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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 509/2023 and CAV 384/2023, I.A. 13917/2023-13920/2023**

SUPER CASSETTES INDUSTRIES PRIVATE LIMITED

..... Plaintiff

Through: Mr. Amit Sibal, Ms. Geetanjali Visvanathan, Mr. Harsh Kaushik, Ms. Abhilasha Nautiyal, Mr. Mukul Kochhar, Mr. Shivansh Tiwari, Mr. Rishabh Sharma, Mr. Darpan Sachdev, Mr. Saksham, Advocates

versus

GOLDMINES TELEFILMS PRIVATE LIMITED Defendant

Through: Mr. Sandeep Sethi, Sr. Adv. with Mr. Aurup Dasgupta, Mr. Rohan Thawani & Ms. Aakriti Vikas, Advocates (M-

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **01.08.2023**

1. This hearing has been done through hybrid mode.

CAV 384/2023

2. Caveator has entered the appearance. Accordingly, caveat is discharged.

I.A. 13918/2023 (for exemption)

3. This is an application seeking exemption from filing typed, translated copies, clearer copies, documents with correct margins. Exemption allowed. Application is disposed of.

I.A. 13919/2023 (for additional documents)

4. This is an application seeking leave to file additional documents under

the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (hereinafter, 'Commercial Courts Act'). The Plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act.

5. Application is disposed of.

I.A. 13920/2023 (u/S 12A of the Commercial Courts Act)

6. This is an application seeking exemption from instituting pre-litigation mediation. In view of the orders passed in *Chandra Kishore Chaurasia v. R A Perfumery Works Private Ltd, 2022/DHC-DB/004454*, the application is allowed and disposed of.

CS(COMM) 509/2023

7. Let the plaint be registered as a suit.

8. Issue summons to the Defendant through all modes upon filing of the Process Fee. Summons are accepted by Id. Counsel for the defendant.

9. Written statement to the plaint shall be positively filed within 30 days. Along with the written statement, the Defendants shall also file an affidavit of admission/denial of the documents of the Plaintiff, without which the written statement shall not be taken on record.

10. Liberty is given to the Plaintiff to file a replication within 15 days of the receipt of the written statement(s). Along with the replication, if any, filed by the Plaintiff, an affidavit of admission/denial of documents of the Defendant, be filed by the Plaintiff, without which the replication shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

11. List before the Joint Registrar for marking of exhibits on 5th October, 2023. It is made clear that any party unjustifiably denying documents would

be liable to be burdened with costs.

12. List before Court on 11th September, 2023.

I.A. 13917/2023 (u/O XXXIX Rule 1 and 2 CPC)

13. This is a suit filed by the Plaintiff- M/s Super Cassettes Industries Private Limited against the Defendant- M/s Goldmines Telefilms Private Limited seeking a permanent injunction restraining infringement of copyright, tortious interference, damages, etc. *qua* Plaintiff's sound recordings, cinematograph films (to the extent they cover audiovisual songs), *inter alia* musical works embodied in the sound recordings and audiovisual songs. The suit has been filed in respect of exploitation of the audio-visual songs from the following movies (hereinafter, '*suit films*')

- i) *Diljale*
- ii) *Main Aisa Hi Hoon*
- iii) *Vaastav*
- iv) *Bees Saal Baad*
- v) *Ek Chaddar Maili Si*
- vi) *Guru*
- vii) *Hisaab Khoon Ka*
- viii) *Jungbaaz*
- ix) *Pati Patni Aur Tawaif*
- x) *Pyaar Ka Mandir*
- xi) *Tahakla*
- xii) *Muddat*
- xiii) *Indaniyat ke dushman*
- xiv) *Oonche Log*

14. The Plaintiff claims to be one of India's leading music production companies, owning copyrights to a vast collection of songs, as explained in the plaint. The Plaintiff's grievance in the present suit is against Defendant-M/s Goldmines Telefilms Private Limited, which has uploaded YouTube videos of audio-visual songs from the suit films.

15. The Plaintiff contends that it has acquired, and owns prior assignment deeds in respect of audio-visual works, including the literary, artistic, dramatic and musical works, as also the cinematograph films for the songs, and the Defendant does not have rights to authorise the uploading of these songs from the suit films on YouTube.

16. The Plaintiff claims that it noticed various instances of infringement in the past, and complaints were lodged on YouTube, pursuant to which some videos were blocked. However, several videos continue to remain accessible on YouTube. It is the submission of Mr. Amit Sibal, Id. Senior Counsel for the Plaintiff that the Plaintiff issued a legal notice dated 20th June 2023 to the Defendant, asking the Defendant to cease from infringing the Plaintiff's copyright works in the suit films. The Defendant refused to comply with the Plaintiff's requisitions. Hence the present suit.

17. Mr. Sandeep Sethi, Id. Senior Counsel for the Defendant submits that the Defendant also obtained assignments of rights in these cinematograph films from the producers of the suit films or parties linked to them. Thus, the Defendant claims that it is entitled to exploit the said audio-visual songs as well. It is his submission that while the Defendant enjoys rights which can be traced back to the producer, the agreements of the Plaintiff do not trace back to the actual Producer.

18. Id. Senior Counsel for the Plaintiff has relied upon the recent

decision of the Bombay High Court in *Shemaroo Entertainment Ltd. v. Super Cassettes Industries Pvt. Ltd* [2023:BHC-OS:4330]. According to ld. Senior Counsel, the Plaintiff's assignments of audio-visual works are prior in time, and therefore, the producers would not have the right to assign to the Defendant, the rights that have already been assigned to the Plaintiff, In this view of the matter, it is prayed that an injunction ought to be granted.

19. Heard. Both sides submit that the other party does not have any right in respect of the audio-visual songs. A total of 14 films are the subject matter of the present suit.

20. The questions that would need to be decided by the Court are:

- (a) Whether the Plaintiff holds exclusive rights in the audio-visual songs of the suit films, and if so, to what extent.
- (b) Whether the Defendant, has the right to exploit the audio-visual songs which are a part of cinematograph films, independently, on YouTube and other platforms.

Clearly, these are issues that would require the Court to analyse each of the assignment deeds *qua* each of the suit films for both sides, and then pass appropriate orders.

21. Accordingly, issue notice. The assignment deeds and the reply on behalf of the Defendant in response to the injunction application be filed within two weeks.

22. Let rejoinder be filed within two weeks thereafter.

23. Considering the nature of the disputes raised, in the meantime, the Defendant shall not upload any further additional audio or audio-visual works from the suit films, apart from those which have already been uploaded on YouTube, till the next date of hearing. The current *status quo*

shall be maintained till the injunction application is decided by the Court.

24. List on 11th September, 2023. Dasti.

PRATHIBA M. SINGH, J.

AUGUST 1, 2023

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