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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 968/2024 & I.A. 43825/2024, I.A. 43826/2024, I.A.
43827/2024, I.A. 43828/2024, I.A. 43829/2024

VIACOM18 MEDIA PRIVATE LIMITED

.....Plaintiff

Through: Ms. Sneha Jain, Mr. Yatinder Garg,
Mr. Sanidhya Maheshwari, and Mr.
Priyansh Kohli, Advocates.

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versus

MYLIVECRICKET-HD.COM & ORS.

.....Defendants

Through: None.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

% **29.10.2024**

I.A. 43826/2024 (Exemption from filing original and clear copies of documents)

1. The present is an application under Section 151 of the Code of Civil Procedure, 1908 ("CPC"), on behalf of the plaintiff, seeking exemption from filing original/certified and clear copies of documents with proper margins.
2. Exemption is granted, subject to all just exceptions.
3. Plaintiff shall file legible, clear, and translated copies of the documents, on which the plaintiff may seek to place reliance, before the next date of hearing.

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4. Accordingly, the present application is disposed of.

I.A. 43829/2024 (Exemption from instituting Pre-Institution Mediation)

5. The present is an application under Section 12A of the Commercial Courts Act, 2015, read with Section 151 of CPC, seeking exemption from undergoing Pre-Institution Mediation.

6. Having regard to the facts of the present case and in the light of the judgment of Supreme Court in the case of *Yamini Manohar Versus T.K.D. Keerthi*, 2023 SCC OnLine SC 1382, and Division Bench of this Court in *Chandra Kishore Chaurasia Versus RA Perfumery Works Private Ltd.*, 2022 SCC OnLine Del 3529, exemption from attempting Pre-Institution Mediation, is granted.

7. Accordingly, the application stands disposed of.

I.A. 43828/2024 (Application seeking leave to file additional documents)

8. This is an application under Order XI Rule 1(4) read with Section 151 CPC as amended by the Commercial Courts Act, 2015, seeking leave to file additional documents.

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

10. The application is disposed of, with the aforesaid directions.

I.A. 43827/2024 (Exemption from advance service to the defendants)

11. The present is an application under Section 80 CPC read with Section 151 CPC seeking exemption from advance service to the defendants.

12. In the peculiar facts and circumstances of this case, exemption from effecting advance service upon the defendants, is granted.

13. For the reasons stated in the application, the same is allowed and



disposed of.

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14. Let the plaint be registered as suit.

15. Upon filing of the process fee, issue summons to the defendants by all permissible modes. Summons shall state that the written statement be filed by the defendants within thirty days from the date of receipt of summons. Along with the written statement, the defendants shall also file affidavit of admission/denial of the plaintiff's documents, without which, the written statement shall not be taken on record.

16. Liberty is given to the plaintiff to file replication within thirty days from the date of receipt of the written statement. Further, along with the replication, if any, filed by the plaintiff, an affidavit of admission/denial of documents of the defendants, 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 the documents, the same shall be sought and given within the timelines.

17. List before the Joint Registrar (Judicial) for marking of exhibits, on 20th December, 2024.

18. List before the Court on 20th March, 2025.

I.A. 43825/2024 (Under Order XXXIX Rules 1 and 2 CPC)

19. The present suit has been filed for permanent injunction restraining the defendants, i.e., defendant nos. 1 to 5, engaged in infringing the plaintiff's exclusive rights and broadcast, reproduction rights, rendition of accounts, damages, etc.

20. It is submitted that the plaintiff is a leading broadcaster in India and is one of the India's fastest growing entertainment networks. It offers multi-



platform, multi-generational and multicultural brand experiences. The plaintiff owns and operates several general entertainment channels and regional channels, such as, Colors, Sports 18 1 SD, Sports18 1 HD, Sports 18 Khel, MTV, MTV Beats, etc. (“Plaintiff’s Channels”), which are broadcasted in more than 130 countries that reach out to more than 150 million viewers every day across all age groups.

21. The plaintiff’s Channels are distributed in India by TV18 Broadcast Limited through its authorized agent India Cast Media Distribution Private Limited. The plaintiff operates its film business through their division “Viacom18 Studios”. The plaintiff is also a reputed production house and film studio, involved in the business of production, acquisition, coproduction, promotion, marketing and distribution of various cinematographic films and audio-visual content in various Indian languages, in multiple formats worldwide including but not limited to theatrical, television syndication, digital and internet connected platforms.

22. It is submitted that the plaintiff also owns and operates the online video streaming platform/ website, www.jiocinema.com and the mobile application, ‘JioCinema’. Jio Cinema enables its viewers to watch television, serials and programs, films, sports content including live sporting events, trailers of upcoming films and television serials, international content including viewing schedules of content offered etc.

23. It is submitted that the plaintiff has acquired rights in several sporting events from the owners of several sporting events *inter alia* – Board of Control for Cricket in India (“BCCI”), Liga Nacional de Fútbol Profesional, and other Sporting authorities including but not limited to Cricket South Africa (“CSA”). Being the license holder of major sporting events, the



plaintiff's Channels and OTT platform are highly popular in sports broadcasting in India. The plaintiff holds broadcasting rights in India for some popular domestic and international events like India Tour of South Africa, Indian Premier League ("IPL"), New Zealand Tour of India, Women's Premier League ("WPL"), Australia Tour of India, etc. The various channels and OTT platform of the plaintiff, on which various general entertainment and sporting content is broadcast, are very popular with Indian audiences and commands high viewership. By virtue of the quality of content and the time, effort and resources expended by the plaintiff, to advertise and promote the OTT platform and channels, the OTT platform and channels of the plaintiff are extremely popular amongst the viewing audiences. The plaintiff's Channels / OTT platform have acquired tremendous goodwill and reputation in the entertainment industry and amongst the people.

24. It is submitted that substantial time, money, skill, labour and effort goes into the organizing, managing, and hosting of sporting events. The organizers have to work throughout the year for successfully conducting matches, which may be limited to a few days or months in a year.

25. It is submitted that one of the primary modes by which an organizer generates revenue to cover all expenses made by it towards the organisation of the sports and towards its development thereof is through sales/ assignment of the media rights i.e., the exclusive rights to exploit, broadcast, stream, communicate and make available the live matches to the largest number of listeners and viewers on various platforms such as TV, Radio, Internet, Mobile etc. The organizer is the exclusive owner of the event, and of all rights related to, and in connection with, such event including but not



limited to the right to broadcast, communicate and make available to the public, the match-play itself and exploit any and all revenue opportunities arising from the event. Such exclusive broadcasting rights are usually transferred by the organizer on a territorial basis to different licensees for various platforms like TV, Radio, Internet, Mobile etc. such that the broadcast of the match is communicated and made available for viewing to the largest number of listeners and viewers.

26. It is submitted that in the age of technology, the exploitation of the media rights of a sporting event has great commercial value, which is valued higher than the revenue generated from admission revenue / ticket sales to the event. It is further submitted that, the opportunities available to make commercial gains from the exploitation of the media rights are highest during the live broadcast / streaming of a match.

27. It is submitted that the plaintiff in the course of its business, has *inter-alia* acquired exclusive commercial rights, including media rights from CSA for all international cricket matches (including Test Matches, ODI Matches or Twenty20 Matches) to be played in South Africa between South Africa's National Cricket Team against any international touring team for a period of 8 years i.e., from 2024 to 2031 ("Tour of South Africa Events"), to exploit the tremendous interest that general members of the public have in the event. The Tour of South Africa Events includes the upcoming India's Tour SA Tour 2024, which is a bilateral Twenty20 cricket series to be played in South Africa between the Indian men's international cricket team and the South African men's international cricket team.

28. It is stated that the plaintiff has entered into the Media Rights Agreement with CSA dated 0^{1st} November, 2022 ("CSA Agreement") for



commercial rights including Media Rights for the Tour of South Africa Events, for the territory of India, for a substantial consideration.

29. It is submitted that these rights *inter alia*, include, rights for the upcoming India's SA Tour 2024, which is a Twenty20 series. The India's SA Tour 2024 will commence from 08th November 2024 and will conclude on 15th November 2024. The said tournament in its edition of 2024 – 2025 will comprise of four T20 matches.

30. It is submitted that the plaintiff has observed that certain rogue websites are infringing their rights and the rights of various third-party owners. The said rogue websites / domain names have been impleaded in the instant suit as defendant nos. 1-5. These rights include but are not limited to the live, delayed, highlights, clips and repeat exhibition of various sporting events, over which the plaintiff has Media Rights, through various platforms for viewing on various devices such as televisions, computers, laptops, mobile phones, tablets, etc. It is submitted that, considering the past experience, the plaintiff apprehends that these rogue defendants and other similar unknown defendants will infringe the plaintiff's rights in Tour of South Africa Events.

31. It is submitted that the plaintiff has paid a significant consideration for the acquisition of the Media Rights in Tour of South Africa Events organised by CSA and by virtue of the same, it has acquired the exclusive rights and license to exploit and/or authorize the exploitation of the Media Rights in the territory of India. Thus, it is submitted that, an entity which does make available to the public the said Tour of South Africa Events, to which the plaintiff owns the Media Rights, including exclusive digital rights in the territory of India, on any platform including the Internet and mobile,



without the authorization of the plaintiff will be interfering with and infringing the Media Rights of the plaintiff vested by virtue of its arrangement with the event organiser and / or the statutory broadcast reproduction right conferred by Section 37 of the Indian Copyright Act, 1957.

32. It is submitted that the plaintiff is also expecting to earn substantial revenue from the broadcast and live streaming of the matches on its digital platform. Earning such revenues is the only way for the plaintiff to recoup the huge investments made in the acquisition of the Media Rights for the said sporting event. The potential opportunities to exploit the Media Rights associated with any event are primarily available during the live broadcast/exhibition of the said event. Thus, the potential opportunities available to the plaintiff to recover its huge investments in acquisition of the Media Rights, is at its highest during its live broadcast/exhibition.

33. It is submitted that defendant nos. 1-5 (“defendant websites”) are various websites engaged in the business of making available to public unauthorized and/or unlicensed third-party content and information, through the medium of internet and mobile transmission.

34. It is submitted that the plaintiff apprehends that the Tour of South Africa Events including the upcoming series of India’s SA Tour 2024, will be made available on the defendant websites without any due authority or prior permission from the right owners / plaintiff. The plaintiff has not licensed or otherwise authorised the owners or operators of the defendant websites to engage in the exercise of any Broadcast Reproduction Rights under Copyright Act with respect to Tour of South Africa Events, which is exclusively licensed to the plaintiff by the CSA. The defendant websites’



primary purpose is to host live sporting event without any permission or authorisation from the lawful rights owners.

35. It is submitted that the plaintiff has filed the present suit against defendant nos. 1 to 5 which are rogue websites, engaged in displaying pirated content in order to reap certain financial benefits out of the investments and efforts of the Media Right holders, including, but not limited to the plaintiff. The websites in question are vehicles of infringement whose whole business model is designed to provide members of the public with access to copyright (broadcast reproduction right) content without any authorization from the plaintiff.

36. It is submitted that it is pertinent to mention that the defendant websites are the mirror websites of the websites already blocked in previous suits. Considering the similar domain names, the plaintiff apprehends that owners of the websites blocked in previous suit and present suit are same. It is submitted that to by-pass court orders, a new website (hydra-headed) is created by the same owner, who was enjoined by this court in previous suits. It is submitted that the content which is offered by the defendant websites is pirated and illegal, infringing the rights of legitimate licensees like the plaintiff who have not authorized these defendant websites to make the content available to public through the internet and mobile platforms.

37. It is submitted that the details of the owners / operators, who manages the defendant websites are not known. These owners are located at unverifiable locations, potentially not even in India. The locations of the servers of these defendant websites are also unknown and may be located across the world. It is submitted that these websites are anonymous in nature, i.e., it is virtually impossible to locate the owners of such websites or



contact details of such owners, as the information provided in the public domain is either incomplete, incorrect and/or protected behind a veil of secrecy.

38. It is submitted that many of these defendant websites hide behind domain privacy services offered by various domain name registrars. Such domain privacy service enables a website owner to hide behind a veil and not disclose any contact details publicly, to protect its privacy. When a website seeks the protection of such domain privacy services, only the information of a forwarding service is made publicly available and no personal details, contact address or e-mail IDs of owners of such websites is made publicly available. Unless the domain name registrars of the respective websites which use such domain, privacy services are directed to disclose the details of the owners of the defendant websites, it would be impossible to get the address, location and contact details of the owners of the defendant websites. It is however submitted that, it is believed that the defendant websites share a common source for the content that infringes the plaintiff's exclusive rights and is made available by them to their users. Further, it appears that several of the defendant websites are using services of common organisations to hide their identity. Thus, she submits that, it is likely that there is a nexus between these defendant websites and that the defendants may be connected, affiliated, or related in some manner.

39. It is submitted that apprehending the massive and blatant infringement of its rights in the plaintiff's Works / Tour of South Africa Events by the defendant websites, the plaintiff has filed the instant suit to restrain the aforesaid unauthorised acts for the protection of their rights, as guaranteed under the Act. It is submitted that to identify and collect evidence against



these rogue websites, the plaintiff engaged the services of third-party investigation agency.

40. It is submitted that the rogue defendant websites earn their revenues either through advertisements dependent upon user traffic, or through advertisement and subscription revenues. These rogue defendant websites not only violate and infringe the exclusive Media Rights of the various right holders like the plaintiff, but also substantially erode and dilute the value of the said rights in the sporting events by taking away significant revenues from all the stake holders.

41. It is submitted that as stated herein above, in order to protect and enforce its exclusive rights, the plaintiff has investigated and monitored the defendant websites and gathered evidence of their infringing activity. It was observed during the period of investigation that the defendant websites will be infringing the plaintiff's content, or will facilitate the same, using or facilitating the use of the defendant websites, by downloading and streaming the plaintiff's content, as the same was being done in the ongoing India Tour of New Zealand 2024.

42. It is submitted that said Domain Name Registrars are engaged in the business of providing domain name registration which help registrants to register and host domains. The plaintiff has arrayed the said registrars as defendant nos.6-8 in order to ensure the effective implementation of any relief that this Court may be inclined to grant in favour of the plaintiff, including suspension of the domain name / account of such rogue defendant websites and for disclosure of contact and account details of the registrants of the rogue defendant Websites.

43. The domain name registrars for each of the rogue defendant websites



are identified and reproduced as under:

Rogue Websites	Domain Name Registrants
mylivecricket-hd.com	Namecheap Inc.
asposrtslive.com	Namecheap Inc.
smartcrichd.com	Namecheap Inc.
tv55.ru	REGRU-RU
ritsatv.ru	TIMWEB-RU

44. Learned counsel appearing for the plaintiff has drawn the attention of this Court to the various documents to point out the home pages of defendant nos. 1 to 5, which show that the defendant nos. 1 to 5 are not only infringing the exclusive right of the plaintiff for the ongoing India New Zealand Series, but also intend to broadcast the India Tour of South Africa Events.

45. In the above circumstances, the plaintiff has demonstrated a *prima facie* case for grant of injunction and, in case, no *ex parte ad interim* injunction is granted, the plaintiff will suffer an irreparable loss. Further, balance of convenience also lies in favour of the plaintiff, and against the defendants.

46. Accordingly, till the next date of hearing, the following directions are issued:

I. Defendants nos. 1 to 5, and/or any person acting on their behalf, are restrained from communicating, hosting, streaming, screening, disseminating or making available for viewing/ downloading, without authorization, any part of the Tour of South Africa Events on any electronic or digital platform, in any manner whatsoever.



II. Defendant nos. 6 to 8, i.e., the Domain Name Registrars, are directed to lock and suspend the domain names of defendants no. 1 to 5 within 72 hours of being communicated a copy of this order by the plaintiff. Further, they shall file an affidavit in a sealed cover disclosing the complete details of defendant nos. 1 to 5, as available with them, including e-mail addresses, mobile numbers, contact details and KYC details, within a period of two weeks from date of communication of this order.

III. Defendant nos. 9 to 15, i.e., ISPs/ TSPs, are also directed to block the websites of defendants nos. 1 to 5, immediately upon receiving copies of this order from the plaintiff. Defendant nos. 16 and 17 are directed to issue necessary directions to all ISPs and TSPs for blocking/ removing access to these websites.

IV. During the currency of the Tour of South Africa Events, if any further websites are discovered, which are illegally streaming and communicating content over which the plaintiff has rights, the plaintiff is granted liberty to communicate the details of such websites to the defendant nos. 16 (DoT) and 17 (MeitY), for issuance of blocking orders, and simultaneously to the ISPs for blocking the said websites, so as to ensure that these websites can be blocked on a real time basis and there is no considerable delay. Upon receiving the said intimation from the plaintiff, the ISPs shall take steps to immediately block the rogue websites in question. Likewise, the DoT and MeitY shall also issue necessary blocking orders immediately upon the plaintiff communicating the details of the websites, which are illegally streaming the Tour of South Africa Events.

V. After communicating details of the rogue websites to the concerned authorities, plaintiff shall continue to file affidavits with the Court in order



to ensure that the Court is fully informed of the websites in respect of which blocking orders are sought.

VI. If any website, which is not primarily an infringing website, is blocked pursuant to the present order, they shall be permitted to approach the Court by giving an undertaking that it does not intend to engage in any unauthorised or illegal dissemination of the CSA Tour of South Africa Events or any other content over which the plaintiff has rights. In such a situation the Court would consider modifying the injunction as the facts and circumstances, so warrant.

47. Issue notice to the defendants by all permissible modes upon filing of the Process Fee, returnable on the next date of hearing.

48. Reply be filed within four weeks from the date of service. Rejoinder(s) thereto, if any, be filed within a period of two weeks, thereafter.

49. In the unique facts of this case, plaintiff is permitted to ensure compliance of Order XXXIX Rule 3 of Code of Civil Procedure, 1908 through email, within a period of ten days from today.

50. Re-notify on 20th March, 2025.

51. Order *dasti* under the signature of Court Master.

MINI PUSHKARNA, J

OCTOBER 29, 2024

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