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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**INTERIM APPLICATION (L) NO. 33571 OF 2024
IN
COMMERCIAL (I.P.) SUIT (L) NO. 33570 OF 2024**

Novex Communications Private Limited Applicant
V/s.
Seven Leisure Private Limited Respondent

Adv. Rashmin Khandekar a/w. Ms. Nirali Atha and Ms. Riti Gada
i/b. Dua Associates for the Applicant-Plaintiff.
None for the Respondent-Defendant.

CORAM : SHYAM C. CHANDAK, J.

DATED : 05th NOVEMBER, 2024

P.C. :-

. Learned Advocate for the Applicant-Plaintiff tendered affidavit of service and additional affidavit. It is taken on record.

2) Heard the learned Advocate for the Applicant-Plaintiff. Perused the Complaint along with the documents enclosed and the Interim Application.

3) The aforesaid Suit is filed seeking for perpetual Order of injunction thereby restraining the Defendant, its Directors, etc. from publicly performing or in any manner communicating the sound recordings of the songs assigned and authorized to the Plaintiff or allowing their premises or any premises under their control to be used for the said purposes, or otherwise infringing the copyright in any work owned and protected by the Plaintiff. Besides this, the Suit is also seeking for other

reliefs.

4) By way of aforesaid Interim Application, the Applicant-Plaintiff is seeking for interim injunction for the same purpose. The affidavit of service indicates that, the Defendant has been duly served with the private notice of the Suit and the Interim Application. The affidavit also mentions that, by e-mail dated 04th November, 2024, the Applicant-Plaintiff informed the Defendant that, the present matter is listed today. However, none present for the Defendant.

5) It is averred that, the Plaintiff is the owner of copyright in 'sound recordings' in various works viz. sound recordings. The Plaintiff has obtained assignments of and exclusive control over copyright in sound recordings more particularly set out in the said Assignments. The Plaintiff's repertoire consists of large numbers of songs belonging both to the film and non-film genre both in Hindi and regional languages. In this regard, the Plaintiff has entered into Assignment Agreements with (i) Tips Industries Limited; (ii) Zee Entertainment Enterprises Limited; (iii) SPI Music Private Limited, owner of the music label known as 'Think Music'; (iv) Red Ribbon Entertainment Private Limited; (v) M/s Sai Productions; (vi) MS Music and Sound Private Limited; and (vii) Kalamkaar Music Private Limited. The Applicant-Plaintiff has acquired rights in the on ground public performance of sound recordings of the songs contained in the films of said companies.

6) Learned Advocate for the Plaintiff submits that, the Plaintiff's

sound recordings are amongst the most popular repertoire. He submits that, the Defendant has organized an event namely “dance party for kids and unplugged music” on 05th and 06th November, 2024 at his club. In the said programme, the Defendant is going to play the sound recording for which the Plaintiff holds the copyrights. He submits that, the Defendant has already committed breach of the copyrights in favour of the Plaintiff and in that regard, relies on certain CDs filed in the Suit. He submits that, before filing of the Suit, the Plaintiff has given notice to the Defendant not to commit breach of the copyrights of the Plaintiff. However, the Defendant has organized the aforesaid event with an intention to commit breach of the copyrights. The learned Advocate for the Plaintiff submits that, if the Defendant plays the subject sound recordings, the Plaintiff will be put to a huge financial loss. The Plaintiff being the owner of copyrights in the sound recordings, has the right to issue license and permission.

7) In my *prima facie* view, the Defendant is intending to use the sound recordings without obtaining license from the Plaintiff. Thus, it would amount to infringing the copyright of the Plaintiff in the sound recordings.

8) Having regard to the aforesaid, a *prima facie* case has been made out for grant of ad-interim relief. The balance of convenience is in favour of the Plaintiff. The Defendant has chosen not to appear before this Court, despite service and hence, ad-interim relief deserves to be granted.

- 9) In view of the above, there shall be an ad-interim relief in terms of prayer clause (a) of the Interim Application, till the next date.
- 10) Issue summons/notice to the Defendant, returnable on **27th November, 2024**. The Applicant-Plaintiff to provide copy of the Interim Application for service of summons/notice on the Defendant. Additionally, the Applicant-Plaintiff to serve the Defendant with private notice and file affidavit of service before the returnable date. Hamdast allowed.
- 11) All the concerned to act on an authenticated copy of this Order.

(SHYAM C. CHANDAK, J.)

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