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

INTERIM APPLICATION (L) NO.20629 OF 2023
IN
COM IPR SUIT (L) NO.20248 OF 2023

Phonographic Performance Ltd.

...Applicant /
Plaintiff

Versus

Brewshire India & Ors.

...Defendants

Amogh Singh, Jeenal Upadhay, Aditya Upadhay, Pranali Tulaskar and
Akshaya C. for the Applicant / Plaintiff.

CORAM : R.I. CHAGLA J.
DATE : 11TH JULY, 2024.

ORDER :

1. Heard the learned counsel for the Applicant / Plaintiff.
2. This Court is informed that the Defendants were served with notice. Affidavit of Service is tendered, which is taken on record. None appears on behalf of the Defendants.
3. The Plaintiff claims to own and control as licensee the

public performance rights of around 400 music labels, with more than 45 lakhs of international and domestic sound recordings. It claims to be exclusively entitled to grant licences for communication to the public / public performance of its repertoire of sound recordings under Section 30 of the Copyright Act, 1957. It is stated that the details of such sound recordings are available on its website, as specifically mentioned in paragraph No.6 of the Plaintiff.

4. The learned counsel appearing for the plaintiff submits that the plaintiff has been issuing event-specific or annual licences for broadcast of such sound recordings in which, the plaintiff holds copyrights and assignment deeds have been executed with various third parties in this context.

5. It is alleged that in the premises of the defendant, sound recordings of which, the plaintiff holds copyrights have been unauthorizedly broadcasted, thereby infringing the rights. The plaintiff has placed on record affidavit of its representative who claimed to have visited the premises of the defendants on 27th June, 2023, when some of the sound recordings, for which the

plaintiff claims copyright, were allegedly played. A CD is also placed on record.

6. The Plaintiff had sent a legal notice on 22nd June, 2023 to the defendants to desist from such activities. But, there was no response on the part of the Defendants.

7. Having considered the case made out by the Plaintiff for ad-interim relief, although the learned Advocate for the Defendants has sought time to file Affidavit in Reply. However, considering that the Plaintiff is seeking ad-interim relief in terms of prayer Clause (a) and this Court considers this is an appropriate case for grant of ad-interim relief without waiting for the Affidavit in Reply of the Defendants, the same is required to be granted. Further, this Court is convinced that balance of convenience is also in favour of the Plaintiff and that in absence of ad-interim relief, the Plaintiff is likely to suffer grave and irreparable loss due to the continuing infringement of its copyright.

8. In view of the above, there shall be ad-interim relief in terms of prayer clause (a), which reads as follows:

That pending the hearing and final disposal of this Suit, this Hon'ble Court be pleased to issue an order of injunction restraining the Respondents, its partners, directors, servants, employees, agents, assignees, licensees, representatives, third party event management companies or otherwise and/or any person claiming through them or acting on their behalf from publicly performing or in any manner communicating the sound recordings of the songs assigned and authorized to the Applicant or allowing their premises or any premises under their control to be used for the said purpose, without obtaining non-exclusive public performance rights/license in sound recordings from the Applicant or otherwise infringing the copyright in any work owned and protected by the Applicant;

9. List the application for further consideration on 30th July, 2024.

10. Ad-interim relief granted by this Court shall continue to operate till next date.

[R.I. CHAGLA J.]