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

+ **CS(COMM) 428/2022, I.A. 13713/2022**

SUPER CASSETTES INDUSTRIES PRIVATE LIMITED... Plaintiff

Through: Mr. Amit Sibal, Senior Advocate with
Mr. Saksham Dhingra, Ms. Geetanjali
Viswanathan, Mr. Abhilasha
Nautiyal, Mr. Rishak Sharma, Mr.
Saksham Dhingra and Mr. Darpan
Sachdeva, , Advocates.

versus

SHEMAROO ENTERTAINMENT LIMITED Defendant

Through: Mr. Sagar Chandra, Advocate and
Mr. Nikhil Chawla and Mr. Ashutosh
Ranga, Advocates.

**CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER
17.02.2023**

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**I.A. No. 13714/2022 (under Order VIII, Rule 1 as amended by the
Commercial Courts Act, 2015 read with Section 151 of CPC on behalf of the
Defendant)**

1. There is a delay of 53 days in filing of written statement by the Defendant, which is beyond 30 days. However, considering the fact that the delay is within the overall condonable time period of 120 days under Order VIII Rule 1 of CPC r/w Commercial Courts Act, 2015, applicable to



commercial suits, the Court is inclined to condone the same.

2. The application is allowed and Defendant's written statement is taken on record.
3. Disposed of.

I.A. No. 3187/2023 (Order XI Rule 1(10) of CPC as amended by the Commercial Courts Act, 2015)

4. The Defendant has applied for permission to produce additional documents which comprise of the original assignment deeds and content license agreements of eight suit films listed in paragraph No. 4 of the application. Mr. Sagar Chandra, counsel for Defendant, submits that while these documents were referred to in Defendant's written statement, they were inadvertently omitted at the time of filing the documents.
5. The Defendant's explanation of inadvertent error is unconvincing, but the Court is nevertheless inclined to allow the application as the documents in question are referred to in the pleadings, and the Defendant acted promptly by filing the application prior to Plaintiff submitting their replication, thus allowing them an opportunity to deal with the same.
6. The Plaintiff must however be compensated for the delay caused, for which they are burdened with cost of Rs. 10,000/- to be paid to the Plaintiff.
7. Subject to the above, application is allowed and documents filed by Defendant *vide* diary No. D-1593718 on 21st September, 2022, are taken on record.
8. The Plaintiff is permitted to file additional documents, if any, in response to aforesaid documents of the Defendant, within a period of two weeks from today.



9. Application is disposed of.

IA No. 9651/2022 (application under O. XXXIX RR. 1 and 2, Read with Section 151 of the Code of Civil Procedure)

10. Mr. Amit Sibal, Senior Counsel for Plaintiff, draws the Court's attention to paragraph No. 8 of Defendant's written statement, wherein they have stated that they are presently not exploiting five of the suit films viz., "Chand Sa Roshan Chehra", "Badal", "Nayak", "Balidaan" and "Gali Gali Chor". He contends that in light of the said averment, Defendant must at least be restrained from using the said suit films. Mr. Sibal further points out that in paragraph No. 9 of the written statement, it is stated that assignment agreements in respect of two other suit films – "Aflatoon" and "Diljale", have expired.

11. In response to the above, Mr. Sagar Chandra, counsel for Defendant, on instructions, states that without prejudice to their rights and contentions, till the next date of hearing, the Defendant is willing to not broadcast or make available to the public, the audio-visual songs of five of the suit films mentioned in paragraph No. 8 of the written statement as well as of "Diljale".

12. Mr. Chandra's above-noted statement is taken on record and Defendant shall remain bound by the same. It is clarified that the said statement shall operate only in respect of broadcast or communication of audio-visual songs of the concerned films, and not the entire films.

13. As regards the film "Aflatoon", Mr. Chandra states that Defendant has entered into a separate agreement with a third party in respect thereof and he shall produce a copy thereof.



14. Defendant is granted one week's time to ensure compliance with the afore-noted statement.
15. Considering the above, Defendant shall also not issue copyright strikes on YouTube platform against the Plaintiff in respect of the works recorded in the statement.
16. Re-notify on 09th March, 2023.

SANJEEV NARULA, J

FEBRUARY 17, 2023

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