

\$~Suppl.-23 & 24

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

+ RFA (OS) 5 /2021

**THE INDIAN PERFORMING RIGHT SOCIETY LTD**

.....Appellant

Through: Mr. Harish Salve, Senior Advocate  
with Mr. Saikrishna Rajagopal,  
Mr. Ameet Datta, Mr. Himanshu  
Bagai, Mr. Munish Mehra, Mr.  
Sidharth Chopra, Ms. Pallavi  
Sondhi, Ms. Deepshikha Sarkar,  
Ms. Namrata Dubey, Ms. Ruby  
Singh Ahuja and Ms. Swikriti  
Singhania, Advocates.

versus

**ENTERTAINMENT NETWORK (INDIA) LTD** .....Respondent

Through: Mr. Sandeep Sethi, Senior  
Advocate with Mr. Krishnendu  
Datta, Mr. Ashish Verma,  
Ms. Prachi Johri and Mr. Arnab  
Sanyal, Advocates.

**AND**

+ RFA (OS) 6/2021

**THE INDIAN PERFORMING RIGHT SOCIETY LTD**

.....Appellant

Through: Mr. Mukul Rohatgi, Senior  
Advocate with Mr. Saikrishna  
Rajagopal, Mr. Ameet Datta, Mr.  
Himanshu Bagai, Mr. Munish  
Mehra, Mr. Sidharth Chopra, Ms.  
Pallavi Sondhi, Ms. Deepshikha  
Sarkar, Ms. Namrata Dubey, Ms.  
Ruby Singh Ahuja and  
Ms. Swikriti Singhania, Advocates

versus

CRI EVENTS PRIVATE LIMITED & ORS. ....Respondents

Through: Mr. Abhishek Malhotra, Advocate  
for R-1.  
Mr. Pragyan Sharma with Mr.  
Neeraj K Gupta and Mr. Liliaan  
Daas, Advocates for R-4.

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**

**HON'BLE MS. JUSTICE ASHA MENON**

**ORDER**

% **14.01.2021**

**CM APPL.1361/2021 (for exemption) in RFA (OS) 5 /2021**

**CM APPL.1364/2021 (for exemption) in RFA (OS) 6 /2021**

Allowed, subject to all just exceptions.

Accordingly, applications stand disposed of.

**CM APPL.1360/2021 in RFA (OS) 5 /2021**

**CM APPL.1362/2021 in RFA (OS) 6 /2021**

The Registry is directed to summon the trial Court record.

Accordingly, applications stand disposed of.

**RFA (OS) 5 /2021 & CM APPL.1359/2021**

**RFA (OS) 6 /2021 & CM APPL.1363/2021**

The appeals have been heard by way of video conferencing.

Present appeals have been preferred against the judgment dated 4<sup>th</sup> January, 2021 in CS (OS) 666/2006 and CS (OS) 1996/2009 whereby the suits filed by the Appellant for permanent injunction restraining infringement of copyright, damages etc. were dismissed while allowing Respondent's application under Section 151 of the Code of Civil Procedure, 1908.

Mr. Harish Salve and Mr. Mukul Rohatgi, learned senior counsel for the Appellant submit that the Ld. Single Judge erred in dismissing the Suits filed by the Plaintiff while relying upon the interim orders passed in CS (OS) 1996/2009 and FAO(OS) 423-424/2011 at the time of consideration of I.A. 9182/2012 an application filed on or about 14<sup>th</sup> May, 2012 under Section 151 of the Code of Civil Procedure, 1908 without taking into account the Supreme Court judgment in *International Confederation of Societies of Authors and Composers (ICSAC) vs. Aditya Pandey (2017) 11 SCC 437* which has held that the observations expressed by the High Court with respect to the aforesaid interim orders in the original as well as appellate proceedings were in the context of the law prevailing prior to 2012 amendment.

Learned senior counsel for the Appellant further submit that the Ld. Single Judge failed to appreciate the true import of third and fourth proviso to Section 18 as well as amendment of Sections 17, 18 and 19(9) & 19(10) in 2012.

They further state that since the impugned judgment was reserved three years ago, the appellant had during this period issued thousands of licenses to a diverse array of platforms including hotels, malls, radio and television broadcasters, airlines and corporate bodies.

Issue notice.

Mr. Ashish Verma, learned counsel for respondents accept notice in RFA(OS) 5/2021.

Mr. Abhishek Malhotra, learned counsel for respondent No.1 accepts notice in RFA(OS) 6/2021.

Mr. Pragyan Sharma, learned counsel accepts notice for respondent No.4 in RFA(OS) 6/2021.

They pray for and are permitted to file their reply affidavits to the interim applications as well as file additional documents within four weeks. Rejoinder affidavit, if any, be filed before the next date of hearing.

Both parties are directed to file their short written submissions not exceeding five pages each along with the judgments that they wish to rely upon.

Till further orders the impugned judgment shall not be relied upon or used as a precedent in any proceedings.

List on 3<sup>rd</sup> May, 2021.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

**MANMOHAN, J**

**ASHA MENON, J**

**JANUARY 14, 2021**  
**AS**