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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) No.3/2017, IA No.20/2017 (under Order XXXIX Rules 1&2 CPC) & IA No.1019/2017 (of the defendant for condonation of three days delay in filing reply to IA No.20/2017).

ZEE ENTERTAINMENT ENTERPRISES LTD. Plaintiff

Through: Mr. Sandeep Sethi, Sr. Adv. with
Mrs. Prathiba M. Singh, Sr. Adv. with
Mr. Sudeep Chatterjee, Ms. Jaya
Mandelia, Ms. Nupur Lamba and Ms.
Kangan Roda, Advs.

versus

SAREGAMA INDIA LTD Defendant

Through: Mr. P. Chidambaram, Sr. Adv. and
Mr. Rajiv Nayar, Sr. Adv. with Mr.
Ajay Bhargava, Ms. Vanita Bhargava,
Mr. Ankur Sangal and Ms. Sarangan
Abinashan, Adv.

AND

CS(COMM) No.57/2017 & IA No.1014/2017 (under Order XXXIX Rules 1&2 CPC).

SAREGAMA INDIA LTD Plaintiff

Through: Mr. P. Chidambaram, Sr. Adv. and
Mr. Rajiv Nayyar, Sr. Adv. with Ms.
Vanitha Bhargava, Mr. Ajay
Bhargava, Mr. Ankur Sangal and Ms.
Sucheta, Advs.

versus

ZEE ENTERTAINMENT ENTERPRISES LTD Defendant

Through: Mr. Sandeep Sethi, Sr. Adv. with
Mrs. Prathiba M. Singh, Sr. Adv. with
Mr. Sudeep Chatterjee, Ms. Jaya
Mandelia, Ms. Nupur Lamba and Ms.
Kangan Roda, Advs.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **24.01.2017**

IA No.1016/2017 (under Section 149 read with Section 151 of the CPC for extension of two weeks for making up deficiency in court fee) in CS(COMM) No.57/2017.

1. Accepting the undertaking of the counsel for the plaintiff that the deficiency in court fees will be made up within two weeks, the time for payment of court fees is extended by two weeks.
2. If the court fees is not so paid, the Registry to list the suit for dismissal.
3. The application is disposed of.

Caveat No.69/2017 and Caveat No.70/2017 in CS(COMM) No.57/2017.

4. The counsel for the Caveator has appeared. The Caveats stand discharged.

IA No.1015/2017 (for exemption) in CS(COMM) No.57/2017.

5. Allowed, subject to just exceptions.
6. The application is disposed of.

CS(COMM) No.57/2017 & IA No.1014/2017 (under Order XXXIX Rules 1&2 CPC).

7. Issue summons of the suit and notice of the application for interim relief.
8. Summons/notice are accepted by the counsel for the defendant.
9. Written statement/reply be filed within four weeks.
10. Replication/rejoinder within further four weeks thereafter.
11. The parties to file affidavits of admission/denial of each other's

documents within further two weeks thereafter.

12. List for framing of issues if any and for consideration of the application for interim relief on 19th April, 2017.

13. The order dated 3rd January, 2017 in CS(COMM) No.3/2017 is made applicable in this suit and be treated as *ad-interim* order in this suit.

14. The senior counsel for the plaintiff Saregama India Ltd. (SIL) states that the cheque for the amount of Rs.2,00,00,000/- handed over by the defendant Zee Entertainment Enterprises Ltd. (ZEEL) to the plaintiff SIL in terms of the order dated 3rd January, 2017 has not been encashed.

15. It is clarified that the plaintiff SIL may encash the said cheque without prejudice to its rights and contentions.

16. The senior counsel for the plaintiff SIL seeks release of the amount of Rs.1,50,00,000/- deposited in this Court and on enquiry states that the plaintiff SIL will file an undertaking in the form of affidavit of its Director in this Court, to refund the said amount, with interest at such rates as may be ordered by the Court, upon it being so required/ordered.

17. The senior counsel for the defendant ZEEL opposes and points out that in the past the amounts claimed for the year were paid in four instalments and if the amount of Rs.1,50,00,000/- is also released to plaintiff SIL it would result in the plaintiff SIL getting the entire amount in lump-sum.

18. I am of the view that since the amount has already been ordered to be deposited in this Court and is reported to have been deposited, it is expedient that the same be released to the plaintiff SIL inasmuch as refund thereof with interest is ensured by obtaining an undertaking of the Director of the

plaintiff SIL.

19. Accordingly, the amount of Rs.1,50,00,000/- deposited in CS(COMM) No.3/2017 together with interest accrued thereon be released to the plaintiff SIL on the plaintiff SIL furnishing an undertaking in the form of affidavit of its Director Mr. G. B. Aayeer supported by a Resolution of the Board of Directors of SIL to refund the said amount to the Court with interest at such rate as may be directed, as and when ordered by the Court.

CS(COMM) No.3/2017, IA No.20/2017 (under Order XXXIX Rules 1&2 CPC) & IA No.1019/2017 (of the defendant for condonation of three days delay in filing reply to IA No.20/2017).

20. The senior counsel for the defendant SIL states that on filing of CS(COMM) No.57/2017 this suit has become infructuous.

21. The senior counsel for the plaintiff ZEEL contends that the plaintiff ZEEL has also claimed a declaration in this suit that the plaintiff ZEEL is entitled to exploit the defendant SIL's repertoire until the defendant SIL has proved its rights. She states that in the event of dismissal of CS(COMM) No.57/2017, if this suit is disposed of today, the plaintiff ZEEL will be deprived of the said declaration.

22. I am unable to agree. Once the defendant SIL which is the plaintiff in CS(COMM) No.57/2017 fails to prove its right in the works with respect to where the relief is claimed therein, it would tantamount to this Court holding that SIL has no right to injunct the plaintiff ZEEL from broadcasting the said works and the effect would be the same.

23. CS(COMM) No.3/2017 in fact has become infructuous on institution of CS(COMM) No.57/2017 and is disposed of, clarifying that the disposal of this suit will not come in the way of the plaintiff ZEEL setting up all defences open to it in CS(COMM) no.57/2017.

RAJIV SAHAI ENDLAW, J

JANUARY 24, 2017

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