in respect of rights claimed in each of the song/film, will be filed within 30 days.
2. Application is disposed of.

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I.A. 16798/2019 (Exemption)

1. Allowed, subject to all just exceptions.
2. Original documents/certified copies be filed within 30 days.
3. Application is disposed of.

CS(COMM) 651/2019 & I.A. 16797/2019 (under Order XXXIX Rule 1 and 2 CPC)

1. Plaintiff be registered as a suit.
2. Issue summons in the suit and notice in the application to the defendant on the plaintiff taking steps through ordinary and dasti process, registered AD and speed post returnable on 21st February, 2020 before the learned Joint Registrar for completion of service, pleadings and admission/denial of documents.
3. Summons to the defendant shall indicate that the written statement to the plaintiff shall be positively filed within 30 days of the receipt of the summons. Liberty is given to the plaintiff to file a replication within two weeks of the receipt of the advance copy of the written statement.
4. Parties shall file all original documents in support of their respective claims along with their respective pleadings. In case parties are placing reliance on a document which is not in their power and possession, its detail and source shall be mentioned in the list of reliance which shall be also filed with the pleadings.
5. Admission/ denial of documents shall be filed on affidavit by the parties with the pleadings.

6. List the suit and application before Court on 19th March, 2020.
7. Case of the plaintiff is that the producers of various songs have entered into assignment/license agreements with the plaintiff by virtue of which the plaintiff owns the copyrights of the sound recordings and audio visual songs as well as the literary, musical works and performances, embodied in the sound recordings and audio visual songs for the various films for which in the present suit the plaintiff claims to be 2,20,675/- in number. Despite the plaintiff being the owner of the said literary, musical works and performances, embodied in the sound recordings and audio visual songs and the underlying rights in the work, the defendant without obtaining any license from the plaintiff is illegally uploading, storing, hosting, reproducing/making copies, issuing copies, communicating to the public, digitally transmitting/streaming, synchronising, adapting, actively modifying and/or otherwise exploiting the plaintiff's copyrighted works. Plaintiff issued a legal notice to defendant on 7th September, 2018 and in response to the said legal notice, defendant through its counsel acknowledged the receipt of the legal notice and claimed that it was an intermediary and refused to comply with the cease and desist notice.
8. Considering the fact that the defendant has neither any assignment nor a license in its favour by the plaintiff who claims himself to be the owner of the copyrights in 2,20,675 audio and video visual songs as on 30th January, 2019 which have been enlisted in the CD, corrected copy whereof will be filed within one week, plaintiff has made a *prima facie* case in its favour and in case no *ex-parte ad-interim injunction* is granted plaintiff will suffer irreparable loss. The balance of convenience also lies in favour of the

plaintiff and against the defendant.

9. Consequently, till the next date of hearing, defendant, its directors, officers, employees, agents, assignees, representatives and all other persons etc. are restrained from using or by way of storing, hosting/reproducing/making copies, issuing copies, commercially exploiting/monetizing, communicating to the public, digitally transmitting, publicly performing, synchronizing with other works, making new works therefrom adapting, modifying and making available the plaintiff's copyrighted works on/through the impugned services or in any other manner whatsoever exploiting the plaintiff's copyrighted works details whereof have been mentioned in the CD.

10. Compliance under Order XXXIX Rule 3 CPC be made within one week.

11. Order dasti.

MUKTA GUPTA, J.

NOVEMBER 29, 2019

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