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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ CS(COMM) 77/2024, I.A. 1979/2024, I.A. 1980/2024, I.A.  
1981/2024, I.A. 1982/2024 & I.A. 1983/2024  
CANVAS COMMUNICATION ..... Plaintiff

Through: Mr. Rajat Manchanda, Ms. Megha  
Gaur, Mr. Mayank Nautiyal, Ms.  
Aditi Singhal, Ms. Soumya Narula  
and Mr. Deepanshu Bharti, Advs.

versus

PHONOGRAPHIC PERFORMANCE LIMITED ..... Defendant

Through: Mr. Chander M. Lall, Sr. Adv. with  
Mr. Ankur Sangal, Ms. Sucheta Roy,  
Mr. Raghu Vinayak Sinha, Mr.  
Shaurya Pandey, Ms. Yashi Aggarwal  
and Mr. Abhinav Bhallal, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE ANISH DAYAL**

**ORDER**

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**25.01.2024**

**I.A. 1980/2024 (Exemption from undergoing pre-institution mediation proceedings)**

1. Having regard to the facts of the present case and in light of the judgement of Division Bench of this Court in **Chandra Kishore Chaurasia v. R.A. Perfumery Works Private Ltd.**, FAO (COMM) 128/2021, exemption from attempting pre-institution mediation is allowed.

2. Accordingly, the application stands disposed of.

**I.A. 1981/2024 (seeking leave to file additional documents)**

1. The present application has been filed on behalf of the plaintiff under Order 11 Rule 1(4) of the Code of Civil Procedure, 1908 as applicable to commercial suits under the Commercial Courts Act, 2015 seeking to place on

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record additional documents.

2. The plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act, 2015 and the DHC (Original Side) Rules, 2018.

3. Accordingly, the present application is disposed of.

**I.A. 1982/2024 (seeking time to file court fees)**

1. This application has been filed for seeking enlargement of time to file court fees.

2. Subject to the filing of court fees within the next two weeks, the application is allowed and is accordingly disposed of.

**I.A. 1983/2024 (exemption from filing original/certified copies etc.)**

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

2. Applicant shall file legible, clear and original copies of the documents on which the applicant may seek to place reliance within four weeks from today or before the next date of hearing, whichever is earlier.

3. Accordingly, the present application is disposed of.

**CS(COMM) 77/2024**

1. Let the plaint be registered as a suit.

2. Upon filing of process fee, issue summons to the defendant by all permissible modes. Summons shall state that the written statement be filed by the defendant within 30 days from the date of receipt of summons. Along with the written statement, the defendant shall also file affidavit of admission/denial of the documents of the plaintiff, without which the written statement shall not be taken on record. Liberty is given to the plaintiff to file a replication

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within 30 days of the receipt of the written statement. Along with the replication, if any, filed by the plaintiff, affidavit of admission/denial of documents filed by the defendant, be filed by the 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.

3. List before the Joint Registrar for marking of exhibits on 01<sup>st</sup> April, 2024.
4. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

**I.A. 1979/2024 (under Order XXXIX Rule 1 and 2 CPC)**

1. This application has been filed as part of the suit by the plaintiff seeking a decree of declaration declaring that the defendant's sound recordings by the plaintiff, as part of wedding related events, do not amount to infringement of the defendant's copyright. The plaintiff is an event management company having its office at Indirapuram, Ghaziabad, U.P. run by a sole proprietor, Mr. Neeraj Kumar.
2. The plaintiff is in the business of organizing *inter alia* wedding events and this plaint relates to one of the weddings to be organized in February, 2024 with the following three functions:-
  - "a. Pre-wedding Sangeet at Hotel Prithvi Palace, Vasant Kunj Road, Mahipalpur, New Delhi on 1 February 2024.*
  - b. Marriage solemnization ceremony at Cardinal Express Oxmo, Mahipalpur, New Delhi on 2 February 2024.*
  - c. Post wedding cocktail party at Lutyen's Hotel, MG Road, New Delhi on 3 February 2024."*
3. For the purposes of these functions, the plaintiff had applied for an

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NOC from the defendant for playing various popular songs during the said ceremonies, however, the defendant refused to give them an NOC.

4. The plaintiff's reliance was on a notification dated 24<sup>th</sup> July, 2023 issued by the Department for Promotion of Industry and Internal Trade (DPIIT) Notification, ('said notification') where it was clarified by the Ministry of Commerce and Industry, Government of India that playing music in wedding functions does not amount to copyright infringement. The text of the said notification is as under:

*"PUBLIC NOTICE*

*Department of Promotion of Industry and Internal Trade (DPIIT) has received several complaints, representations, grievances from the general public as well as other stakeholders about alleged collection of royalties by the Copyright Societies for performance of musical work, communication to the public of sound recording etc. in marriage functions in contravention to letter and spirit of Section 52 (1) (za) of Copyright Act 1957.*

*2. It is well known that Section 52 of Copyright Act 1957 enumerates certain acts which shall not constitute an infringement of Copyright. Section 52 (1) (za) specifically mentions the performance of a literary, dramatic, or musical work or the communication to the public of such work or of a sound recording in the course of any bonafide religious ceremony or an official ceremony held by the Central Government or the State Government or any local authority, as not constituting infringement of Copyright. Religious Ceremony (for the purpose of the aforementioned clause) includes a **marriage procession and other social festivities associated with marriage.***

*3. In view of above, Copyright Societies are directed to strictly refrain from entering into acts which are in contravention to Section 52 (1) (za) of Copyright Act 1957, in order to avoid any legal action. Also, the General Public is hereby cautioned to not to accede to any uncalled demands from any individual/organization/copyright society which are in violation of Section 52 (1) (za) of Copyright Act 1957."*

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5. Relying on the said notification, the counsel for the plaintiff submits that besides the wedding itself, the pre and post wedding events would also be covered under the said notification.

6. Defendant is represented through Mr. C.M. Lall, Senior Counsel, who at the very outset submits that a prior avatar of the said notification was a notification dated 27<sup>th</sup> August, 2019 which also had the same language as the current notification; however, the same was quashed by a Single Judge of the High Court of Punjab & Haryana at Chandigarh by order dated 19<sup>th</sup> May, 2022 in *Novex Communications Private Limited v. Union of India and Anr.*, 2022 SCC OnLine P&H 1105. The said notification has been issued thereafter with exactly the same language; and as per their information, the petitioner before the High Court of Punjab & Haryana has filed a contempt against the Government in this regard.

7. The Senior Counsel for the defendant submits that the notifications can only be interpreted in terms of the parent legislation and cannot be *ultra vires* the same. In this regard Section 52(1)(za) of the Copyright Act, 1957 is adverted to, which is extracted as under:-

*“the performance of a literary, dramatic or musical work or the communication to the public of such work or of a sound recording in the course of any bona fide religious ceremony or an official ceremony held by the Central Government or the State Government or any local authority.*

*Explanation- For the purpose of this clause, religious ceremony including a marriage procession and other social festivities associated with a marriage.”*

8. In this regard, it is submitted that the exemption granted was only to “a

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*bona fide religious ceremony*”, which according to him, would only mean the solemnization of the marriage and not other wedding events aside from the marriage solemnisation. Senior Counsel for the defendant further states that as per their understanding, the said notification does not exempt marriage ceremonies in commercial premises and also the exemption will not be available to event planners under the provision of Section 52(1)(za) of the Copyright Act.

9. Counsel for the plaintiff, however, presents a different view point in this regard and states that the said notification now clarifies the issue and covers all attendant functions as well. Counsel for the plaintiff has further pointed out to the explanation of Section 52(1)(za) to state that the notification is not *ultra vires* the same.

10. Be that as it may, at this stage, the counsel for the plaintiff states on instructions, that they would like to still press for playing the sound recordings of which the copyright is held by the defendant, at these functions.

11. Accordingly, in order to balance equities, it would be apposite if the plaintiff deposits an amount of Rs.1 lac (Rs.50,000/- each for two events, namely, events ‘a’ and ‘c’ above, being the stated license fee for such events for playing the defendants repertoire of songs) on account to the defendant, to be paid within the next week. This amount, will be subject to the final adjudication in the suit.

12. Senior Counsel for the defendant has pressed that the said amount be paid to the defendant instead of being deposited in the Court and are willing to be subject to payment of interest as well on the said deposit, in case the plaintiff succeeds in the suit.

13. Senior Counsel for the defendant has also asserted the issue of legal

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costs to be paid by the plaintiff. However, that is an issue which is subject to the final adjudication of the suit.

14. Pursuant to the deposit being made, the defendant shall issue a confirmation letter to the plaintiff confirming the issuance of licence for the repertoire of their songs for the said functions.

15. The plaintiff shall ensure that they do not violate any aspects of the license which is issued by the plaintiff.

16. It is made clear that this arrangement is being done as a *pro tem* measure in order to balance the rights of the parties at this stage and no opinion has been expressed by this Court on the merits of the matter.

17. Application is disposed of.

18. Order be given in *dasti* under the Signatures of the Court Master.

19. Order be uploaded on the website of this Court.

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ANISH DAYAL, J

JANUARY 25, 2024/MK/na

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