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

\+ CS(COMM) 604/2022

STAR INDIA PRIVATE LIMITED ..... Plaintiff

Through: Mr. Sidharth Chopra, Mr. Yatinder Garg, Ms. Vriti Jindal and Mr. Akshay Maloo, Advocates.

versus

7MOVIERULZ.TC & ORS. ..... Defendants

Through: None.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

O R D E R

% 02.09.2022

I.A. 14119/2022 (Exemption)

1. Subject to the Plaintiff filing certified, clearer, proper and translated copies of the documents with proper margins, which it may seek to place reliance on, within four weeks from today, exemption is granted.

2. Application is allowed and disposed of.

I.A. 14118/2022 (Exemption from advance service to Defendants No.38 and 39)

3. Since there is an urgency in the matter and the same is being heard today, Plaintiff is exempted from serving advance notice on Defendants No. 38 and 39.

4. For the reasons stated in the application, the same is allowed and disposed of.

CS(COMM) 604/2022

5. Let plaint be registered as a suit.

6. Upon filing of process fee, issue summons to the Defendants, through

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all permissible modes, returnable on 29.11.2022 before the learned Joint Registrar.

7. Summons shall state that the written statement shall be filed by the Defendants within 30 days from the receipt of summons. Along with the written statement, Defendants shall also file an affidavit of admission/denial of the documents filed by Plaintiff.

8. Replication be filed by the Plaintiff within 15 days of the receipt of the written statement. Along with the replication, an affidavit of admission/ denial of documents filed by the Defendants, shall be filed by the Plaintiff.

9. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

I.A. 14117/2022 (under Order 39 Rules 1 and 2 CPC, by Plaintiff)

10. Present application has been preferred by the Plaintiff under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 for grant of an *ex-parte ad-interim* injunction.

11. Issue notice to the Defendants through all prescribed modes, returnable on 14.12.2022, before Court.

12. Present suit has been filed seeking permanent injunction and damages, for infringement of copyrights of the Plaintiff in the film 'Brahmastra Part One: Shiva' (hereinafter referred to as 'film'). Plaintiff is stated to be a leading entertainment Company, globally known for producing and distributing *inter alia* Movies and Television Shows. It is stated that the film has been jointly produced by Plaintiff and Defendants No. 19 to 21, investing huge sums of money in production and promotion of the film.

13. It is the case of the Plaintiff that being co-producers of the film, Plaintiff and Defendants No. 19 to 21 are authors of the film under

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Section 2(d) of the Copyright Act, 1957 (hereinafter referred to as the 'Act') and thus, owners in terms of the provisions of Section 17 of the said Act. The exclusive rights, as enumerated under Section 14(d) of the Copyright Act qua the film, vest in the Plaintiff and Defendants No. 19 to 21. It is stated that the film being a work of visual recording including sound recordings qualifies as a 'cinematograph film' under Section 2(f) of the Act and by virtue of Section 13(1) and 13(2) read with Section 5 of the Act, since the film is going to be released in India, the film would be entitled to all rights and protections granted under the Act for cinematographic films. Section 14(d) provides an exclusive right to the Plaintiff to 'communicate' the film to public as defined in Section 2(ff) of the Act. Any third party who interferes with or exploits any of the exclusive rights, without permission of the Plaintiff, would be deemed to infringe Plaintiff's copyright in terms of Section 51 of the Act.

14. It is further averred that any hosting, streaming, reproduction, distribution, making available to the public and/or communicating the film to the public or facilitating the same, without authorisation from the Plaintiff, by any means, on any platform, including internet and mobile would infringe Plaintiff's copyright.

15. It is averred that the present suit has been filed against Defendant websites, i.e. Defendants No. 1 to 18, which are primarily and substantially engaged in communicating to the public, hosting, streaming, etc. the copyright protected work and are vehicles of infringement, whose whole business model is designed to provide members of the public access to copyright contents, unauthorisedly.

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16. It is the case of the Plaintiff that it is an industry practice to release the film for theatrical exhibition first and then make it available for viewing on different platforms. Theatrical release of a film is the most important stage as the commercial value of a film depends on the popularity and success it achieves in this period. However, the rogue websites in order to make illegal gains make infringing copies and make them available for viewing, downloading and communication to the public, almost simultaneously with the theatrical release of the film. In the past, infringing copies of several movies produced/distributed by the Plaintiff were communicated to the public and made available for viewing and downloading, on various websites, within hours of the theatrical release. In the present case the film is scheduled to be released on 09.09.2022 and Plaintiff apprehends that the rogue websites, Defendants No. 1 to 18 will communicate infringing copies of the film on various websites which would directly impact the Plaintiff's business and erode the value of the film besides infringing its copyright. Plaintiff has invested huge sums of money in production and promotion of the film. The official trailer released on 15.06.2022, generated a positive response amongst the public, which is evident from large number of views received officially on youtube.com.

17. Learned counsel appearing on behalf of the Plaintiff submits that this Court in ***UTV Software Communication Ltd. and Others v. 1337X.To and Others, 2019 SCC OnLine Del 8002,*** while relying on plethora of judgments held that rogue websites can be made liable for copyright infringement and observed that they are not entitled to exemption under Section 52(1)(c) of the Act, as they are not entities that transiently or incidentally store Plaintiff's work therein and that an infringer of copyright on internet is to be

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treated at par with an infringer in the physical world. The Court laid down factors determining whether a website is a rogue website and Defendants No. 1 to 18 satisfy the criteria set out by the Court and are rogue websites.

18. I have heard learned counsel for the Plaintiff and examined the contentions raised.

19. There is no gain saying that piracy has to be curbed and needs to be dealt with a heavy hand and injunction against screening of copyrighted content by rogue websites ought to be granted. This position is acknowledged and re-affirmed in several decisions and in order to avoid prolixity, I may only allude to two judgments of this Court in ***Department of Electronics and Information Technology v. Star India Private Limited, 2016 SCC OnLine Del 4160*** and ***UTV Software Communication Ltd. (Supra).*** The legal position with regard to grant of dynamic injunctions is settled in ***UTV Software Communication Ltd. (Supra)*** and learned counsel for the Plaintiff is right in his submission that several orders have been passed by this Court in the past, restraining the rogue websites.

20. Tested on the anvil of these decisions, in my view, Plaintiff has made out a *prima facie* case for grant of *ex parte ad-interim* relief. Balance of convenience lies in favour of the Plaintiff and it is likely to suffer irreparable harm in case the injunction, as prayed for, is not granted. For the sake of convenience particulars of Defendants No. 1 to 18, i.e. the rogue websites along with their domain name Registrars are set out as under:-

S. No.	**Websites**	**Registrar**
1.	7starhd.agency (Defendant No.15)	GoDaddy.com, LLC (Defendant No. 22)
2.	vegamovies.wtf (Defendant No.2)	NameCheap Inc. (Defendant No. 24)

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3.	extramovies.pics (Defendant No.3)	
4.	9xmovies.yoga (Defendant No.4)	
5.	1tamilmv.pics (Defendant No.5)	
6.	Cinevood.vip (Defendant No.6)	
7.	full4movies.store (Defendant No.7)	
8.	hdmovie2.click (Defendant No.8)	
9.	yomovies.skin (Defendant No.9)	
10.	prmovies.wiki (Defendant No.10)	
11.	movierulzhd.lol (Defendant No.11)	
12.	torrentcue.co (Defendant No.12)	
13.	tamilblasters.cloud (Defendant No.13)	
14.	7movierulz.tc (Defendant No.1)	Gandi SAS (Defendant No. 23)
15.	ssrmovies.kim (Defendant No.18)	NameSilo, LLC (Defendant No. 25)
16.	tamilblasters.unblockit.ist (Defendant No.14)	Tucows Domains Inc (Defendant No.26)
17.	mkvmoviespoint.art (Defendant No.17)	Dynadot, LLC (Defendant No.27)
18.	uwatchfree.be (Defendant No.16)	AXC.NL (Defendant No. 28)

21. Looking at the investments made by the Plaintiff in the production and promotion of the film as also the exclusive right vested in it under the provisions of the Copyright Act, this Court *prima facie* agrees with the Plaintiff that if the rogue websites communicate the film in any manner, on

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any platform, simultaneously with the theatrical release of the film on 09.09.2022 or in its close proximity thereafter, it would severely impact the interest of the Plaintiff monetarily and will also erode the value of the film.

22. Accordingly, the following directions are issued:-

a. Defendants No. 1 to 18 and all others acting for and/or on their behalf are restrained from in any manner hosting, streaming, retransmitting, exhibiting, making available for viewing and downloading, providing access to and/or communicating to the public, displaying, uploading, modifying, publishing, updating and/or sharing on their websites through the internet or any other platform, the film 'Brahmastra Part One: Shiva' and contents related thereto, so as to infringe the Plaintiff's copyright therein, till the next date of hearing.

b. Defendants No. 22 to 28, who are the Domain Name Registrants shall suspend/block the domain names registrations of the respective Defendants, as mentioned in the table at para 20 above.

c. Defendants No. 22 to 28 shall provide complete details such as name, address, email address, IP address and phone numbers of Defendants No. 1 to 18.

d. Defendants No. 29 to 37 shall block access to the various websites identified by the Plaintiff and as aforementioned and Defendants No. 38 and 39, i.e. Department of Telecommunications and Ministry of Electronics and Information Technology, respectively, shall issues necessary notifications calling upon various ISPs to block access to the websites of Defendants No. 1 to 18.

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23. Plaintiff is given the liberty to file an appropriate application to array other rogue websites, as and when the same are discovered in the future.

24. Plaintiff shall comply with the provisions of Order 39 Rule 3 CPC within a period of one week from today.

25. Copy of this order be given *dasti* to learned counsel for the Plaintiff.

JYOTI SINGH, J

SEPTEMBER 02, 2022/rk

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