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

\+ CS(COMM) 439/2022

CULVER MAX ENTERTAINMENT PRIVATE LIMITED FORMERLY KNOWN AS SONY PICTURES NETWORKS INDIA PVT LTD ..... Plaintiff

Through: Mr. Abhishek Malhotra, Mr. Atmaja Tripathy, Ms. Sapna Chaurasia, Ms. Pritha Mitra and Mr. Karen A. Baretto, Advocates.

versus

F1.MYLIVECRICKET.LIVE AND ORS ..... Defendants

Through: None.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 29.06.2022

I.A. No. 9850/2022 *(under Section 149 r/w 151 of the Code of Civil Procedure, 1908 for extension of time from filing court fees)*

1. Exemption allowed, subject to all just exceptions.

2. The Plaintiff is directed to furnish the deficient court fees within a period of ten days from today.

3. The application stands disposed of in the above terms.

I.A. No. 9851/2022 *(seeking exemption from filing certified, fair, typed copies of dim/ proper margin/ underline/ single line spacing of the annexures)*

4. Exemption is granted, subject to all just exceptions.

5. The Plaintiff shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.

6. Accordingly, the application stands disposed of.

I.A. No. 9853/2022 *(under Section 80(2) of the Code of Civil Procedure, 1908 for exemption from serving prior notice to Defendants No. 90 and 91)*

7. Issue notice to Defendants No. 90 and 91, by all permissible modes, upon filing of process fee, returnable on 4th November, 2022.

CS(COMM.) 439/2022

8. Let the plaint be registered as a suit.

9. Upon filing of process fee, issue summons to Defendants, by all permissible modes. Summons shall state that the written statement shall be filed by Defendants within a period of 30 days from the date of receipt of summons. Along with the written statement, 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. Along with the replication, if any, filed by the Plaintiff, an affidavit of admission/ denial of documents of Defendants be filed by 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 1st September, 2022. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

12. List before Court for framing of issues on 4th November, 2022.

I.A. No. 9849/2022 *(under Order XXXIX Rules 1 and 2, seeking restraint on infringement of broadcasting rights of the Plaintiffs)*

13. The Plaintiff seeks an order of permanent injunction against the Defendants to restrain them from infringing the rights of the Plaintiff in the forthcoming India-England International Cricket Series 2022 (India Tour of England 2022). The said tournament consists of (i) one test match, (ii) three Twenty20 matches; and (iii) three One-Day International matches, scheduled from 1st July, 2022 to 17th July, 2022 [*hereinafter*, ***"Sporting Event"***].

14. The Plaintiff, *inter alia*, owns and operates the "SONY TEN Network" of channels and has acquired an exclusive license from England and Wales Cricket Board Limited (ECB) to broadcast/ communicate the said Sporting Event to the public in the territories of India, Pakistan, Afghanistan, Sri Lanka, Nepal, Bangladesh, Bhutan, Myanmar and the Maldives [*hereinafter*, "***Licensed* Territory]**. It is submitted that the Plaintiff has acquired the following rights in respect of the Sporting Event:

i. Exclusive television rights (live, delayed and repeat basis), digital rights (mobile rights and internet rights) as well as exclusive radio rights within the Licensed Territory;

ii. Exclusive Clip Rights, Audio Rights, Public Screening Rights as well as the right to make programmes relating to the matches and Highlights Programmes;

iii. Exclusive right to create contemporaneous textual commentary of the matches on its mobile platform and website;

iv. Right to sub-license the Media Rights.

15. It is pleaded that the present suit is initiated against websites/ Uniform Resource Locators (URLs), Multi System Operators ("MSO")/ Local Cable Operators ("LCO") who are habitual defaulters and have in the past also infringed the Plaintiff's exclusive rights for the broadcast of such matches. The Internet Service Providers ("ISP") and Statutory government bodies have been impleaded as proforma parties for the purpose of implementation of order of this court against the infringing parties.

16. Defendants No. 1 to 39 are said to be rogue infringing websites engaged in the business of uploading pirated and unlicensed content. Among the various illegal acts done by them is the live streaming of various sporting events. Unauthorized communication/ broadcast to public of the Sporting Event will result in losses to the Plaintiff and to the Government in terms of revenue collected through taxes – which is not recovered /recoverable from these pirated websites. Defendants No. 40 to 57 are distribution platform operators ("DPO"), including MSOs and LCOs respectively, which are governed by the Cable Television Networks (Regulation) Act, 1995 and the Telecom Regulatory Authority of India Act, 1997. It is stated that there are several such operators all over the country who are engaged in unauthorised

and unlicenced reproduction and broadcast on the local channels and through other means, of various copyrighted content, including but not limited to the matches of the said Sporting Event through the cable network. Defendants No. 58 to 89 are ISPs, who are engaged in the business of providing basic telephony, mobile services and broadband network all over the world and are covered under the Information Technology Act, 2000, the Copyright Act, 1957, the Telecom Regulatory Authority of India Act, 1997 and Ministry of Communications and Information Technology. It is pleaded that in the absence of any specific order from this court, the Plaintiff's objective of protecting its copyright in the said matches cannot be obtained. Defendants No. 90 and 91 are Union of India and Department of Telecommunications respectively, and have been impleaded as proforma parties for the purpose of implementation of order of this Court against the infringing parties and for ensuring compliance. Defendant No. 92 is an unknown person who the Plaintiff apprehends will infringe its copyright *qua* broadcast and digital transmission rights for the said Sporting Event. The said "Ashok Kumar" Defendant has been impleaded with a view to facilitate the service of summons upon, and the extension of the injunction to parties who violate the Plaintiff's rights. It is pleaded that owing to the special nature of broadcasting and digital transmission rights in the Sporting Event, it is not possible to specifically identify all such Defendants at this stage.

17. In view of the submissions made in the plaint, application and supporting affidavits and documents, the fact that Plaintiff has exclusive media rights from ECB, as detailed hereinbefore, a *prima facie* case is made out in favour of the Plaintiff to grant protection against the illegal

transmission, broadcasting, communication, telecast and unauthorised distribution of any event, match, footage, clip, audio-video, audio only of the Sporting Event scheduled to be held from 1st July, 2022 to 17th July, 2022. The balance of convenience lies in favour of the Plaintiff and it is likely to suffer irreparable loss and injury, in case an injunction is not granted in its favour.

18. In light of the above, the following interim directions to protect the interest of the Plaintiff are issued:

(i) Defendants No. 1 to 39 are restrained from, in any manner, hosting, streamlining, reproducing, distributing, making available to the public and/or communicating to the public or facilitating the same on their websites through the internet in any manner whatsoever, any cinematograph work, content, programme and show or event in which the Plaintiff has copyright.

(i)(a) This injunction shall also operate in respect of the mirror/redirect/alphanumeric websites, which are put in play by Defendants No. 1 to 39 to grant access to the websites.

(ii) Defendants No. 58 to 89 are directed to block access to the websites of Defendants No. 1 to 39.

(ii)(a) This direction will also operate *qua* mirror/redirect/alphanumeric websites, which have their roots in the websites of Defendants No. 1 to 39.

(iii) Defendants No. 40 to 57 and 92 are restrained from, in any manner to host, stream, reproduce, distribute, broadcast, make available to the public and/or communicate to the public any unauthorized and

unlicenced reproduction or broadcast on the local channels or through other means of various copyrighted content, including but not limited to the matches of the said sporting events through cable network.

(iv) Defendants No. 90 and 91 shall issue necessary directions/notifications calling upon various ISPs, in general, to block access to the websites of Defendants No. 1 to 39 as also *qua* mirror/ redirect/ alphanumeric websites of the said Defendants.

(iv) Plaintiff is given liberty to file an application under Order I Rule 10 of the Code of Civil Procedure, 1908 to array other rogue websites if the same are discovered after the issuance of the instant interim order. The purpose being that the Court, in these cases, needs to dynamically monitor such egregious illegality and, if necessary, pass interim orders to restrain similar rogue websites from illegally streaming the creative content in which the plaintiffs have a copyright.

19. Issue notice to the other Defendants, by all permissible modes, upon filing of process fee, returnable on 4th November, 2022.

20. Compliance under Order XXXIX, Rule 3 of the Code of Civil Procedure, 1908, be done in three days from today.

21. List before the Roster Bench on 4th November, 2022.

22. Order *dasti* under signatures of the Ld. Court Master.

I.A. No. 9852/2022 *(under Sections 75 & 151 r/w Order XXVI Rule 9 and*

Order XXXIX Rule 7 of the Code of Civil Procedure, 1908 for appointment of Local Commissioner to visit premises of Defendants No. 40 to 57 and conduct investigation)

23. The Plaintiff/ Applicant seeks the appointment of a Local Commissioner to visit the premises of Defendants No. 40 to 57 at the addresses provided by the Plaintiff, once it is made aware that such Defendants are indulging in illegal broadcast/ telecast/ exhibition/ communication, in any form or manner, to the public of the forthcoming Sporting Event.

24. In view of the above said reasons, this Court considers appropriate to appoint Mr. Sarvan Kumar [Contact No.+91-9810763691] as the Local Commissioner in respect of the above-stated Defendants No. 40 to 57. As and when the Local Commissioner receives information from the Plaintiff, they are directed to undertake the following steps:

(i) to ascertain whether these Defendants are unauthorisedly distributing or transmitting/ communicating/ redistributing the said Sporting Events without the licence of the Plaintiff;

(ii) to search the property and inspect/ seize the equipment(s) being used for unauthorized distribution or redistribution and take the same into custody, if in case they are found to broadcast, distribute or communicate to the public, the contents of either of the events or part thereof and upon preparing the inventory and sealing them, release the same on *Superdari* to the said Defendants;

(iii) to seize books of accounts including ledgers, cash books etc. in the said premises of the defendants if they are found unauthorizedly

distributing or transmitting the said sporting events. The Local Commissioner will be at liberty to break open locks, if so required;

(iv) to make a sample recording of illegal transmission, if possible and take the photographs.

25. The Local Commissioner shall be empowered to have the assistance of SHO of the area concerned, if so required. In case such assistance is asked for by the Local Commissioner, the same shall be provided without any fail by the concerned SHO. The Defendants are directed to cooperate with the Local Commissioner. The representatives and the learned counsel for the Plaintiff are also allowed to assist the Local Commissioner. The fee of the Local Commissioner is fixed as Rs. 1,00,000/- and is to be borne by the Plaintiff. Plaintiff will provide all necessary facilities to the Local Commissioner.

26. The application stands disposed of.

SANJEEV NARULA, J
(VACATION JUDGE)

JUNE 29, 2022/as