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06.09.2021
SU 1701/21**CORAM : HHJ SHRI K. M. JAISWAL, JUDGE, CITY CIVIL COURT, GR. MUMBAI (C.R.NO. 1)****By precipe.****NOB.TOB**

Adv. Pradeep Gandhi a/w Adv. Parag Khandhar, Adv. Prachi Garg i/b DSK Legal for plaintiff is present.
 Adv. Poriya for defendant no.4 is present.
 Adv. Charushila More for defendant no. 5 is present.
 Adv.for plaintiff tendered draft Notice of Motion. O- Leave granted to register.

Adv.for plaintiff has filed affidavit of service. T.O.R.
 The plaintiff has filed the Suit No. 1701/21 and has also filed the notice of motion.

Order below ad-interim reliefs in draft notice of motion.

Perused the notice of motion which is supported by an affidavit being executed by plaintiff Salman S. Khan. It is submitted on behalf of the Ld. Adv.for the plaintiff that all the defendants have duly been served with the copy of plaint as well as the notice of motion that too through email and courier services. The affidavit of service is also placed on record. None appeared on behalf of defendants no. 1 to 3. Defendant no. 4 has appeared through Adv. Poriya and defendant no.5 has appeared through Adv. Charushila More. Heard all the Ld. Advocates. It is submitted on behalf of plaintiff that the plaintiff is leading film star and one of the popular and successful actor and celebrity in India. It is further submitted that he has acted in several films and television shows. Defendant no.1 is a company of which the defendants no.2 and 3 are Directors. Defendant no.4 is the Google search engine and the defendant no.5 is the service provider. The main suit is for perpetual injunction arising out of so called mobile online game titled as "SELMON BHOI" installed by and belonging to defendants no. 1 to 3 available and could be downloaded through defendants no. 4 and 5. The plaintiff became aware of said game on last week of August, 2021. The game runs under the name and style as hit and run. It is online game and participant can join "Selmon Bhoi" and title is driver on the quest to kill. It is submitted that the game is available on the Google Play Store and could be purchased and played by anyone. On affidavit it is submitted that the plaintiff is popularly known as "Salman Bhai". While arguing the matter the plaintiff has

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also placed on record the pendrive displaying the game as it appears and it was played in Court on laptop. Upon watching the said game the name of the game as well as the images prima facie matches with the identity of plaintiff as also shown in photographs placed on record at page no.50 to 67. It is submitted that the plaintiff at no point of time has consented for the said game and without his consent and knowledge the defendants no. 1 to 3 have prepared the game and is now available online through defendants no. 4 and 5. Ld. Adv.of defendants no. 4 and 5 sought time to file reply. Adv.for defendant no.5 has also placed on record copy of Google play terms and services and has drawn my attention on terms and conditions therein. It is pertinent to note that defendants no. 1 to 3 though served has failed to appear before the Court. Defendants no. 4 and 5 sought two weeks of time to file reply and Ld. Adv.for the plaintiff pressed for an ad-interim reliefs. On going through the contents of plaint, the documents therein and the game which was displaced/watched through with the help of laptop prima facie shows that it is with regard to the hit and run case as connected with the plaintiff. The image as shown in page no.50 under the heading "Hit Selmon Bhoi" with the photo also matches with identity of the plaintiff and mechanical features used impressionistic resemblance to celebrity/plaintiff. The same is open to public at large. When the plaintiff has not given any consent for installing, preparing and running such game which is very similar to his identity and the case which was against him, certainly his right to privacy is being deprived and is also tarnishing his image. It is clear that right to privacy is implicit in the right to life and property guaranteed to the citizens of this country by Article 21 of the Indian Constitution. In this case, the defendants no. 1 to 3 has used identity of a plaintiff who is a famous personality for their commercial gain. Here the plaintiff is widely recognised celebrity and defendants no. 1 to 3 are using unaided identification of him. At this stage recently when the plaintiff has become aware about the same he has approached this Court. It is also submitted that the defendants no. 1 to 3 are making commercial use of the said game. So in my considered opinion when the plaintiff is a famous personality and well known person/celebrity, without his consent, if the defendants no. 1 to 3 have installed the online game and has used his identity without the consent of plaintiff, it is necessary to pass the interim

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orders injuncting them to do so till next date. From the documents on record and the contents of paras no. 4.1 to 4.13 shows that if no ad-interim reliefs are granted certainly the defendants no. 1 to 3 will continue making commercial gain and the image of plaintiff will be damaged. Therefore in my considered opinion till the defendants file the reply and as the prima facie case is made out by the plaintiff, the balance of convenience also lies in his favour and if no ad-interim reliefs are granted the plaintiff will suffer irreparable loss which can not compensated in terms of money. Hence till filing reply ad-interim reliefs in terms of prayer clause (a)(b) and (d) as well as ad-interim reliefs in terms of prayer clause (c) except red ink bracketed Portion Marked 'A' is granted till next date. It is made it clear that the parties to the suit specifically defendants no. 4 and 5 to act upon this order regarding the online link <https://play.google.com/store/apps/details?id=com.ParodyStudios.SelmonBhoi&hl=en> IN & gl=US and only on google store.

Leave is granted to register the N/M.
Plaintiff is directed to do compliance as per Order 39 Rule 3 of the Civil Procedure Code.

Authenticated copy be given all the parties.
Matter adjd for NM reply on 20.09.2021.

Sd/—
Judge

For M. Mendlikar

