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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 403 OF 2015
IN
SUIT NO. 924 OF 2009**

Neha Sharad Joshi ...Plaintiff
Versus
Sunanda Sampooran Oberoi & 4 Ors. ...Defendants

Ms. Neeta Jain, *with Ms. Shalaka Mali, i/b Ashok Purohit & Co., for the Plaintiff.*
Mr. Avinash R.B., *i/b MNSQ Legal, for the Applicant.*
Ms. Ambreen Saheed, *i/b MDP & Partners, for Defendant No. 2.*
Mr. Rohan Sawant, *with Ms. Apeksha Sharma & Mr. S. Kadam, & Mr. Deepak F., i/b Kadam & Co., for Defendant No. 3.*

CORAM: G.S. PATEL, J
DATED: 17th June 2016

PC:-

1. The Suit is an action in copyright infringement. Issues have been framed. The Suit is at the stage of marking the Plaintiff's documents.
2. The Plaintiff had earlier filed Chamber Summons No. 1075 of 2014. This was disposed off by Mr. Justice S.C. Gupte on 29th February 2016. Amongst the directions in that order, was one that

should the 2nd Defendant, viz., Red Chillies Entertainment, have in its possession any of the original tapes, VCDs or DVDs or any other material of the serial *Ghar Ki Hai Baat*, these would be made available for inspection to the Plaintiff. The 2nd Defendant does indeed have such tapes/recordings.

3. Now the only question is of the relevant format, i.e., whether this should be given to the Plaintiff in Digibeta format or in DVD format. There is a cost element to both. The Digibeta costs Rs. 68,700/- and DVD costs Rs. 42,365/- to supply. By its letter dated 15th April 2016, the Advocates on record for the 2nd Defendant have offered the Plaintiff the choice of either format but against payment of these costs. I do not see how the Plaintiff's gathering of evidentiary material can be held up on this basis. There is no doubt that these tapes are evidence and are relevant. There is also no doubt that the evidence exists and is in the possession of the 2nd Defendant. It cannot be kept from production in evidence by the Plaintiff only on the ground of costs. I could, for instance, under our Code of Civil Procedure, 1908, compel the production of this evidence from the 2nd Defendant given that the 2nd Defendant acknowledges the existence of this material. Were I to do so, there would be no question of paying the 2nd Defendant 'costs'. If that be so, then I do not see how the question arises of the Plaintiff having to pay costs for evidence legitimately required for the proper determination of the suit. I believe Ms. Jain for the Plaintiff is completely correct in her submissions in this behalf. She has, with her usual fairness, suggested that she will make the necessary formal application in this regard. While Ms. Jain's approach is to be commended, I do not think it is necessary to further delay matters.

Her submissions will remain unchanged whether she makes them today or at some later date. So too will my view.

4. Therefore: the 2nd Defendant will deliver the necessary tapes in DVD format to the Plaintiff's attorneys. To protect the 2nd Defendant, all costs legitimately claimable by the 2nd Defendant will be assessed at the final hearing of the Suit or at some other appropriate stage.

5. Ms. Jain also says that there are certain other documents required by the Plaintiff as evidence. These have been marked in evidence in Bombay City Civil Court Suit No. 493 of 1986. Given that the present Suit is of 2009, I do not see why it should be further delayed by compelling the Plaintiff to make an application to the City Civil Court and then again to this Court for those documents. In order not to further delay this matter, the Registrar of the Bombay City Civil Court, acting on an authenticated copy of this order, shall make available to the Advocates for the Plaintiff a certified copy of the entire record and proceedings as available in that Court in Suit No. 493 of 1986. This is to be done on or before 1st July 2016.

6. List the Suit on 15th July 2016 on the supplementary board for marking the Plaintiff's documents. Seven years is far too long for a copyright infringement action to be still at this stage. It is time to get a move on. The Motion is disposed of in these terms. No costs.

(G. S. PATEL, J.)