

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
LD/VC/INTERIM APPLICATION NO.193A OF 2020
IN
LD/VC/ NO.193 OF 2020
(COMMERCIAL IP SUIT NO. ____ OF 2020)

Narendra Hirawat & Co.Plaintiff/Applicant

V/s.

M/s Satish Tandon Productions & Ors.Defendants

Mr. Rohaan Cama a/w Ms. Parul Sharma, Mr. Navankur Pathak and Ms. Pranita Saboo i/b Parul Sharma, ANM Global Inc. for Plaintiff/Applicant;
Mr. Rammani Upadhyay for Defendant No. 1;
Ms. Padmaja Dholakia i/b Dholakia Law Associates for Defendant No. 3;
Mr. Shailesh Poria i/b Economic Laws Practice for Defendant No. 4.

CORAM : K.R.SHRIRAM, J.
DATED : 16th OCTOBER 2020

PC. :

1 On 17-8-2020, defendant no.4-You Tube was directed not to disable applicant/plaintiff channel – NH Studioz from their platform.

2 Affidavits in reply have been filed and I have heard the counsels.

3 Plaintiff claims to have copy rights on five films as mentioned in paragraph 7 of the plaint. These films were available for viewing on You Tube. Defendant no.1 issued a takedown notice to defendant no.4 with respect to three movies, i.e., Ustado Ke Ustad, Sautela and Namak, which was communicated by defendant no.4 to plaintiff by way of various emails, one of which is dated 15-7-2020, copy whereof is at page 93 of the plaint. As advised by defendant no.4, plaintiff filed counter notification. Defendant

no.4 forwarded the counter notification of plaintiff to defendant no.1 and informed plaintiff that if defendant no.1, in 10 to 14 business days from 15-7-2020 fails to respond with evidence that they have taken out legal action against plaintiff to prevent the reinstatement of the videos in question and if defendant no.4 does not receive any response, plaintiff's videos will be restored and associated penalties on plaintiff's accounts will be resolved.

4 Defendant no.1 filed a suit in July 2020 through Mr. Upadhyay in this court and forwarded a copy of the plaint to defendant no.4. Having received that, defendant no.4 informed plaintiff that they will not be able to honor plaintiff's counter notification and plaintiff's videos will not be reinstated. Plaintiff accordingly moved this court with this suit and also prayed for ad-interim reliefs. On that interim application, the order dated 17-8-2020 came to be passed.

5 What is pertinent to note is, defendant no.1, though has filed a suit in July 2020, till date has not moved this court for any ad-interim reliefs. No order has been passed in that suit. In effect, without obtaining any order, interim or ad-interim, defendant no.1 had succeeded in getting a stay on the reinstatement of the videos of plaintiff by defendant no.4. Mr. Poria appearing for defendant no.4 stated that they will abide by the orders of this court and defendant no.4 is only a platform where movies are available for viewers, and it is unrelated to either party.

6 Mr. Cama suggested, as dispute between plaintiff and defendant no.1 relates to only three movies as mentioned above, i.e., Ustad Ke Ustad,

Soutela and Namak, because these are the only films for which plaintiff has filed the suit for, that pending the hearing and final disposal of these suits, (a) defendant no.4 be directed to reinstate / reactivate URL links for all the films and plaintiff will render accounts in respect to the three films, which are subject matter of defendant no.1's suit, i.e., Ustado Ke Ustad, Soutela and Namak and (b) in the trial, if defendant no.1 succeeds or plaintiff fails, plaintiff will hand over such amount to defendant no.1 as directed by this court.

7 Mr. Cama further states defendant no.4 renders monthly accounts and remits amounts. Mr. Upadhyay states that defendant no.4 should be directed to forward a copy of the accounts sent to plaintiff, to defendant no.1 also and the amount instead of being paid to plaintiff, should be remitted to Prothonotary and Senior Master, High Court, Bombay. Defendant no.4 may directly remit to Prothonotary & Senior Master or it may remit the amount through its advocates Economic Laws Practice.

8 In my view, these are very reasonable suggestions by both Mr. Cama and Mr. Upadhyay and will not cause any prejudice to either plaintiff or defendant no.1.

9 In the circumstances, the following order is passed:

(a) Defendant no.4 shall reinstate / reactivate the URL links referred to the five films mentioned hereinbelow and so far as the dispute is restricted to these five films, shall not disable applicant's channel – NH Studioz from their platform.

Links For the film “Ustadon Ke Ustad” (Film No. 1):

Sr. No.	Takedown URL/ URL at which the said Film was broadcast	Date of “copyright takedown notice”	Date of Counter Notifications
1.	https://youtu.be/nju1g4yY57g	10.07.2020	15.07.2020

Links For the film “Sautela” (Film No. 2):

Sr. No.	Takedown URL/ URL at which the said Film was broadcast	Date of “copyright takedown notice”	Date of Counter Notifications
2.	https://youtu.be/xyKV1CV8qqY	15.07.2020	20.07.2020
3.	https://youtu.be/CA2-Jsqg-O4	15.07.2020	20.07.2020
4.	https://youtu.be/gcuvy9F2e9c	15.07.2020	20.07.2020
5.	https://youtu.be/xjot_COVLUA	19.07.2020	20.07.2020
6.	https://youtu.be/2U_K_bkrjxw	19.07.2020	20.07.2020
7.	https://youtu.be/LCzJQnp9CA8	19.07.2020	20.07.2020
8.	https://youtu.be/RQJ1v4zld9A	19.07.2020	20.07.2020
9.	https://youtu.be/xkp2Bmx5hEo	19.07.2020	20.07.2020
10.	https://youtu.be/8dZiE--xIYQ	19.07.2020	20.07.2020

11.	https://youtu.be/o_R3O1WNlfk	19.07.2020	20.07.2020
12.	https://youtu.be/IMrkHPz-3DQ	17.07.2020	20.07.2020
13.	https://youtu.be/7ALUN-VjTj4	21.07.2020	22.07.2020
14.	https://youtu.be/ZHCWMUVm7IE	21.07.2020	22.07.2020
15.	https://youtu.be/86kMkj1t0j0	22.07.2020	22.07.2020
16.	https://youtu.be/7bAtQdIaPWY	22.07.2020	22.07.2020
17.	https://youtu.be/mhpkQoJj11I	22.07.2020	22.07.2020
18.	https://youtu.be/nO-EjtRfM6k	22.07.2020	22.07.2020
19.	https://youtu.be/4_yBCvo0pxA	06.08.2020	

Links For the film “Namak” (Film No. 3):

Sr. No.	Takedown URL/ URL at which the said Film was broadcast	Date of “copyright takedown notice”	Date of Counter Notifications
20.	http://www.youtube.com/watch?v=EfcaFon9J1A	17.07.2020	20.07.2020

Links For the film “Khopdi-the Skull” (Film No. 4):

Sr. No.	Takedown URL/ URL at which the said Film was broadcast	Date of “copyright takedown notice”	Date of Counter Notifications

21.	http://www.youtube.com/watch?v=NSjpl47HMHs	28.07.2020	31.07.2020
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Links For the film “Bijli” (Film No. 5):

Sr. No.	Takedown URL/ URL at which the said Film was broadcast	Date of “copyright takedown notice”	Date of Counter Notifications
22.	http://www.youtube.com/watch?v=iorhX1oSCGY	28.07.2020	29.07.2020
23.	http://www.youtube.com/watch?v=sVz0SiAuKIQ	28.07.2020	29.07.2020
24.	http://www.youtube.com/watch?v=ukAvtLHcua4	28.07.2020	31.07.2020
25.	https://youtu.be/owUbjGdEOIY	01.08.2020	
26.	https://youtu.be/uHe0Ki1hI50	10.08.2020	
27.	https://youtu.be/5HqQX3z_Vpc	11.08.2020	
28.	https://youtu.be/MQAatI1MffQ	14.08.2020	
29.	https://youtu.be/CmZVWGQi-M	16.08.2020	
30.	https://youtu.be/4q6OsJ2F4JM	12.09.2020	
31.	https://youtu.be/XRRBN47uBnE	12.09.2020	

(b) Defendant no.4 to forward the account statements as per their policy and as they have been doing in the past, to plaintiff’s advocates under the advise to defendant no.1’s advocate, either directly or through Economic Laws Practice with respect to three films, i.e., Ustado Ke Ustad, Soutela and Namak.

(c) The amounts payable to plaintiff for these three films, i.e., Ustad Ke Ustad, Soutela and Namak, shall be paid over to the Prothonotary and Senior Master, High Court, Bombay, under advise to advocate for defendant no.1. Plaintiff will give bank account details of the Prothonoary and Senior Master to defendant no.4 within one week from today.

(d) Prothonotary and Senior Master, High Court, Bombay to invest the amounts received in fixed deposit with a Nationalised Bank initially for a period of one year to be renewed from year to year until further orders.

(e) In view of the above order, defendant no.4 shall consider the strike notice given by defendant no.1 as withdrawn.

(f) Defendant no.1 shall not issue any further strikes in respect of the five films, which are the subject matter of the suit.

10 In view of the above, interim application stands disposed.

11 If plaintiff finds that defendant no.1 is exploiting the five films mentioned above, plaintiff may, if advised, move this court for such further reliefs as it deems fit and it will be considered independently on its merits.

12 Defendant no.2 is not present. Defendant no.3 has filed interim application for deleting its name from the array of defendants. Ms. Dholakia states that subject to the hearing of defendant no.3's interim application, defendant no.3 waives service of writ of summons. Mr. Upadhyay and Mr. Poria waive service of writ of summons with respect to

their clients. Time to file written statement starts today. In view of the pandemic, I am granting these defendants 60 days to file written statement.

13 Suit be listed for directions on 2-12-2020.

(K.R.SHRIRAM, J)