

RAJASTHAN HIGH COURT
HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

D.B. Civil Misc. Appeal No.2784/2024

Dharma Production Private Limited through Chief Executive Officer Apoorva Mehta, Unit No.201/202, IInd Floor, Supreme Chamber Shah Industrial Estate, West Mumbai – 400053.

----Appellant

Versus

Bhallaram Choudhary s/o Bhura Ram, r/o Salawas Road, Tanawara Fanta, District Jodhpur.

----Respondent

For Appellant(s) : Mr. Vikas Balia, Senior Advocate assisted by Ms. Abhilasha Bora, Ms. Akanksha Choudhary, Ms. Khushbu Choudhary, Mr. Vikas Siddhawat Mr. Mitakshi & Mr. Prithvi Singh.

For Respondent(s) : Mr. R.N. Mathur, Senior Advocate through VC, assisted by Mr. Falgun Buch. Mr. O.P. Mehta (through VC) with Mr. V.D. Gaur. Mr. Gopal Krishna Chhangani. Ms. Simran Mehta

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE MUNNURI LAXMAN

Order

Reserved on 10/10/2024

Pronounced on 10/10/2024

1. The matter came up on the stay application.
2. The appellant-Dharma Production Private Limited is seeking an order, for staying of the effect and operation of the impugned order dated 08.10.2024 passed by the learned Commercial Court No.1, Jodhpur in Civil Misc. Application No.60/2024 in Civil Suit



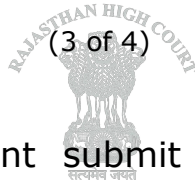
No.100/2024, whereby the learned Commercial Court has passed an order of *ad interim* injunction against release of the movie, named, 'Jigra', while keeping application for temporary injunction pending adjudication on 14.10.2024.

3. The bone of contention in the present case is that at the time of production of the movie in question, the appellant has obtained trademark registration in the Class 9, 35 & 38 and the registration certificate in the name of 'Jigra' was also obtained by the appellant, whereas the respondent claims it to be a trademark violation affecting his rights.

4. The appellant is a production house, which claims to have to its credit some of the movies. The first motion poster of the movie in question i.e. 'Jigra' was released on 08.09.2023. The certification from the Central Board of Film Certificate has been obtained for Hindi and Telugu on 03.10.2024 and 09.10.2024 respectively. The pre-release of the movie has been done on 09.10.2024.

5. The date of release of the movie is 11.10.2024. The impugned order has been passed by the learned Commercial Court in a case, whereby the respondent claimed trademark violation and in the same, *ad interim* injunction has been passed on 08.10.2024 on the release of the movie on 11.10.2024. The parties are yet to complete their pleadings and seek a short time to complete the same.

6. Mr. Vikas Balia, learned Senior Counsel assisted by Ms.Abhilasha Bora, Ms. Akanksha Choudhary, Ms. Khushbu Choudhary, Mr. Vikas Siddhawat Mr. Mitakshi & Mr. Prithvi Singh,



appearing for the appellant submit that the appellant is not conducting any trade in goods or services so as to amount violation under the Trademarks Act by naming the movie.

7. Mr. R.N. Mathur, learned Senior Counsel assisted by Mr. Falgun Buch; Mr. O.P. Mehta with Mr. V.D. Gaur; Mr. Gopal Krishna Chhangani; Ms. Simran Mehta, appearing for the respondent submit that the respondent is having registration in the field of education and entertainment, and thus, broadly, his certificate of trademark has to be protected. They further submit that unless such protection is granted, the respondent, which is a registered production house would suffer infringement of commercial rights, if the impugned order is interfered, allowing the release of the movie, which will impact the business of the respondent.

8. The final disposal of the stay application would require proper pleadings duly supported by affidavit(s), but the same are yet to be completed.

9. At the threshold herein, taking into consideration the three parameters of *prima facie* case, irreparable loss and balance of convenience, this Court is *prima facie* convinced that the name of the movie in question would not infringe the trademark rights of the goods and services. Moreover, the appellant is not trading in the name of 'Jigra', rather it is M/s. Dharma Production Private Limited. Thus, the goods and services rendered by Dharma Production Private Limited by naming a movie as 'Jigra' cannot be said to be an infringement of trademark laws.



10. This Court is conscious of the fact that still if any kind of violation is made out, then the appropriate remedy in the shape of damages / monetary compensation can be granted, but for this the appellant cannot be put to a financial loss on count of non-release of the movie in question on 11.10.2024.

11. As an *ad interim* measure, the effect and operation of the impugned order dated 08.10.2024 passed by learned Commercial Court No.1, Jodhpur in Civil Misc. Application No.60/2024 in Civil Suit No.100/2024 shall remain stayed, till the next date.

12. List the matter on 16.10.2024.

(MUNNURI LAXMAN),J

(DR. PUSHPENDRA SINGH BHATI),J

Skant/-