

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 432 OF 2023

IN

COMMERCIAL IPR SUIT NO. 560 OF 2022

Sony Music Entertainment India Pvt. Ltd.

...Applicant/
Plaintiff

Versus

Ilaiyaraaja Music Management Pvt. Ltd. & Ors. ...Defendants

Mr. Virag Tulzapurkar, Senior Counsel a/w Mr. Nikhil Sakhardande, Senior Counsel, Mr. Amit Jamsandekar, Mr. Vignesh Kamat, Mr. Vaibhav Shukla, Ms. Architra Gharat, Ms. Puja Uday Bakshi, Mr. Swanand Tarde i/by Prabhakar M. Jadhav for the Plaintiff.

Mr. Dhond a/w Mr. R. Khandekar, Ms. K. Khanna, Mr. Henal Vakharia i/by Henal Vakharia & Associates for the Defendants.

CORAM : R.I. CHAGLA J

DATE : 24 August 2023

ORDER :

1. The Interim Application No. 432 of 2023 has come up for hearing before this Court. Pleadings have been completed.

2. Mr. Dhond, the learned Senior Counsel appearing for the Defendants has raised preliminary objection with regard to hearing of

the Interim Application. This is on the ground that when the Suit was filed, the Interim Application taken out proceeded on the premise that the High Court of Judicature at Madras by a decree dated 4th June 2019 in CS No. 625 of 2014 filed by Ilaiyaraaja *inter alia* held that Echo Recording Company Private Limited who had assigned the copyright in the subject sound recordings to Oriental Records, USA and thereafter, to the Plaintiff was entitled to exploit the same, specifically and strictly in the form and manner as contained in the respective cinematograph films only.

3. Mr. Dhond has referred to the order passed by the Madras High Court in Appeal bearing OSA No. 29 of 2022 and CMP No. 2334 of 2022, wherein the Madras High Court has stayed the aforementioned part of the decree dated 4th June 2019. He has submitted that in view of the stay of the decree, the Interim Application be stood over as there will be two parallel proceedings determining the owner of copyright in the subject sound recordings. Further, the assignment to the Plaintiff will depend on whether Echo Recording Company Private Limited is the owner of the copyright in respect of the subject sound recordings.

4. Mr. Virag Tulzapurkar, the learned Senior Counsel appearing for the Applicant/Plaintiff has submitted that a mere interim stay of part of the decree by the Appellate Court does not amount to the findings of the Trial Court being obliterated. The Appeal is still to be considered by the Division Bench of the Madras High Court. He has submitted that in the present Suit, the Interim Application is required to be heard.

5. Mr. Tulzapurkar has also sought liberty to file Interim Application for joining Ilaiyaraaja, who was the Plaintiff in the Suit before the Madras High Court being C.S. No. 625 of 2014, in view of the aforementioned part of the decree being stayed. He has further sought leave to file Interim Application for bringing the Assignment Agreements on record. The Plaintiff had placed reliance upon the Assignment Agreements which were not annexed, in view of the decree having been passed by the Madras High Court against Ilaiyaraaja who claimed to be the owner of copyright in respect of the subject sound recordings.

6. Having considered the submissions, it would be necessary to consider the aforementioned issues at the hearing of the

Interim Application. Further, liberty is granted to the Applicant/Plaintiff to file Interim Application for annexing the Assignment Agreements which were not annexed with the Plaint and Interim Application and for seeking amendment of the cause title of the Suit for joining Ilaiyaraaja as Defendant and consequential amendments thereto.

7. The Applicant/Plaintiff shall file Interim Application within a period of two weeks from the date of this order.

8. The Defendants are at liberty to file Affidavit in Reply within a period of two weeks thereafter.

9. The Interim Application, if filed, shall be placed for hearing on 25th September 2023, high on board along with the above Interim Application No. 432 of 2023.

[R.I. CHAGLA J.]