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

+ CS(COMM) 326/2019 & I.A. 8510/2019 & 8508/2019

CHANNEL 2 GROUP CORPORATION Plaintiff
Through: Mr. Jayant Mehta, Mr. Deepak
Biswas, Ms. Anu Srivastava,
Ms. Subhlaxmi Sen and Ms. Atmaja,
Advocates

versus

HTTP://LIVE.MYCRICKETLIVE.NET/ & ORS Defendants
Through:

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

% **ORDER**
03.06.2019

I.A. 8510/2019 (exemption)

1. Allowed, subject to just exceptions.

I.A. 8509/2019 (filing the requisite court fee)

2. The time period for deposit of Court fees is extended by 10 days. The application is disposed of.

I.A. 8511/2019 (under Section 80(2) CPC)

3. Copy of the entire paper book along with the copy of today's order be served upon defendant Nos. 106 and 107 within four days. Application is disposed of.

CS(COMM) 326/2019

4. Let the plaint be registered as a suit.

5. Issue summons to the defendants by e-mail returnable on 4th September, 2019. The summons along with the entire scanned file of the

paper book shall be sent by e-mail. Upon the Defendants entering appearance, a scanned copy of the entire paper book be provided to them.

6. The summons to the Defendants shall indicate that a written statement to the plaint shall be positively filed within 30 days from date of receipt of summons. 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.

7. Liberty is given to the Plaintiff to file a replication within 30 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 file by the Defendant, without which the replication shall not be taken on record.

8. The 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.

9. Electronic evidence is taken on record, subject to being proved at trial in accordance with law.

I.A. 8508/2019 (Stay)

10. Issue notice to the defendants by e-mail returnable on 4th September, 2019.

11. The ICC Men's World Cup, 2019 is being organised from 30th May, 2019 to 14th July, 2019.

12. The Plaintiff entered into an Audio Rights Agreement with ICC Business Corporation FZ LLC, which is the organiser of ICC Men's World Cup, 2019 ("World Cup, 2019"), under which the Plaintiff has following rights:

(a) Transmit audio coverage of Matches and warm-up matches (or any

adapted, altered or edited version thereof, and including comment, commentary, interviews and/or associated data) whether live, delayed, highlights or report in all languages via any delivery system now known or hereafter developed which is capable of transmitting or making available audio material for reception anywhere in the world, including via analogue and/or digital radio broadcasts, audio streaming/broadcasts to mobile phones, audio transmission on a digital TV channel (provided such transmission is accompanied only by basic scoring graphics and does not contain and ICC Marks)

- (b) Stream such audio coverage via the internet and/or simulcast radio broadcasts via an audio internet stream, and/or make such audio content available on demand, including the provision of downloadable audio content commonly called podcast.
- (c) Transmit or broadcast resulting from the exercise of the Audio Rights, by Private FM Radio Stations within and throughout India, after obtaining the necessary rights, clearances licenses and permission in relation to such broadcast subject to the Indian law which permit such live broadcast of cricket events on Private FM Radio Stations.
- (d) Exclusive right to exploit the Audio Rights and the right to negotiate and conclude the license agreements with sub-licensees.

13. The Defendant Nos. 1 - 64 are URLs/websites, 65-68 are private radio platform operators and 69-105 are ISPs (Internet Service Providers) / TSPs (Telecom Service Providers). Defendant Nos. 106 and 107 namely Department of Electronics and Information Technology and the Department of Telecommunications, are proforma defendants and have been impleaded only for giving effect to the interim directions. Defendant Nos. 109 - 249

are unknown defendants who, the plaintiff apprehends, would infringe the exclusive live or deferred audio or radio broadcast rights of the Plaintiff.

14. The Plaintiff's apprehension regarding the likely abuse of Plaintiff's exclusive Audio Rights and intellectual property rights arises from previous instances of infringement of the Plaintiff's exclusive broadcasting rights by various interested persons. The said instances of infringement caused considerable financial loss to the Plaintiff. The Plaintiff is given to believe from its agencies that the Defendants arrayed herein will infringe the exclusive Audio Rights of the Plaintiff. Due to the unique nature of online piracy and the unstructured nature of the internet, enforcement of rights against such pirating websites is a time consuming, mammoth task. The pirated websites can switch from one domain name to other. Further, most of the times, such websites hide under the garb of privacy as a result of which it is difficult to pin down the allegations against such website owners. The Plaintiff apprehends that if the Plaintiff were to wait and identify specific parties and collect evidence of infringement by such specific parties, significant time would be lost and the cricket matches may come to an end. Irreparable injury, loss and damage, would be caused to the Plaintiff in such a scenario, which would be impossible to quantify in monetary terms alone.

15. Learned counsel for the plaintiff submits that the Defendant Nos. 1-105 are not authorised or licensed by the Plaintiff and they cannot make any audio or radio broadcasts or stream or report any live or deferred update pertaining to any ICC Event, including any of the matches of the World Cup, 2019. Any unauthorised audio or radio broadcasts, live or deferred update, by those defendants would be illegal and amount to piracy since the Plaintiff holds copyright and exclusive rights over such audio or radio broadcasts. If Defendant Nos. 1 – 105 are not restrained as prayed for by the Plaintiff, the Plaintiff would suffer an irreparable injury and would be left

without any remedy since the event has already begun and is to continue until 14th July, 2019. Reliance is placed on injunctive orders in similar circumstances. Reliance is placed on order dated 01st August, 2018 in CS (COMM) 979/2018 tilted *Sony Pictures Networks India Pvt. Ltd. v. www.arenavision.in*; Order dated 20th November, 2018 in CS (COMM) 1238/2018 tilted *Sony Pictures Networks India Pvt. Ltd. v. www.live.mycricket.tv*; Order dated 04th June, 2018 in CS (COMM) 971/2018 tilted *Sony Pictures Networks India Pvt. Ltd. v. www.sportslive4u.com*; Order dated 30th March, 2017 in CS (COMM) 239/2017 tilted *Sony Pictures Networks India Pvt. Ltd. v. Home Cable Network Pvt. Ltd.*

16. In *Star India Pvt. Ltd. v Piyush Agarwal*, 2013 (54) PTC 222 (Del), this Court directed that any person who wishes to gratuitously relay ball-by-ball or minute-by-minute score update or match alerts without a license, there should be a time lag of 15 minutes in transmitting such updates. The Supreme Court upheld the aforesaid 15 minutes time lag principle vide its order dated 30th September, 2013 in *Star India Pvt. Ltd. v. Akuate Internet Services Pvt. Ltd.*, SLP (C) No. 29633 of 2013.

17. This Court is satisfied that *ex-parte* interim order is warranted in the facts of the present case. In that view of the matter, the Defendants, their partners, proprietors, their officers, servants, agents and representatives, franchisees and all others in capacity of principal or agent, acting for and on their behalf are restrained from broadcasting/communicating to the public audio/ radio streaming or reporting live or deferred updates including by virtue of reporting of such event highlights in World Cup, 2019 through any means without authorization of the Plaintiff; transmitting / communicating to public / making available any match, audio only and/or any part of the World Cup, 2019, including live or deferred score updates, and/or textual

and/or audio-only commentary, through any website, application and/or any other digital platform through internet, mobile and /or radio delivery, till the next date of hearing. However, any defendant complying with the interim order of this Court may the relay of score update by any party doing so gratuitously only after a time lag of 15 minutes.

18. The search engines are directed to take down/delete from their search results pages, listings of websites/ URLs which are infringing upon the Plaintiff's copyright and broadcast reproduction rights, as and when notified by the Plaintiff;

19. The Registry shall assist with the service of notice of injunction on "Ashok Kumars" as and when the Plaintiff finds any unlicensed communication to the public of the said Sporting Events from specific locations / head-ends;

20. Defendant Nos. 69 - 105 are directed to comply with Plaintiff's requests to block access to the unlicensed content of the infringing websites, upon the Plaintiff giving notice of the infringing activity to the said ISPs and Departments.

21. Order XXXIX Rule 3 of the Code of Civil Procedure be complied with within ten days.

22. Copy of this order be given *dasti* to counsel for the plaintiff under signatures of Court Master.

J.R. MIDHA, J.

JUNE 03, 2019
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