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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 409 OF 2016
IN
SUIT NO. 94 OF 2016

Maganlal Savani & International Film Distributors Private Limited	...Plaintiffs
<i>Versus</i>	
Gala Entertainment Corporation	...Defendant

Mr. A. Davar, *a/w Ms. Seema S. Hunnurkar*, *for the Plaintiffs.*
None *for the Defendant.*

CORAM: G.S. PATEL, J
DATED: 8th August 2016

PC:-

1. The Defendant is absent though served. There is an Affidavit of Service dated 29th April 2016 of one Mr. Kamlesh Sontate, a Clerk in the Offices of Ms. Seema Hunnurkar. The Affidavit states that the Defendant was served at its address in California, USA by courier. Proof of delivery is annexed. The amended Plaint was also served by courier. Paragraph 6 of the Affidavit demonstrates service by email. However, there is an intervening notice about the future listing of the matter, the envelope of which was returned with a remark "refused". That return is of no consequence since the papers have admittedly been served.

2. The case of the Plaintiffs briefly stated is that the Plaintiffs are the assignee of diverse rights in respect of 44 motion pictures. A list of these motion pictures is set out in paragraph 5 of the Plaint. The tabulation shows the territories for which the Plaintiffs have these rights.

3. The Plaintiffs have filed several Suits in this Court against various persons since the Plaintiffs claim to have similar rights in respect of some 400 odd films.

4. The Plaintiffs say that in 2009, the Plaintiffs learnt that the Defendant had claimed to have acquired rights to some of the films which are the subject matter of the Suit. The Plaintiffs wrote to the President of the Defendants on 14th March 2009. The Plaintiffs say that although there was no Reply, there was no further telecast of the movies as described in a previous Public Notice dated 16th October 1999 and 23rd October 1999 where the Defendant had notified claims to various feature films and to which the Plaintiffs had responded by their letter of 23rd October 1999 and 30th October 1999.

5. More recently, the Plaintiffs found an advertisement dated 16th January 2015,¹ issued by the Defendant advertising a list of films with their respective dates and timings of proposed telecast. Hence, this Suit.

1 Plaint, Exhibit "D", p. 31.

6. The Plaintiffs say that they have the sole and exclusive rights for the defined territories in respect of these 44 films. The Defendant's notice is for a worldwide telecast. This was so stated in the notice of 1999. However, the notice of 2015 on the basis of which the Plaintiffs have come to Court does not indicate the territories in which the telecast is proposed. The Plaintiffs do not have complete overseas rights for all 44 films. In fact, for the films listed at Serial Nos. 23, 27, 29, 32, 33, 34, 35, 39, 41, 42, 43 and 44 their rights are restricted to the specified territories. For many of the others, although the Plaintiffs say that they have complete overseas rights, there are important exclusions for each of these. For example, for the film at Serial No. 2, *Aan Milo Sajna*, the Plaintiffs claim to have complete overseas rights excluding India, Pakistan and Burma. This is also true of the films at Serial Nos. 3, 4, 6, 8, 10, 11, 13, 14 and others. This would mean that the Defendant's telecast of these films for these excluded territories is not in violation of the Plaintiffs' rights. The Plaintiffs have not said anywhere in the Plaint that the proposed telecast by the Defendant violates the existing right of the Plaintiffs in the territories over which the Plaintiffs' rights are extended. It is not every broadcast that is *per se* illicit or in violation of the Plaintiffs' rights. Exhibit "D" on its own does not indicate that the proposed broadcast by the Defendants would constitute a violation of the Plaintiffs' rights for all 44 films. In fact, there is only one film, namely, the one at Serial No. 1 for which the Plaintiffs can claim to have complete overseas rights. I am unable to check whether the averments in the Plaint and tabulation is correct. While in the Plaint the Plaintiffs say that there is a separate compilation of agreements is to be filed, there is no such separate compilation filed. It is very difficult on these pleadings and on these

averments in the Complaint to grant the Plaintiffs the relief sought. The Affidavit in Support of the Notice of Motion also does not clarify this.

7. Without more accurate pleadings and without further particulars and without copies of the agreements, it is not possible to grant the reliefs sought.

8. The Notice of Motion is dismissed with no order as to costs. However, the Plaintiffs are at liberty to file a fresh Notice of Motion for the same reliefs after furnishing further and better particulars.

(G. S. PATEL, J.)