

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

% Decided on: 12th September, 2019

+ **CS(COMM) 195/2019**

STAR INDIA PVT. LTD.

..... Plaintiff

Represented by: Mr. Sidharth Chopra, Mr. Yatinder
Garg, Mr. Vivek Ayyagari, Advs.

versus

EXTRAMOVIES.HOST & ORS.

..... Defendant

Represented by: Mr. Jivesh Tiwari, Sr. Ad.v. with Ms.
Shikha Mishra, Mr. Yogender
Chauhan, Adv. for D-91&92.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

I.A. 5449/2019 (u/S 80 CPC)

1. In view of the urgency in the suit the plaintiff is exempted from issuing statutory notice to the defendants particularly defendants No.91 & 92.

2. Application is disposed of.

CS(COMM) 195/2019

1. Learned counsel for the plaintiff submits that all the defendants have been served, however there is no appearance on behalf of any of the defendants except defendant No.91 & 92 who are the Department of Telecommunication and Ministry of Electronics and Information Technology respectively.

2. Learned counsel for the defendant No.91 & 92 states that they have issued the necessary notifications on 24th April, 2019, 31st May, 2019 and 17th June, 2019 directing the implementation of the orders of this Court dated 15th April, 2019, 7th May, 2019 and 21st May, 2019 respectively. Copies of the Office Orders are taken on record.

3. By this plaint, the plaintiff seeks a decree of permanent injunction restraining defendants No.1 to 78 and such other websites/ entities which are engaging in infringing the plaintiff's exclusive rights and copyrights in the film 'KALANK' by releasing the same/ making it available for viewing and downloading without authorization on their websites or other platforms.

4. Plaintiff also seeks a decree directing defendants No.80 & 81, their directors, partners, proprietors, etc. to suspend the domain name registration of domain names of defendants No.1 to 8 by defendant No. 80 and Defendant No.9 to 13 by defendant No.81.

5. Plaintiff seeks decree against defendant No.82 to 90 and their directors, partners, proprietors, etc., to block access to the various websites identified by the plaintiff in the suit at serial No.2 of the documents and other websites which may be subsequently notified.

6. By way of an application, the plaintiff impleaded further defendants and added up defendants No.121 to 248 pursuant to the orders dated 7th May, 2019 and 21st May, 2019 in I.As. No. 6993/2019 and 7502/2019 respectively.

7. As noted above despite an affidavit of service having been filed of service to all the defendants, except defendants No.94 to 120 for which no address is available, no other defendant except defendants No.91 & 92 have entered appearance.

8. As per the plaint and the documents filed along with it, plaintiff along with its division Fox Star Studios are producer and distribution of cinematograph film 'KALANK' which was to be released on 17th April, 2019 over 2500 screens in India, however before the film could be released, the plaintiff found that part contents of the film were available with the various websites and were being unauthorizedly shown who have been impleaded as defendants No.1 to 78 and subsequently 121 to 248. Thus, the plaintiff claims that the defendants have infringed its exclusive rights and seeks injunction against the defendants.

9. Plaintiff has placed on record certificate from the Central Board of Film Certification certifying that the film is fit for public exhibition. The said certificate notes the applicant as 'Dharma Productions Private Limited' who have been impleaded as defendants No.79 and the producers as Nadiawala Grandsons Entertainment Pvt. Ltd. who have been impleaded as defendant 93 and also certificate issued in favour of the plaintiff Star India Private Limited, a division of Fox Star Studios, giving a no objection by Dharma Production Pvt. Ltd. for initiating, pursuing or defending any legal proceedings relating to the infringements in respect of cinematograph film 'KALANK' including its anti-piracy measures and actions. Similar certificate has also been issued by defendant No.93 which is on page 2498 of the documents file.

10. Considering the right of the plaintiff to institute the suit on behalf of purchasers and owners of the copyright in the film 'KALANK' and there being no appearance on behalf of the contesting defendants, this Court deems it fit to pass a decree in favour of the plaintiff and against the defendants.

11. Suit is accordingly disposed of passing a decree in favour of the plaintiff and against the defendants in terms of prayer 'i', 'ii', 'iii' & 'iv' of the suit.

12. Learned counsel for the plaintiff states that he does not press the prayer for damages and cost.

13. Decree sheet be drawn.

14. The date before the learned Joint Registrar stands cancelled.

I.A. 5447/2019 (u/O 39 R 1&2 CPC) & I.A. 7502/2019 (u/O 39 R 1&2 CPC)

Applications are disposed of as infructuous.

(MUKTA GUPTA)
JUDGE

SEPTEMBER 12, 2019
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