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

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Judgment reserved on : 17.4.2017

Judgment delivered on : 20.4.2017

+ CS(COMM) 66/2017

SUPER CASSETTES INDUSTRIES LTD Plaintiff

Through Ms.Prachi Aggarwal and Ms.Anjana
Ahluwalia, Advocates.

versus

TG ANGLES MEDIA PVT LTD Defendant

Through None.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

INDERMEET KAUR, J.

1 The present suit has been filed by the plaintiff for permanent injunction restraining the defendant from infringing his copyright besides rendition of accounts and damages. Summons of the suit were issued to the defendant who had put his appearance. On 23.11.2011 an undertaking had been given by the defendant that they would have no objection to the suit being decreed in terms of prayer of the plaintiff provided that the plaintiff

gives up his claim for rendition of accounts and damages. This prayer could not be acceded to by the plaintiff.

2 The plaintiff had led his evidence, but the defendant chose not to cross-examine the witnesses of the plaintiff. Defendant did not file any evidence. Evidence of the defendant stood closed on 15.07.2016.

3 Record shows that the plaintiff is a reputed music company in the country and is owner of a large repertoire of copyrighted works comprised of cinematographic films, sound recordings etc. operating under the brand name T-SERIES. Plaintiff has acquired a copyright in all such literary, musical and other works which it commissions and manages from authors or other prior ownerS of the copyright in the same. Plaintiff's business also includes giving of licence to various organizations such as Broadcasting Organizations.

4 The defendant is a private limited company having its office at NOIDA, U.P. It is known for telecasting through its channel "Azad News". The plaintiff first came to know about the infringement of its copyright work by the defendant in July, 2009 in the course of a random monitoring of the defendant's broadcast which had been done on a sample basis. This was without a license / permission from the plaintiff. Plaintiff tried to contact the

defendant on several dates but the defendant did not receive the calls of the plaintiff. Plaintiff was compelled to issue a legal notice dated 10.8.2009. This notice was replied by the defendant on 31.8.2009 wherein the defendant admitted the broadcasting works from the plaintiff repertoire without the requisite licence/permission. Present suit was accordingly filed.

5 Contention being that the defendant has clearly infringed upon the exclusive right of the plaintiff of which he is the owner of the copyright in the repertoire of the works as mentioned and detailed in the plaint. The investigator's affidavit (appointed by the plaintiff) along with the corresponding CD recording has been proved in the testimony of PW-2 and the requisite documents have been exhibited as PW-2/1 to PW-2/2. The CD recording has been proved as Ex. PW-2/3 to Ex. PW-2/6.

6 The plaintiff has also claimed damages. On affidavit, it has been stated that the defendant has committed repeated breaches of the plaintiff's copyright and has declined to pay licence fee which was due to the plaintiff. The cumulative effect of the acts of the defendant has posed a grave threat to the entire creative business of the plaintiff, affecting the livelihood of many creative artists and the business of the plaintiff has been affected. Compensatory damages as also punitive damages have been claimed.

Further contention being that in similar cases, the plaintiff has been granted the relief of damages.

7 This Court is of the view that the plaintiff has been able to prove its case. In view of the testimony of the witnesses of the plaintiff i.e. both PW-1 and PW-2 as also documentary evidence adduced and proved in the Court the plaintiff is entitled to a decree of permanent injunction. Accordingly, a decree of permanent injunction is passed in favour of the plaintiff and against the defendant restraining the defendant, its officers, agents and representatives etc. from infringing, recording, distributing, broadcasting or otherwise publishing in any other way the copyright of the plaintiff. The defendant has also admittedly not paid any licence fee to the plaintiff for the use of the copyright of the plaintiff which he was bound to pay. The reputation of the plaintiff has also been affected and the goodwill of the plaintiff has been impaired. His intention of not paying the licence fee in the past and nor in the future, makes out a case for a claim of damages as has been detailed by the plaintiff which has been valued at Rs.21 lakhs.

8 The suit of the plaintiff is accordingly decreed in terms of prayer (i). Plaintiff is also entitled to damages of Rs.21 Lakhs as has been claimed by

him. He shall also be entitled to costs as per the schedule. Decree sheet be drawn. File be consigned to Record Room.

INDERMEET KAUR, J

APRIL 20, 2017/ndn

