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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO. 3563 OF 2011
IN
SUIT NO. 2866 OF 2011**

Mr Yash Patnaik & Anr. ...Plaintiffs
VS
Red Chillies Entertainment Pvt Ltd. & Ors. ...Defendants

.....
Mr Ashish Kamat a/w Mr.Hetal Thakore a/w Kunal Parekh i/b Thakore Jariwala & Associates for the Plaintiffs
Mr Shiraz Rustomji Ms Premihari Thaker a/w Mr Shahen Pradhan Ms Khursheed Vajifdar i/b J. Sagar Associates for Defendant Nos.1 to 4 and 6.
Mr Akshay Patil i/b RM Azim for Defendant No.5.
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CORAM : S.C. GUPTE, J.

FEBRUARY 11, 2016

P.C. :

This motion was taken out by the Plaintiffs for interim relief in respect of release of the film 'RA.One'. There was an alternative relief for deposit of an amount representing 10 % of profits made from the release of the film. The suit is based on infringement of copyright and confidentiality. It is the Plaintiff's case that the original concept of the film was prepared by the Plaintiffs; that the concept was at a sufficiently developed stage and gave the Plaintiffs a copyright in respect of the work of art. When the Motion came up for hearing, a learned Single Judge of this Court refused to grant any ad-interim reliefs. When the matter was carried in appeal, the Division Bench recorded a statement and undertaking on the part of learned counsel for Defendant Nos.1 to 4 and 6 to deposit a sum of Rs.1 Crore in this Court, without prejudice to the rights and contentions of the Defendants. In pursuance of this undertaking, a sum of Rs.1 Crore was deposited by the Defendants in this Court, which has since been invested by the Prothonotary and Senior Master of this Court in a fixed deposit of a Nationalized bank and has been earning interest. The Division Bench in its

order clarified that the deposit of this amount shall be without prejudice to the rights and contentions of the parties and shall abide by further orders which may be passed in the Notice of Motion. The Notice of Motion, accordingly, survives only to consider whether or not this deposit should be retained in Court. Learned counsel for the Defendants submits that he would press the Motion to be heard, since the deposit was made without prejudice to the rights and contentions of the Defendants, and without filing any reply at that stage. It is submitted by learned counsel that since now the pleadings in the Notice of Motion are complete, the Motion may be heard and appropriate order be passed in respect of this deposit. I notice that the trial of the suit has made a substantial progress. The Plaintiffs' first witness, out of their two witnesses, has been under cross-examination. The cross-examination is likely to conclude soon. The Plaintiffs have only one more witness to tender. The Plaintiffs consent to have the trial of the suit further expedited and to that end, have even offered to file an affidavit of evidence of their second witness before the cross-examination of the first witness is concluded and at any rate, within a period of four weeks from today. The commissioner recording the evidence is directed to conclude the recording of evidence as expeditiously as possible. Both parties shall co-operate with the Commissioner to see that the trial is expeditiously conducted. The deposit made by the Defendants and invested by the Prothonotary and Senior Master of this Court in fixed deposit shall abide by whatever order is passed at the hearing of the suit. In case the trial is not concluded within the next six months, the Defendants shall be at liberty to apply afresh for refund of their deposit with accrued interest. All rights and contentions of parties, in this behalf, are kept open. The Motion is disposed of accordingly.

(S.C.GUPTA J.)