

MANU/MH/0795/2020

IN THE HIGH COURT OF BOMBAY

LD-VC-IA-1-2020 in LD-VC-159-2020

Decided On: 16.07.2020

Appellants: **Zee Entertainment Enterprises Limited**
Vs.

Respondent: **Teleone Consumers Product Pvt. Ltd. and Ors.**

Hon'ble Judges/Coram:

K.R. Shriram, J.

Counsels:

For Appellant/Petitioner/Plaintiff: Hiren Kamod, Pranita Saboo and Navankur Pathak i/b Parul Sharma

DECISION

K.R. Shriram, J.

1. The present action is filed by plaintiff claiming infringement of plaintiff's copyright in two cinematograph films "Jung" and "Kartavya" by defendants who are broadcasting the movies on their respective television channels without any permission from plaintiff.

2. The papers and proceedings in the present matter have been served by plaintiff upon defendant nos. 1 and 2. Plaintiff has e-filed affidavit of service dated 13th July 2020 in respect thereof. Further, the intimation of listing of matter on 16th July 2020, the link of today's hearing and the cause list has been served by plaintiff upon defendants nos. 1 and 2. Plaintiff has e-filed affidavit of service dated 16th July 2020 in respect thereof.

3. It is stated that plaintiff company is engaged in the media and entertainment business inter alia of procurement, development, distribution and dissemination, broadcast/re-broadcast of music, entertainment television programs, including cinematograph feature films, serials, talents hunts, reality shows through satellite, terrestrial and cable channels, through Direct to Home (DTH) using existing and emerging technologies and distribution platforms and is the owner/operator of several leading Indian television channels such as "Zee TV", "Zee Cinema", "Zee Marathi", and "Zee Talkies".

4. It is stated that the Suit Films, i.e. "Kartavya" and "Jung", were released in the Indian cinemas in the years 1979 and 1996, respectively. Copies of Censor Certificates issued by the Central Board of Film Certification in respect of the Suit Films are at Exhibits A1 to A2 to the Plaint. By and under a Film Assignment Agreement executed between Soham Rockstar Entertainment and plaintiff, plaintiff acquired exclusive liner rights, on demand rights, local cable distribution rights, catch up TV rights, syndication rights, editing rights, promotion rights, air borne rights, surface transport rights, commercial establishment rights, dubbing rights, subtitling rights, doordarshan rights, home video rights, subtitling rights in all languages of the world including Indian languages, and non-exclusive performance rights, merchandising rights, dubbing rights and clip rights in a total of sixty four films,

including the Suit Films "Jung" and "Kartavya", for a term of 10 years commencing from 19th July 2017 in respect of linear rights, home video rights, local cable distribution rights, subtitling and dubbing rights for "Jung"; 1st October 2016 in respect of on demand rights for "Jung" and "Kartavya"; 15th September 2016 in respect of home video rights and local cable distribution rights for "Kartavya", for the entire world, including India and overseas territories. Plaintiff has annexed all the agreements to the Plaint showing how the rights in the said two films have been acquired by plaintiff. Copy of the Film Assignment Agreement executed between Soham Rockstar Entertainment and plaintiff is at Exhibit J to the Plaint. It is stated that plaintiff has the unequivocal, exclusive and absolute rights under the Assignment Agreement to broadcast/publish the Suit Films on television and/or DTH connections. Plaintiff has annexed redacted versions of the agreements to the Plaint, however, during the hearing today, plaintiff has produced the non-redacted versions of the agreements before the Court in a sealed envelope.

5. According to plaintiff, in end of June 2020, plaintiff learnt that defendant nos. 1 and 2 were broadcasting the Suit Films on their television channels "Maha Movie" and "Manoranjan TV", respectively, without any authorization from plaintiff. Upon collecting data from the Broadcast Audience Research Council, plaintiff learnt that Defendant No. 1 has broadcast the movie "Jung" thirty seven times and "Kartavya" thirty two times, and that defendant no. 2 has broadcast the movie "Jung" forty two times and "Kartavya" nine times, on their respective channels. Detailed lists of dates and time slots on which the Suit Films have been telecast on defendant nos. 1 and 2's television channels are at Exhibits K1 and K2 to the Plaint.

6 . Prima facie, the unauthorized broadcast/exploitation of the Suit Films on defendants TV channels is a violation of the copyright vested in plaintiff in respect of the said two Films under the said Assignment Agreement. Plaintiff has made out a prima facie case for the grant of interim injunction. If reliefs as prayed for are not granted, plaintiff will suffer irreparable damage and injury. There are no equities in favour of defendants and the balance of convenience is in favour of plaintiff and against defendants. In the circumstances and in view of the above, plaintiff is pressing for reliefs in terms of prayer clauses-(a), (b) and (e) of the Interim Application, which are hereby granted.

7. The prayer clauses-(a), (b) and (e) of the Interim Application read as under:

(a) pending the hearing and final disposal of the present Suit, this Hon'ble Court be pleased to pass a temporary order and injunction restraining defendant nos. 1 and 2, acting by themselves and/or through their servants, agents and/or representatives, from, in any manner exploiting/publishing/broadcasting/communicating to public the Film No. 1 and/or Film No. 2 or any audio or video clip thereof, on any platform and/or any other mode or medium;

(b) pending the hearing and final disposal of the present Suit that this Hon'ble Court be pleased to pass a temporary order and injunction restraining defendant nos. 1 and 2, acting by themselves and/or through their servants, agents and/or representatives, from, in any manner, creating, alienating and/or transferring any rights in Film No. 1 and/or to any third party;

(e) pending the hearing and final disposal of the present Suit this Hon'ble

Court be pleased to direct defendant No. 1 and 2, acting by themselves and/or through their servants, agents and/or representatives, by a temporary order and injunction to suspend future broadcasting of the Film No. 1 and Film No. 2 on their respective channels.

8. Liberty to defendants to apply for varying/recalling this order by giving written notice in advance of atleast 5 working days.

9. This order will be digitally signed by the Private Secretary of this Court. Associate/Sheristedar of this Court is permitted to forward plaintiff copy of this order by e-mail. All concerned to act on digitally signed copy of this Order.

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