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

+ **FAO(OS) 561/2013**

PHONOGRAPHIC PERFORMANCE LIMITED Appellant

Through : Mr. Arvind Nigam, Sr. Adv. with
Mr. Neeraj Kumar Gupta, Adv.

versus

MUSIC BROADCAST PVT LIMITED & ANR. Respondents

Through : Mr. Sandeep Sethi, Sr. Adv. with
Ms. Meghna Mishra, Mr. Akhil Sachar
and Ms. Manmeet Kaur, Advs. for
R-1/MBPL.

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **03.12.2013**

Cav. No.1103/2013

Since there is representation on behalf of the respondents, the
caveat stands discharged.

CM Nos. 19236/2013 & 19237/2013(both applications for exemption)

Allowed, subject to all just exceptions.

The applications stand disposed of.

FAO(OS) 561/2013 & CM 19235/2013(stay)

This appeal is directed against the order dated 18th November, 2013
passed by a learned Single Judge of this Court in CS(OS) No. 2119/2013

and IA No.17621/2013(u/ O.XXXIX R 1 & 2 CPC). In the present appeal, the only point that has been urged before us is that the learned Single Judge has arrived at a conclusion that the Original Side of the Delhi High Court has territorial jurisdiction to entertain the suit filed on behalf of the respondent No.1/plaintiff. It is the contention of Mr. Nigam, learned senior counsel appearing on behalf of the appellant that this Court would not have territorial jurisdiction in this matter inasmuch as, the plaintiff concerns itself with the cancellation of compulsory licences. He referred to the decision in A.B.C. Laminart Pvt. Ltd. & Anr. v. A.P. Agencies, Salem : (1989) 2 SCC 163 wherein in paragraph 15, it has been observed that in case of repudiation of a contract, the place where repudiation is received is the place where a suit would lie. According to Mr. Nigam, the cancellation notices were not only received in Mumbai itself by the respondent No.1 but had also been issued by the appellant/defendant No.2 in Mumbai and, therefore, it is only the courts at Mumbai which would have jurisdiction. On the other hand, Mr. Sethi, learned senior counsel appearing on behalf of respondent No.1 submitted that this Court would certainly have territorial jurisdiction to entertain the suit inasmuch as, a part of the cause of action arose in Delhi. In support, he submitted that the compulsory licences which are the subject

matter of the suit were issued by the Registrar of Copyrights in Delhi. Apart from other circumstances, he submitted that the respondent No.1/plaintiff was also running a Radio Station at Delhi. Therefore, according to Mr.Sethi, the Courts in Delhi would have jurisdiction. He also submitted that the order of the Copyright Board whereunder compulsory licences were issued was also passed in Delhi.

In any event, we find from the impugned order itself, that the learned Single Judge has observed in paragraph 18 that anything said in the order would not be an expression of final opinion on the merits of this case. According to Mr. Sethi, the learned Single Judge has yet to decide, conclusively, as to whether this Court has territorial jurisdiction or not and the next date of hearing is fixed on 21st January, 2014. In view of the fact that the question of territorial jurisdiction is yet to be decided by the learned Single Judge, we refrain from making any comments thereon and direct the parties to await the final decision on the subject by the learned Single Judge when the matter is taken up on 21.01.2014.

In the meanwhile, of course, as stated by Mr. Nigam, the appellant would file the written statement and the reply to the IA 17621/2013.

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With these observations, we dispose of the present appeal as not pressed at this stage.

Amplified.
BADAR DURREZ AHMED, J

Vibhu Bakhru
VIBHU BAKHRU, J

DECEMBER 03, 2013
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