



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

INTERIM APPLICATION (L) NO. 23566 OF 2025
IN
COMMERCIAL IP SUIT (L) NO. 23358 OF 2025

Phonographic Performance Limited

...Applicant/Plaintiff

Versus

Airplaza Retail Holdings Private Limited
(Vishal Mega Mart) and Others

...Respondents

Mr. Amogh Singh, Mr. Jeenal Upadhyay, Mr. Aditya Upadhyay, Mr. Mani, Ms. Purva Autade for Plaintiff.

Coram : Sharmila U. Deshmukh, J.

Date : 15th December, 2025.

P. C. :

1. Interim Application has been preferred after notice to the Defendant for injunction restraining the Respondents from publicly performing or communicating in any manner whatsoever the sound recording of the songs assigned to the Plaintiff or allowing their premises to be used for the said purpose without obtaining the license in the sound recording from the Plaintiff and otherwise infringing the copyright.
2. Mr. Singh tenders the Affidavit-of-service which is taken on record. The Affidavit-of-service evidences that service has been effected upon. However, none appears on behalf of Defendants.
3. Mr. Singh would submit that the Plaintiff is the owner of

copyright in the sound recordings repertoire on the basis of the assignment/exclusive agreements of the relevant copyright in its favour and is therefore, entitled to exclusively grant licenses for broadcast of sound recordings under Section 30 of Copyright Act, 1957. He submits that Defendant is well-aware that the license is required to be obtained before the sound recording is to be communicated to the public. He submits that as the license was not obtained, the representative of the Plaintiff visited the Defendant's premises in order to verify whether the sound recordings are unauthorizedly broadcasted and points out to the Affidavit dated 2nd April, 2025, 26th June, 2025 and 11th April, 2025 filed by the representative stating that on his visit, he found the sound recordings of the Plaintiff being played for commercial exploitation which has been video recorded.

4. The DVD of the aforesaid recording is tendered and the same is taken on record. Mr. Singh would submit that the right of the Plaintiff to issue license and to prevent the unauthorized broadcasting of the sound recording has been upheld by the learned Single Judge of this Court by order dated 24th January, 2024 as the objection therein was that the Plaintiff without being registered as Copyright Society could not claim an exclusive right on the sound recording. He submits that in a separate suit, the Delhi High Court held that in order to recover license fee, it was necessary for the Plaintiff therein to be registered as Copyright Society which was challenged before the Apex Court. He submits that the clarification was sought from the Hon'ble Apex Court and by order dated 19th June, 2025, the Hon'ble Apex Court has clarified that the order of 21st April, 2025 would be binding *inter se* between the parties to the suit which was pending before the Delhi High Court. He submits that in view thereof, the decision of this Court has not been interfered with by the Hon'ble Apex Court and thus, the

Plaintiff is entitled to maintain an action of infringement of copyright in the sound recordings.

5. The fact that the Defendant had obtained license from the Plaintiff for the purpose of communicating the sound recording to the public for commercial purpose *prima facie* constitutes an admission that the Plaintiff is the owner of the copyright in the sound recording on the basis of Assignment Agreement executed by certain music companies. That being the position, the Plaintiff is exclusively entitled to grant license for broadcasting the sound recording under Section 30 of Copyright Act, 1957. The Affidavit of representative of the Plaintiff states that upon visit to the Defendant's premises on 25th February, 2025, 28th February, 2025 and 1st March, 2025, it was found that the sound recording in which the Plaintiff holds the copyright were being unauthorizedly broadcasted. At this stage, there was no response by the Defendant though being served. *Prima facie*, the Affidavit of representative of the Plaintiff will have to be accepted. Thus, the contention that the Defendants are unauthorizedly broadcasting the sound recordings of the Plaintiff are *prima facie* proved by the Affidavit when considered with the factum of previous license procured by the Defendant which has been expired and not being renewed.

6. In light of above, ad-interim relief is granted in terms of prayer clause (a) which reads as under:

"(a) 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 transferred to the Applicant or allowing their premises or any other 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.”

7. Stand over to **9th January, 2026.**
8. Ad-interim relief granted earlier to continue till the next date.

[Sharmila U. Deshmukh, J.]