

* **HIGH COURT OF DELHI : NEW DELHI**

+ **CS (OS) No. 2378/2007**

Reserved on: 27th May, 2009

% Decided on: 12th October, 2009

Super Cassettes Industries Ltd. 1 ...Plaintiff
Through : Mr. K.K. Khetan, Adv.

Versus

Mr. Uttam Khan & Ors. ...Defendants
Through : None

Coram:

HON'BLE MR. JUSTICE MANMOHAN SINGH

1. Whether the Reporters of local papers may be allowed to see the judgment? No
2. To be referred to Reporter or not? No
3. Whether the judgment should be reported in the Digest? No

MANMOHAN SINGH, J.

1. By this order I shall dispose of CS (OS) No. 2378/2007 filed by the plaintiff under Order 39 Rules 1 and 2 read with Section 151 of the Civil Procedure Code, 1908 for permanent injunction restraining the defendant from infringing the plaintiff's copyright and for damages.

2. The brief facts of the case are that the plaintiff has been engaged in the business of manufacturing and marketing audio cassettes, video cassettes, compact disks, televisions, CD Players, fans, mineral water and various other products. The plaintiff is the proprietor of T-Series, which is a household name as regards the music industry in India.

As per the plaintiff, T-Series is solely responsible for the upward rise of various creative artists, be it in the field of music or television or films. The plaintiff has listed the names of many artists from all these industries, submitting that it has made significant contribution to the cultural wealth of the country.

3. The plaintiff submits that it has Sample Assignment deeds which are signed by the artists which it relies upon to exploit its copyrights. It is admittedly only by exploiting these copyrights that the plaintiff is able to pursue and sustain its creative output and continuous offering of opportunities. The plaintiff has a copyright licensing program under its 'T-Series Public Performance License Scheme (TPPL Scheme)' wherein it routinely grants licenses to restaurants, nightclubs, hotels, airlines, radio stations, cable TV operators etc for the use of works in which it has copyright.

4. Defendant no. 1 is the officer in charge of Defendant no. 3, M/s Maharaja Cable Network, 112/10, Civil Line, Ajmer, Rajasthan. Defendant no. 2 is believed to be the proprietor of the office of Defendant no. 3, the same being situated at C-29, Bhagwan Das Road, C-scheme, Jaipur, Rajasthan. The plaintiff alleges that defendant no. 3 has been exploiting the sound recordings as well as the lyrics, musical compositions and music videos that are copyrights of the plaintiff and such unlicensed use of the same on cable television network amounts to infringement of such copyright. The plaintiff was apprised of the said situation on October 15, 2007 by its representative who ascertained that

the defendants were exploiting its work. The plaintiff submits that it first sent a letter dated October 17, 2007 to defendant no. 1 informing him of its TPPL Scheme, followed by legal notices – all of which the latter did not acknowledge.

5. The plaintiff contends that the defendants have been regularly and repeatedly broadcasting the copyrighted work of the plaintiff to cable subscribers thus breaching the said copyrights and that the defendants exhibit full intention to continue the afore-said infringement as they have declined to pay the requisite license fee to the plaintiff. It has also been submitted that the plaintiff has suffered substantial loss on account of the defendants' infringing activities, as it partly depends on the license income which is generated by its copyrighted work. The defendants' have infringed the exclusive rights of the plaintiff under Section 14 (a) (iii) and Section 14 (e) (iii) of the Copyright Act, 1957.

6. It was noted in the Joint Registrar's order dated January 14, 2009 that though defendants no. 1 and 3 were served through courier on January 2, 2008, they both refused to accept the same. This Court, by order dated January 16, 2009 observed that despite service of summons, the defendants neither appeared before the Joint Registrar nor appeared before the Court. By the said order the defendants were proceeded against ex-parte and the plaintiff was directed to produce evidence by way of affidavit within six weeks. Evidence by affidavit of Mr. S.K. Dutta was filed on March 27, 2009 and his statement was recorded on April 29, 2009.

7. I have perused the plaintiff's submissions as well as the evidence on record. Clearly, the plaintiff is a leading name in the music industry in particular and the entertainment industry in general with a repertoire of innumerable cinematographic films and sound recordings. By random monitoring in October 2007, the plaintiff first came to know of the defendants' activities after which it attempted to inform the defendants of its licensing scheme. However, the defendants have ignored all advances, starting from the plaintiff's letter to this court's summons. The representative of the plaintiff, Mr. Yogesh Sharma, has filed an affidavit and filed CD's with the court showing the unlicensed usage of the plaintiff's work by the defendants. The defendants have been in continued breach of the plaintiff's copyrights and are seeking to unfairly gain an advantage over other Cable TV operators who have recognized the plaintiff's copyrights and have entered into valid public performance license agreements with the same.

8. Learned counsel for the plaintiff has given up his claim against defendant no. 2 and an order in this respect has been passed on 7th October, 2009. I hereby restrain permanently all the other defendants, their officers, servants, agents and representatives and anyone acting for or on their behalf from engaging themselves or authorizing the public performance or communicating to the public or in any other way exploiting films, sound recordings and literary

works (lyrics) and musical compositions or other work or part thereof of the plaintiff.

9. The decree be drawn accordingly. The suit as well as the pending applications are disposed of accordingly.

MANMOHAN SINGH, J.

October 12, 2009

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