

KABC170011242025



**IN THE COURT OF LXXXV ADDL. CITY CIVIL & SESSIONS
JUDGE, AT BENGALURU (CCH-86) (Commercial Court)**

THIS THE 17th DAY OF FEBRUARY 2026

**PRESENT:
SRI.ARJUN. S. MALLUR. B.A.L.LL.B.,
LXXXV ADDL. CITY CIVIL & SESSIONS JUDGE,
BENGALURU.**

Com.OS.No.449/2025

PLAINTIFF:

- 1) **Ms.Gravity Talent**
Through its sole proprietor
Mr.Subhash rao, having its office at
1183, 35th 'C' Cross,
28th Main, 4th 'T' Block,
Jayanagar, Bangalore
Karnataka-560041.
2. Mr.Yogeendra.H
Major,
937, 23rd main, 4th 'T' Block,
Jayanagar, Bangalore
Karnataka-560041.

3. Mr.Ritwik Bhattacharya,
Major,
22, 3rd Main Road,
80 Feet Road, 8th Block,
Koramangala, Bangalore,
Karnataka-5560095.

4. Mr.Karthik Chennoji Rao,
Major,
227, MBR Steeple,
Begur Road; Devarachikkanahalli,
Karnataka-560076.

5.Mr.Jimmy Francis John,
Major,
937, 23rd main, 4th 'T' Block,
Jayanagar, Bangalore
Karnataka-560041.

6. Mr.Gopi ShravanT.S.
Major,
091, Vithola Apartment,
Kalena Agrahara, Opposite Decathlon,
Bannerghatta Main Road, Bangalore
Karnataka-560076.

7. Mr.Arjun M.P.N.
Major,
18, 9th Cross,
Chunchaghatta Mn Rd,
Konankunte (PO), Bangalore
Karnataka-560062.

8. Mr.Jyothish Mani
Major,
102 Swamy Apartments,

17 Sundaramurthi Road,
Cox Town, Bangalore
Karnataka-560005.

(By Sri. Raghuram Cadambi, Advocate.)

: Versus:

DEFENDANTS: 1. Beep Experience Mangement Private Limited,

A company incorporated under the companies Act, 1956, having its registered address at:
No.29, 2F, Dr.Muniyappa Road,
Kilpauk, Chennai-600010.

2. Flipkart Internet Private Limited

A company incorporated under the companies Act, 1956, having its registered address at:
Buildings Alyssa, Begonia and Clover, Embassy Tech Village, Outer Ring Road, Devarabeesanahalli Village Bengaluru, Karnataka-560103.

(By Sri.H.N.N.D, Advocate)

IA.NO.I

Applicant/Plaintiff: M/s Gravity Talent and others

(By Sri. Raghuram Cadambi, Advocate.)

V/s

Opponent/Defendants: Beep Experience Management Private Limited and another

(By Sri.H.N.N.D, Advocate)

(i)	Provisions under which the application is filed	U/O.XXXIX Rules 1 and 2 R/w Sec.151 of CPC. U/O XXVI Rule 9 r/w Sec.151 of CPC
(ii)	Relief sought for	Temporary Injunction Appointment of Court Commissioner.
(iii)	The date on which the application is filed	22.03.2025
(iv)	Number of the application	I.A.No.1 & 2
(v)	The date on which the objections are filed by different opponents	20.06.2025
(vi)	The date on which the orders were passed on the said application	17.02.2026

COMMON ORDERS ON IA.NO.I & 2

I.A.No.1 is filed by the plaintiff Under Order 39 Rule 1 and 2 R/w Sec.151 of CPC for the relief of temporary

injunction restraining the defendants and its agents, servants, directors, licensees, partners or any other persons/entity claiming through or under them from, in any manner, directly or indirectly, exploiting and/or infringing the Plaintiffs' copyright in the Final Video and the Performance and underlying works embodied therein, including communicating the Final Video to the public and/or permitting members of the public to make or retain a copy of the Final Video, through the process of downloading or otherwise, through the Permanent Link or any other modes.

I.A.No.2 is filed by the plaintiff Under Order XXVI Rule 9 R/w Sec.151 of CPC to appoint a court commissioner to conduct search and seizure, with Police assistance, of all servers, computers, computer networks and the like maintained, operated and otherwise used by the Defendants, its managers, employees, family, agents. and all others acting for, claiming under or through or on its behalf or in concert with it, for unauthorized use of the copyrighted work owned by the Plaintiff and illegal distribution of pirated copies of the same and further to conduct an electronic audit to determine the number of

persons who were given access to the aforesaid Permanent Link to the Final Video.

2. As these two applications are interlinked with each other they are disposed off by this common order:

It is contended that the plaintiff that the Plaintiff No.1 is a reputed Talent Management and Entertainment Agency. The Plaintiff Nos.2 to 8 collectively form a band by name Pineapple Express. The plaintiffs have entered into an agreement with defendant No.1 on 08.10.2020 under which Defendant No. 1 and 2 were granted a one-time right to digitally broadcast and view the final video consisting of a concert performance by the Plaintiff Nos.2 to 8 under the event titled Pineapple Express for Flipkart. The terms of the agreement required at the Performance was to be per-recorded on 16.10.2020 and was subsequently to be broadcasted through a virtual live stream on 21.10.2020. The broadcast was for only once, ie. on 21.10.2020 for which the plaintiffs were payable under the Agreement an amount of Rs.2,75,000/-. As per the terms of the Agreement, the Defendant No.1 was to provide access to Plaintiff No. 1 to the virtual live stream

link, using which the Event was to be live-streamed link which could be viewed only once. In the event of the multiple uses the defendants No.1 and 2 would be liable to pay an additional consideration of 500% of the total consideration payable under the Agreement for each time that the Performance was communicated to public. As per the terms of the plaintiff prerecorded the Performance on 16.10.2020 and delivered the hard drive containing the video of the Performance to the video editor to the Defendant No. 1 on 19.10.2020. The performance was to be broadcasted live on 21.10.2020, but on that date due to some technical difficulty the event could not be live streamed. Thereafter without the knowledge of the plaintiff and without the consent of the plaintiff the final video has been broadcasted and streamed live which came to be shared with the employee of the defendant No.1. The defendant No.1 informed the plaintiff that the link is shared to the employees for enabling them to view it only once. Such being the case on 29.10.2020, the Plaintiffs were shocked to find out that a permanent link of the Final Video of the Performance has been uploaded to a Google Drive by the Defendant No.2 and the Defendant No.2 had granted access to it to all of Defendant No.2

employees, that the Defendant No.2 had made the Final Video downloadable and had enabled to be further shared to general public. This act of the defendants was totally in breach of terms of the agreement dated 02.08.2020. Not only the act of the defendants constitute a breach but it also amounted to infringing the copyrights and the intellectual property rights held by the plaintiff with respect to the Final Video and the performance. The defendants therefore become liable to the compensation at the rate of 500% on the amount of Rs.2,75,000/- for each time the Performance is viewed.

It is further submit that Plaintiffs issued a notice dated 10.12.2020 informing the Defendants about the breach of the agreement committed by the Defendant No. 1 and calling upon them to take down the videos and destroy all its copies. By way of response through email dated 23.12.2020, the Defendant No.2 denied the allegations of any copyright infringement on its part and denied the contents of the notice. It is submitted that the representative of the defendant No.1 and 2 had informed the plaintiff that Video would be made use only once for the benefit of its employees but in utter breach of terms of the agreement, they shared the permanent link through

which the video can be downloaded by the members of the general public and viewed multiple times. Thereby infringing the rights of the plaintiff and causing wrongful loss by the plaintiff. Despite being called upon to take down the permanent link to the final video the defendants have failed to do so and also have not disclosed the list of persons to whom access to the permanent link of the final video was provided and thereby have continued the infringement of copyright. Thus the plaintiff has made out a prima facie case for grant of temporary injunction and balance of convenience would lie in favour of the plaintiff and it is plaintiff would suffer irreparable loss hardship, if the injunction is not granted.

3. It is also contended by the plaintiff that by way of continuance in use of the downloaded permanent link of the Final video the defendants have extensively distributed the same amount of members of the public and therefore to assess the damages suffered by the plaintiff it is just and necessary to appoint a commissioner for collecting the materials containing the Final video and also seize all the hard disk and computers containing the Final video. Hence these applications.

4. The defendants No.1 and 2 have adopted their respective written statements as statement of objections to these applications and it is contended by the defendants that the plaintiff is not the proprietor of the Final video and that the plaintiff is not the registered owner of the copyright with respect to the video as the video only consists of a performance of songs which have been composed by various artists such as Arijit Singh, Anoushka Shankar, Amit Trivedi, Sonu Nigam, Benny Dayal, Euphoria and Parikrama and that the list of musical works were identified for the performance of the video included the song titled Zinda by Siddharth Mahadevan composed by Shankar-Ehsaan-Loy /Prasoon Joshi. It also included the song by Everybody Backstreet Boys, Aithalakadi by Shankar Mahadevan and Shamitha Malnad composed by V Harikrishna and V Nagendra Prasad, Nenjukkul by Hariharan, Harris Jayraj, Prasanna and Devan Ekambaram composed by Harris Jayraj/ Thamarai, Shut up and dance with me + Sooraj Dooba performed by Walk the Moon + Arijit Singh composed by Ben Berger Ryan McMahan, Eli Maimon, Nicholas Petricca, Kevin Ray, Sean Waugaman, Seniorita Farhan Akhtar, Hritik Roshan,

Abhay Deol, Maria del Mar Fernandez composed by Shankar Ehsan Loy, Ainvayi Ainvayi, Salim Merchant & Sunidhi Chauhan composed by Amitabh Battacharya, Moves like Jagger, Marron Christina Aguilera composed by Benjamin Levin and Shellback & Adam Levine, Kya Mujhe Pyaar Hain/Tu Har Lamha Mashup, K.K/ Arijit Singh composed by Nilesh Mishra/Sayed Ouadri + Bobby-Imran, London Thumakda Neha Kakkar composed by Anvita Dutta, Punjabi Medley, Daler Mehndi composed by Wattal Jawahar Daler Mehndi/Kumaar and Najjar Sukhbir Singh.

It is submitted that these are the persons who enjoy the copyrights with respect to those songs and performance and without those persons being made as parties the very suit itself is not maintainable.

5. It is submitted that as per the terms of the agreement if the video is played multiple times it would carry penalty of 500% of the fee prescribed under the agreement. It is submitted that on account of technical glitches the video recording of the performance could not be live streamed. The 2nd defendant was due and entitled to witness the performance and share the video recording for one time viewing on the 21st of October, 2020. The

same was also notified to the 1st Plaintiff on the 27.10.2020 and in the WhatsApp correspondences on 04.11.2020, the 1st Plaintiff also confirmed receipt of the consideration under the said Agreement. It is submitted that the video link has been shared the employees and the defendants have no control over the employees from stopping them in using the video from multiple times through any other platforms. The defendants submitted that the plaintiff have no copyrights in the songs which are the subject matter and therefore the very suit itself is not maintainable and thus the plaintiff cannot maintain the relief of temporary injunction. It is further submitted that there is no material placed by the plaintiff to show that the defendant No.1 has circulated the said video and plaintiff themselves are not certain whether the video is in control and custody of 1st defendant and the 2nd defendant. The defendants No.1 and 2 have denied all other averments made in the plaint as well as the application and as sought for rejecting the application with costs.

6. The defendant No.2 has filed a separate written statement wherein they contend that it is not a necessary

or proper party for the present suit as the defendant No.2 was only facilitate for distribution of the video through online and that there is no contractual obligation between plaintiff and defendant No.2. It is submitted that the alleged infringement of copyright is only by defendant No.1 and not by defendant No.2 and that the plaintiff has filed the suit by misrepresenting the facts. Defendant No.2 also contends that the plaintiffs are not the co-owners of the copyrights and therefore they cannot maintain the suit.

7. Heard the learned counsel appearing for the plaintiff and the counsel for defendants and perused the entire material on record.

8. The points for consideration are:-

- 1) Whether the plaintiffs have made out a prima facie case for grant of the temporary injunction as prayed?
- 2) Whether the balance of convenience lie in favour of the plaintiffs and the plaintiff would suffer irreparable loss or injury if temporary injunction is not granted?

- 3) Whether the plaintiff shave made out justifiable grounds for appointment of court commissioner as prayed?
4) What order?

9. My answer on the above point is as under:

Point No.1: In the **Negative**

Point No.2: In the **Negative**

Point No.3: **Does not survive for consideration.**

Point No.4: As per final order for the following:

REASONS

10. POINTS NO.1 to 3:- To avoid repetition of facts these points are taken up together for facts:

Though pleadings are filed by the parties elaborately to put it in nutshell during the COVID-19 pandemic for the purpose of boosting the morale of employees the defendant No.1 decided to provided an Entertainment video through online streaming and for the said purpose they entered into agreement dated 08.10.2020 with plaintiffs No.2 to 8 who are performing under the brand name Pineapple Express. The video containing the

performance of the plaintiff band name would be shared live stream with the defendant No.2 for its employees. It was agreed under the agreement that the plaintiffs would be paid a sum of Rs.2,75,000/- and the video recorded would be streamed through online link for one time viewing on 21.10.2020. The agreement further required that in case there is any multiple viewing then the defendants would liable to pay damages at the rate of 500% of consideration for each viewing. It is the contention of the plaintiff that on 29.10.2020 it came across the final video link being downloaded and shared among its employees for multiple viewing and also among the members of public which amounted to infringement of the copyrights of the plaintiff. Per contra the defendants contended that as per the terms of the agreement the video link came to be shared by the plaintiffs with them for which the plaintiff has been duly paid required for the consideration and the said video link has been shared for one time viewing and thereafter the defendants have no control over the said video or its link and it is not within the knowledge whether any persons or employees would have shared the link with others and therefore no breach or infringement has occurred on their part. One of the

prime most contention taken by the defendant is that the plaintiffs are not copyright holders of the Final video which comprises of songs performance by the various artists and composers and therefore the very suit itself is not maintainable.

11. Before the adverting to the contention put-forth by respective parties it would be just and proper to refer some of the decisions relied upon by both sides. The learned counsel for the plaintiff in support of his argument has relied upon the following decisions.

1) Dalpat Kumar V/s Prahlad Singh, (1992) 1 SCC 719.

2) Wander Ltd and anr V/s Antox India P.Ltd., 1990 (Supp) SCC 727.

3) Midas Hygiene Industries (P) Ltd and another V/s Sudhir Bhatia and others, (2004) 3 SCC 90.

4) Novenco Building & Industry V/s Xerox Energy Engineering Solutions (P) Ltd., 2025 SCC Online SC 2278.

5) Zee Marico Limited V/s Hygine Products Pvt Ltd and others.

6) Newspace Research and Technologies Private Limited V/s Mr.Anirudh Putsala (WP No.32999/2024 (GM-CPC).

7) Autodesk Inc. V/s AVT Shankardass, 2008 SCC Online Del 775.

12. In all the above decisions the broad principles governing the relief of grant of temporary injunction more particularly in suits for infringement of copyrights and intellectual property rights has been laid down. The learned counsel for the plaintiff has also placed reliance upon judgment of the Hon'ble Delhi High Court reported **2024 SCC online Del 3664 Jaikishan Kakubhai Saraf V/s Peppy Store and Others** Wherein an injunction has been granted in respect to unauthorized use of the copy rights. Here the facts were such that the plaintiff was enjoying the copyrights with respect to his name and abbreviation being called by Bhidu the name which was a registered copyright. Such is not the facts in this case as admittedly the plaintiff do not possess registered copyrights of the songs which were performed to the Final video. In fact the plaintiff also do not possess a copyright with respect to the Final video comprising of these songs.

13. Per contra the learned counsel for the defendant No.1 has placed reliance upon the following decisions:

1) Anton Pillar KG V/s Manufacturing Process Ltd and others reported in 1975 A No.6292.

2) Burcyrus Europe Limited V/s Vulcan Industries Engineering Company Pvt Ltd, reported 2004 SCC Online Cal 619.

3) Gee Pee Films Pvt Ltd V/s Pratik Chowdhary and others, reported in 2001 SCC Online Cal 411.

4) Salim Khan and Another V/s Sumeet Prakash Mehra and Ors, reported in 2013 SCC Online Bom 1168.

5) Phonographic performance Ltd V/s Hotel Gold regency and Ors., reported in 2008 SCC Online Del 746.

6) Plex Inc V/s Zee Entertainment Enterprises Ltd., reported in 2020 SCC Online Bom 989.

7) Ramanujulu Naidu V/s Gajaraja Ammal., reported in 1949 SCC Online Mad 178.

8) Star India Pvt Ltd V/s Piyush Agarwal and others, reported in 2012 SCC Online Del 5691.

**9) M.Rathnam V/s Sushelamma, reported in 2008
SCC OnlineKar 449.**

14. I have gone through the above cited decisions wherein it has been observed that only in exceptional circumstances where the plaintiff makes out very strong prima facie case and that there was a potential damage and that the defendants possess the material to destroy the rights of the plaintiff then in those circumstances injunction must be granted. In the present case the plaintiff has not been able to make out any circumstances which would indicate that it has got a strong prima facie case and that the defendants are attempting to infringe the copyrights owned by them. In fact the plaintiffs are not at all the copyright owners of the Final video performance allegedly distributed on the video link. On the other hand the video, consists of various songs performed and composed by various artists and without those persons being arrayed as parties to the suit the very suit itself is not maintainable.

15. It is observed in the above cited decisions that where the copyrights in any work is infringed it is only the

owner of the copyright who is entitled to all remedies by way of injunction damages accounts or otherwise as the provision of Sec.54 of the Copyright Act includes an exclusive licensee could be entitled for the remedies of injunction and other ancillary reliefs. Except the owner of the copyright and an exclusive licensee, no other person is entitled for civil remedies for infringement of the copyright. It is also observed in the above decisions that where there is a delay in approaching the court for alleged violations the plaintiff would not be entitled for the relief of injunction. The plaintiff has not produced any documents to show that they are the owners of the copyrights with respect to the final video. In fact there is no pleadings in the plaint that the plaintiffs are granted or conferred copyright with respect to the final video performance in the link allegedly shared by the plaintiff. The agreement which is the basis for the suit clearly provides that the video link is only for one time viewing and if there is multiple viewing then the defendant will be liable to pay damages at the rate of 500% of the consideration for each repeated viewing. When the injury or deprivation of the right can be compensated in terms of money there cannot be said that there is a prima facie

case for grant of temporary injunction. All that remains to be considered is whether the claim for damages for breach of the terms of the agreement would be compensated or not. When the very suit itself is a prima facie rendered not maintainable in the light of Sec.51, 54 and 55 of the Copyrights Act the plaintiff would not be entitled for the relief of temporary injunction.

16. Another aspect that needs to be mentioned is the delay on part of the plaintiff is approached in the court. The alleged violation is said to have taken place on 29.10.2020 when the plaintiff came to know about the permanent link of the Final video being uploaded on the google drive. The plaintiff has issued legal notice nearly about 2 months later and the suit is initially filed in a City Civil Court on 12.03.2021 about 3 months later. The plaintiff not immediately issuing the notice to the defendants would drastically affect the plaintiff in making out prima facie case. There is no material to show that the plaintiff has issued a cease and desist notice immediately coming to know about the alleged Final video being uploaded on google drive by the defendant. The delay on part of the plaintiff would also contribute towards

concluding that no prima facie case is made out by the plaintiff.

17. The present suit was earlier to filed before the City Civil Court on 12.03.2021 and thereafter order dated 01.03.2025 on the ground of the pecuniary jurisdiction the case is transferred to this court. Before the City Civil Court the similar application were filed for grant of temporary injunction and appointment of the court commissioner and the earlier court vide order dated 02.11.2021 had rejected the applications holding that the original owners of the copyright are not made as party to the suit and as per the amended act even if when the parties conduct any events or producers cover versions on the basis of original songs the permission of the copyright owner of the songs are the legal heirs are mandatory. After taking return of the plaint and refiling the suit in the present applications no new circumstances have been urged by the plaintiff except reiterating what earlier been pleaded in the previous suit. Though representation of the plaint would amount to denovo commencement of this proceedings of this suit nevertheless without there being any changed circumstances being pleaded the earlier

order passed by the court of competent jurisdiction refusing the relief of temporary injunction and also the appointment of the court commissioner would nevertheless bind the rights of the plaintiff on the subsequent applications. In this regard learned counsel for the defendant No.1 has relied upon judgment of Hon'ble High Court reported in **MFA 6814/2014 c/w MFA 6815/2014 dated 14.12.2018 between N.J.Ravishankar V/s T.N.Sarvamangala and others**, wherein it has been observed in para 9 of the judgment are as under:-

“A Similar application was rejected on merits by order dated 05.07.2010. This order has remained unchallenged. It is settled law that the second application in similar set of facts and circumstances will not be maintainable and will have to be rejected on the ground of constructive resjudicata. However, the second application would be maintainable if there are changes in circumstances justifying the filing of the second application. The learned counsel is unable to draw the attention of this court to any such circumstances.”

18. The observation made in this decision clearly applies to the facts of this case where admittedly the

plaintiff has not brought out any changed circumstances which would required to court to take different view. The plaintiff admittedly have not made any copyright owners of the songs as parties to the suit they have also not produced any material to show that they had a license to play the songs from the original copyright owner in the event of agreement dated 08.10.2020 does not disclose whether the plaintiff has obtained licensees or assignment from the copyright owners and therefore in the absence of such material it cannot be delay of the plaintiffs having copyright with respect to the videos were shared in the Final video link for the 2nd defendant. Hence under these circumstances it can be held without hesitation no prima facie case is made out by the plaintiffs and no balance of convenience lie in favour fo the plaintiff. The plaintiff would not suffer any irreparable loss or injury. As the plaintiffs has not made out a prima facie case about the absolute right on the copyright a songs appointing court commissioner for the purposes as claimed under I.A.No.2 would not survive for consideration. Hence I answer points No.1 and 2 in the **Negative** and point No.3 as above.

19. POINT NO.4:- For the aforesaid reasons, I pass the following:

ORDER

I.A.No. 1 filed by the plaintiff U/O XXXIX Rules 1 and 2 R/w Sec.151 of CPC and I.A.No.2 filed U/O 26 Rule 9 R/w Sec.151 of CPC are hereby **dismissed**.

No order as to costs.

Send soft copy of the order to the parties through e-mail if furnished.

(Dictated to the Stenographer Grade-III, transcribed by her, corrected and then pronounced by me in open court on this the **17th day of February, 2026**)

(ARJUN. S. MALLUR)
LXXXV Addl.City Civil & Sessions Judge,
Bengaluru.