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

+ CS(COMM) 1201/2024 & I.A. Nos. 49804/2024, 49805/2024,
49806/2024, 49807/2024 & 49808/2024

NOVEX COMMUNICATIONS PRIVATE LIMITEDPlaintiff

Through: Mr. Chander M. Lall, Senior
Advocate with Mr. Jasdeep Singh
Dhillon, Mr. Anirudh Jamwal,
Mr. Rajpal Singh, Ms. Ananya and
Mr. Ishwar Raj Chandra, Advocates.
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versus

BEING FS PACIFIC HOSPITALITY PRIVATE
LIMITED

.....Defendant

Through: None.

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
24.12.2024

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I.A. 49806/2024 (Exemption from filing original and certified 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 originals/certified copies/true typed and legible copies of dim documents.
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.

4. Accordingly, the present application is disposed of.

I.A. 49805/2024 (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. No. 49807/2024 (Application seeking placing on record Digital Versatile Discs (DVD) and Video Compact Discs (VCD))

8. The present application has been filed under Section 151 CPC seeking to place on record Digital Versatile Discs (“DVD”) and Video Compact Discs (VCD).

9. In terms of Rule 24 of Chapter-XI of the Delhi High Court (Original Side) Rules, 2018, it is made clear that electronic records can be received in CD/DVD/Medium, encrypted with a hash value. The said Rule is extracted as below:

“24. Reception of electronic evidence - A party seeking to tender any electronic record shall do so in a CD/ DVD/ Medium, encrypted with a hash value, the details of which shall be disclosed in a separate memorandum, signed by the party in the form of an affidavit. This will be tendered along with the encrypted CD/ DVD/ Medium in the



Registry. The electronic record in the encrypted CD/ DVD/ Medium will be uploaded on the server of the Court by the Computer Section and kept in an electronic folder which shall be labeled with the cause title, case number and the date of document uploaded on the server. Thereafter, the encrypted CD/ DVD/ Medium will be returned to the party on the condition that it shall be produced at the time of admission/denial of the documents and as and when directed by the Court/ Registrar. The memorandum disclosing the hash value shall be separately kept by the Registry on the file. The compliance with this rule will not be construed as dispensing with the compliance with any other law for the time being in force including Section 65B of the Indian Evidence Act, 1872.”

10. Accordingly, Registry may receive electronic record in a Compact Disk (“CD”)/ DVD/ Medium, so long as it is encrypted with a hash value or in any other non-editable format. The CD/ DVD/ Medium containing the videos, be placed in the electronic record of the present suit.

11. Accordingly, the present application is allowed and the plaintiff is allowed to place the videos in a CD/ DVD/ Medium.

12. With the aforesaid directions, the present application is disposed of.

I.A. 49808/2024 (Application seeking extension of time for filing Court Fees)

13. The present is an application under Section 149 read with Section 151 CPC, seeking extension of time for filing Court Fees and regarding payment of One-Time Process Fees.

14. Learned Senior Counsel appearing for the plaintiff, on instructions submits that the requisite Court Fees shall be filed within a period of two weeks.

15. Liberty is granted.

16. With the aforesaid directions, the application is disposed of.



CS(COMM) 1201/2024

17. None appears for the defendant despite advance service.
18. Accordingly, let the plaint be registered as suit.
19. Upon filing of the process fee, issue summons to the defendant by all permissible modes. Summons shall state that the written statement be filed by the defendant within thirty days from the date of receipt of summons. Along with the written statement, the defendant shall also file affidavit of admission/denial of the plaintiff's documents, without which, the written statement shall not be taken on record.
20. 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 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 the documents, the same shall be sought and given within the timelines.
21. List before the Joint Registrar (Judicial) for marking of exhibits, on 19th February, 2025.
22. List before the Court on 19th May, 2025.

I.A. 49804/2024 (Application under Order XXXIX Rules 1 and 2 CPC)

23. The present suit has been filed for permanent injunction restraining infringement of copyright, damages, rendition of accounts, profits etc.
24. Learned counsel appearing for the plaintiff submits that by way of the present proceedings, the plaintiff seeks permanent injunction along with all other consequential reliefs against the defendant, who is in an unauthorized manner, illegally, dishonestly and with *mala fide* intent using and



commercially exploiting the rights of the plaintiff in varied sound recordings, without the knowledge, permission or authority of the plaintiff.

25. It is submitted that the plaintiff company was established in 2002 and today, it is a well renowned name in Broadcasting and Media solutions. Starting off as a leading satellite channel distribution company in India in its formative years, the plaintiff has since diversified into a wide array of services.

26. It is further submitted that the plaintiff today is the copyright owner of a large repertoire of sound recordings. For the utilization of its sound recordings for on-ground performances, the plaintiff grants authorization/licenses to hotels, restaurants, lawns, discotheque, resorts, malls, stadiums and other venues, users and entities for communication to the public. The repertoire of sound recordings owned by the plaintiff includes the sound recordings of music labels including Zee Entertainment Enterprises Limited (“ZEE”), Tips Industries Limited (“TIPS”), SPI Music Private Limited (“Think Music”), Red Ribbon Entertainment Private Limited, Sukhbir Singh Jandu, Sai Productions, MS Music Label (Mr. Mika Singh), Kalamkaar Music Pvt. Ltd and Velvet Vibes. The plaintiff is also the authorized agent and authority holder of Yash Raj Films Private Limited.

27. It is submitted that the defendant is the owner of the brand ‘Romeo Lane’ and all the restaurants/cafes operated under the said name, including ‘Birch by Romeo Lane’ situated at *SH/TRC/05, Fifth Terrace Floor, Pacific Mall, Netaji Subhash Place, Pitampura, New Delhi- 110034*. The defendant is directly responsible for the running, operating and managing all ‘Romeo Lane’ restaurants/cafes all over the country, including ‘Birch by Romeo Lane’.



28. It is further submitted that the defendant in the normal course of business, organizes various commercial events, parties, social functions etc. at the aforementioned venues throughout the year where the sound recordings of the plaintiff are publicly performed without any license or consent of the plaintiff. The defendant also uses the sound recordings on a day to day basis in their premises. These sound recordings are stored on various mediums including compact discs, hard disks, tapes, laptops, pen drives, etc. which are retained at the premises or are brought for their use at the premises of the defendant.

29. The list of restaurants/cafes owned by the defendant and operating under the name of 'Romeo Lane', as given in the plaint, are reproduced as under:

S. No.	Venue	Location
1.	Romeo Lane, Civil Lines	Delhi
2.	Romeo Lane, Defence Colony	Delhi
3.	Romeo Lane, Gurgaon	Haryana
4.	Romeo Lane, Yamuna Nagar	Haryana
5.	Romeo Lane, Meerut	Uttar Pradesh
6.	Romeo Lane, Lucknow	Uttar Pradesh
7.	Romeo Lane, Bhopal	Madhya Pradesh

	Romeo Lane, Vagator	Goa
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30. It is further submitted that the present suit is an action for copyright infringement for past acts of the defendant and also *Quia Timet* action for



apprehended future violations by the defendant.

31. It is submitted that the plaintiff is the owner of certain copyright in “Sound Recordings”. In this regard the plaintiff has obtained assignments of, and exclusive control over copyright in sound recordings, more particularly set out in the said Assignments. The plaintiffs repertoire consists of large numbers of songs belonging both to the film and non-film genre both in Hindi and regional languages.

32. It is further submitted that in order to enable users of “sound recordings” to determine whether any particular “sound recording” belongs to the plaintiff, ZEE, TIPS, THINK MUSIC, RED RIBBON, SAT, MS Music Label, Kalamkaar and YRF have made available a list of the music labels and the Copyright owner thereof on the website of the plaintiff. Further, in compliance of Section 52A(1) of the Copyright Act, each physical copy of a sound recording available in the market contains complete details of the ownership of copyright subsisting therein. Thus, from the name of the music label, which is prominently displayed on each CD or other physical format, users of sound recordings will be conveniently able to identify whether the sound recording falls within the copyright owner’s repertoire merely by checking the record label name against the said list available on its website. The plaintiff craves leave to refer to and rely upon material in this regard when produced.

33. It is submitted that the plaintiff’s sound recordings are amongst the most popular repertoires which are played by the defendant at their restaurants/cafes. The playing of the plaintiff’s sound recordings by the defendant at their premises leads to increase in the footfall and attractiveness of these events and also adds to the entertainment value of these events,



based on which the defendant earns huge revenues and profits, thereby illegally enriching itself, at the cost of the plaintiff.

34. It is further submitted that various entities including the defendant herein, use the plaintiff's copyrighted sound recordings as a matter of deliberate commercial choice, with the simple object of maximizing their profits.

35. It is submitted that recently, it was brought to the notice of the officials of the plaintiff that the defendant is continuously playing its sound recording at its various restaurant/cafes/venues, without procuring the requisite licenses from the plaintiff. This despite the fact that the defendant being in the hospitality and restaurant business is very well aware that it is mandatory to procure the requisite licenses to play the said sound recordings under the Copyright Act, 1957.

36. It is further submitted that in order to confirm the same, the representative of the plaintiff visited the 'Birch by Romeo Lane' situated at *SH/TRC/05, Fifth Terrace Floor, Pacific Mall, Netaji Subhash Place, Pitampura, New Delhi - 110034*.

37. It is submitted that on 19th December, 2024 of the plaintiff's representative visited 'Birch by Romeo Lane', where he was shocked to find out that the defendant was playing the sound recordings of the plaintiff. At the said venue, the defendant blatantly infringed the copyright of the plaintiff by playing the sound recordings without the requisite authorization.

38. It is further submitted that the details of the plaintiff's sound recordings which were played by the defendant at the 'Birch by Romeo Lane' on 19th December, 2024 without obtaining the requisite permissions are as follows:



S. No.	Label	Song	Movie
1.	YRF	Besharam Rang	Pathaan
2.	ZEE	Mahi Aaja	Singh is Bliing
3.	ZEE	Sau Aasmaan	Baar Baar Dekho
4.	ZEE	ABCD 2	Sun Sathiya
5.	ZEE	Maiyya Mainu	Jersey
6.	ZEE	DaDa Dasse	Udta Punjab

39. It is submitted that from the conduct of the defendant, it is clear that the defendant are blatantly infringing the rights of the plaintiff. It is submitted that the defendant are acting without any non-exclusive public performance rights in sound recordings and/or authorization from the plaintiff. The plaintiff submits that the defendant is very well aware of the plaintiff's copyrights and the plaintiff has made all *bona fide* attempts to stop the defendant from infringing the plaintiff's rights but to no avail. It is hence submitted that the conduct of the defendant is completely dishonest. The plaintiff further apprehends that the defendant has infringed, or is in the process of infringing various other sound recordings owned by the plaintiff.

40. It is further submitted that the defendant is not only itself infringing the copyright of the plaintiff on a regular basis, but are also abetting the same by their conduct.

41. It is submitted that in view of the conduct of the defendant, it is clear that the defendant is infringing the plaintiff's intellectual property rights and are also causing losses to it. The plaintiff further apprehends that the



defendant continues to infringe the plaintiff's rights and shall continue to do so, unless restrained by this Court. The plaintiff, thus, submits that the present suit is one for infringement in the past as also a *Quia Timet* action for infringement of copyright in the sound recordings of the plaintiff.

42. It is further submitted that the Sound Recording industry is already significantly prejudiced due to large scale piracy and widespread infringement in all media, including public performance, on the internet and otherwise. The conduct of the defendant herein will even affect the willingness of others to obtain the non-exclusive public performance rights in sound recordings, and thus have a snowballing effect increasingly damaging the business of the plaintiff. Not only are the creation and/or acquisition of rights in sound recordings a capital intensive-business, but the entire music industry depends on the revenues that the sound recording industry generates, being the point of consumer interface.

43. It is submitted that in order to keep users abreast of whether the former enjoys copyright in sound recordings, the entire repertoire of the plaintiff is available on its website www.novex.in. The plaintiff, thus, states that the plaintiff's entire repertoire is in the public domain and known to all, and the defendant cannot feign ignorance of the same.

44. It is further submitted that in view of the conduct of the defendant, the plaintiff seriously apprehends that at any such events that may be organized by the defendant, the defendant may further infringe the rights of the plaintiff and that it shall also abet the infringement of the plaintiff's copyright.

45. It is submitted that the defendant is illegally utilizing the rights which it admittedly do not have. In any event, it is clear that defendant is infringing



the plaintiff's rights. It is submitted that the Copyright Act authorizes the plaintiff to issue licenses and sue for infringement. It is submitted that the balance of convenience is in favour of the plaintiff for grant of not only *interim* and *ad-interim* reliefs, but that of the final relief as well.

46. Learned Senior Counsel appearing for the plaintiff has handed over additional affidavit on behalf of the plaintiff, to submit that on previous occasions also, FIR was lodged on behalf of the plaintiff against the defendant for using the sound recording of the plaintiff, without requisite license. The said additional affidavit is taken on record.

47. 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 defendant.

48. Accordingly, till the next date of hearing, it is directed that the defendant, its partners, directors, their servants, employees, agents, assignees, licensees, lessees, representatives, third party event management companies, third party event organizers or otherwise and/or any person claiming through them or acting on their behalf, are restrained from using, playing, exploiting or publicly performing, or in any manner communicating the sound recordings of the songs assigned and /or authorized to the plaintiff or allowing their premises including the 'Birch by Romeo Lane', as well as the list of restaurants/cafes as mentioned in the present order or any other premises, under their control to be used for the said purposes in any event, party or function as well other in-house uses in the venues/events etc. of the defendant without license from the plaintiff, or otherwise infringing the



copyright in any of the works owned or administered by the plaintiff, as updated from time to time.

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

50. Let reply be filed within a period of four weeks.

51. Rejoinder thereto, if any, be filed within two weeks, thereafter.

52. Compliance of Order XXXIX Rule 3 CPC, be done, within a period of two weeks.

53. List before the Court on 19th May, 2025.

MINI PUSHKARNA, J

DECEMBER 24, 2024

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