

Later
20.10.2020

Present: Sri Srikumar Goswami
Judge, Commercial Court at Alipore.

Title Suit 30/2020

SVF Entertainment Pvt. Ltd. vs. Zee Entertainment Enterprises Ltd.

Mr. Krishna Raj Thaker

Miss Sayantani Das

Mr. Shyantu Datta

...Advocate for the Petitioner

(Through Video Conferencing)

1. Today, the Ld. Counsel of the Plaintiff/Petitioner moves an application under Order XXXIX Rules 1 & 2 read with Section 151 CPC for passing temporary injunction in terms of prayers of the present application for injunction. Let the same be registered as **I.A.**
No. 238/2020.
2. Issue notice returnable by **25.11.2020**, owing to the ensuing Puja Vacation to be held from 22.10.2020 to 16.11.2020.
3. Affidavit of service within 24 hours.
4. The Petitioner is also directed to issue notice alongwith all annexures and all relevant documents at once through Email or Whatsapp.
5. The Ld. Counsel of the Petitioner at this stage, moves an application praying for ad-interim order in terms of the prayers of the injunction application.
6. I have heard the Ld. Counsel as well as perused all relevant documents as annexed with the plaint as well as with the injunction application.
7. The Ld. Counsel participating in the hearing through video conferencing, appearing on behalf of the Petitioner submits:

- i. His client has filed the instant suit for perpetual and mandatory injunction and damages valued at Rs.1,00,01,000/- against the Respondent.
- ii. His client is the largest production house in East India with around 125 cinematographic films to its credit and has also produced some national award winning films and is also engaged in the business of film distribution, Television content production, digital cinema (Qube), cinemas, music and new media and in the course of business, the Petitioner/Plaintiff had produced a Bengali cinematographic film, "Chitrangada: The Crowning Wish" which was directed by Rituparno Ghosh and was released on 31.08.2012 and became a box office success and such film one several national and international awards.
- iii. It came to the notice of his client that the Respondent/Defendant has published and made available the film owned by the Petitioner through "Zee5" mobile application and thereby violating the copyrights vested in the Petitioner and is making illegitimate profits.
- iv. He referred the Exbt.G of the present application by which it can be ascertained that there was a film screening agreement between the parties which was executed on 08.08.2013 and has expired already on 07.08.2018 and license as granted by the Petitioner has already been elapsed.
- v. But, inspite of that, the Respondent has without license and lawful authority, illegally broadcasting the said film through online video streaming services of "Zee5" mobile application and accordingly, his client has sent firtstly, a notice dated 28.05.2020 and secondly, on 26.06.2020 and from Exbt.F, it would appear that conversation was going on through Whatsapp in which, the Respondent Company requested the Petitioner to

waive off the cost of “Chitrangada” due to the relationship between the parties.

- vi. In view of the above, the present application has been filed by the Petitioner praying for necessary reliefs by way of granting temporary injunction so that the Respondent cannot distribute, broadcast and/or publish the above film in any form and in any manner infringing the Petitioner’s copyright in the cinematographic film “Chitrangada: The Crowning Wish”.
- 8. I have heard the Ld. Counsel for the Petitioner and also perused and considered the present application alongwith all annexures.
- 9. After careful consideration of the present application and the relevant documents as submitted by the Petitioner, I am of the opinion that the Plaintiff/Petitioner has successfully established that a triable issue has been involved in the present application and it has been further established that streaming of the film “Chitrangada: The Crowning Wish” through the mobile application “Zee5” would cause business losses and damages to the Petitioner and balance of convenience is also in favour of the Petitioner as if an order is passed, the Petitioner would suffer losses from subsequent repetition of such event and I find that there is urgency in the matter.
- 10. Accordingly, the present application for ad-interim injunction is allowed and the Respondent is hereby restrained in any manner either by itself or through any person acting on its behalf from publication, broadcast or distribution of the film “Chitrangada: The Crowning Wish” in any form and in any media whatsoever till 25.11.2020, owing to the ensuing Puja Vacation to be held from 22.10.2020 to 16.11.2020.

11. The Respondent has the liberty to make necessary application for modification of this order in case of emergency after service of notice upon the Petitioner.
12. Issue notice to show cause as to why this application shall not be allowed accordingly alongwith plaint, injunction application and all annexures through Email or Whatsapp within 24 hours and the Petitioner is also directed to file the affidavit of service within 24 hours.
13. To **25.11.2020** at 1 p.m. for S/R, appearance, filing affidavit-in-reply, if any, and also for hearing.

Dictated and corrected by me,

Sd/-

Judge, Commercial Court at Alipore,
For South 24 Parganas, Purba Midnapore
and Paschim Midnapore.

Sd/-

Judge, Commercial Court at Alipore,
For South 24 Parganas, Purba Midnapore
and Paschim Midnapore.