

\$~6

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

CS(COMM) 803/2017 & IA No. 13724/2017 (under Order XXXIX
Rule 1& 2 CPC)

MATTEL, INC. & ANR

..... Plaintiffs

Through: Mr.Sudhir Chandra, Sr.Advocate with
Mr.Pravin Anand, Ms. Tusha
Malhotra and Ms. Rashi Punia,
Advocates

versus

MS. AMAN BIJAL MEHTA & ORS

..... Defendants

Through: Mr. Chandra Shekhar, Advocate for
defendants no.1 to 3
Mr. Neel Mason, Mr.Ankit Relan and
Ms. Sanya Bhatnagar, Advocates for
defendant no.4

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

%

30.11.2017

1. This order is in continuation of the earlier order dated 22nd November, 2017.
2. The counsel for the defendants no.1 to 3 and the counsel for the defendant no.4 appear.
3. The counsel for the defendants no.1 to 3 states i) that the defendants no.1 to 3 have already removed the word 'Barbie' from the versions of the song available on Internet; ii) that the defendants no.1 to 3 are also agreeable to remove the word 'Barbie' from the film track but implementing the same may take about a week's time as the film is due to be released tomorrow.

4. The counsel for the defendant no.4 states that the defendants no.1 to 3 have assigned their rights in the sound track of the song in favour of the defendant no.4 and it is for the defendants no.1 to 3 to instruct the defendant no.4 qua the steps to be taken in this regard.

5. The senior counsel for the plaintiffs has handed over in the Court a list of additional documents and which are taken on record and states that the defendants have already substituted the word 'Sexy Barbie Girl' with 'Sexy Baby Girl'. It is also stated by the senior counsel for the plaintiff that the producer of the film has issued a public statement to the said effect.

6. It is the contention of the senior counsel for the plaintiffs that the cinema theatres in which the film is to be released are permitted to download the encrypted film in advance but the password for decryption of the film, to exhibit the same, is provided at the last moment and it is a matter of two to three hours for the defendants no.1 to 3 to effect the change and in all probability the defendants may have already done so.

7. The counsels for the defendants no.1 to 3 and for defendant no.4 to take instructions.

8. List at 1600 hrs.

RAJIV SAHAI ENDLAW, J

NOVEMBER 30, 2017

mw

9. The matter has been taken up at 1635 hours.

10. The counsel for the defendant No.4 states that though the defendant No.4 is not conceding to the claim of the plaintiffs and is not admitting any liability, but since the defendants No.1 to 3 have shown willingness to make the change, subject to the defendants No.1 to 3 providing another master recording of the song to the defendant No.4 and subject to the defendants No.1 to 3 otherwise remaining bound by their agreements with the defendant No.4, the defendant No.4 has no objection to act in accordance with the stand of the defendants No.1 to 3.

11. The counsel for the defendants No.1 to 3 states that the defendants No.1 to 3, without prejudice to their rights and contentions and without conceding to the claim of the plaintiffs or admitting any liability, are willing to make the change in the sound track incorporated in the film or when separately exploited, deleting the word 'Barbie', but the said process would take four to five working days time. It is stated that the defendants No.1 to 3 will have to provide another encrypted copy of the film to all the theatres where it is to be screened and will also have to seek the permission of the Censor Board for the change and which may also take time. Otherwise, it is not disputed that the defendant no.4 will be provided changed master recording and the defendants no.1 to 3 will remain bound by their agreements with the defendant no.4.

12. The senior counsel for the plaintiffs states that the plaintiffs are agreeable to the aforesaid but contends that directions for the defendants to act expeditiously and to the Censor Board to, on being

approached by the defendants, also deal with the matter expeditiously, be issued.

13. Accordingly, this Suit is disposed of, binding the defendants to the voluntary statements aforesaid and further calling upon the defendants no.1 to 3 to make endeavours to effect the change aforesaid at the earliest so that the song, with the impugned word, has least exposure. The Censor Board is also directed to, on being approached by the defendants no.1 to 3 with the change aforesaid, considering the miniscule nature of the change, act at the earliest and take a decision thereon within 48 hours of being so approached.

14. The counsel for the defendants No.1 to 3 has also stated that the defendants No.1 to 3 will take 48 hours to make the requisite change.

15. The senior counsel for the plaintiff, under instructions, states that in view of the aforesaid, he does not press any other reliefs.

16. Binding the parties to their statements aforesaid, the Suit is disposed of, leaving the parties to bear their own costs.

No costs.

Order dasti under the signatures of the Court Master.

RAJIV SAHAI ENDLAW, J

NOVEMBER 30, 2017
Pk..