

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL APPEAL LODGING NO. 346 OF 2018
IN
NOTICE OF MOTION LODGING NO. 1626 OF 2018
IN
COMMERCIAL SUIT LODGING NO. 899 OF 2018

Pooja Entertainment and Films
Ltd. .. Appellant
Vs.
Kriarj Entertainment Private Ltd. & ors. .. Respondents
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Mr. Vibhav Krishna a/w Mr. Karan Bhosale i/by Juris
Consillis for appellant.

Mrs. Mahek Bookwala a/w Ms. Kritika Seth i/by Mr. Satish
Kumbhar for respondent No.1.

Mr. Dharam Jumanani a/w Ms. Manasi Vyas i/by DSK Legal for
respondent No.6.

Mr. Birendra Saraf a/w Mr. Ravi Suryawanshi, Ms. Madhu
Gadodia, Mr. Krunal Mehta, Arpit Choudhary with Mr. Harsh
Kaushik i/by Naik Naik and Co. for respondent No. 7.

CORAM: NARESH H. PATIL &
G. S. KULKARNI, JJ.

DATED: AUGUST 02, 2018.

P.C.

1. Heard the learned Counsel for the parties. This appeal is
directed against an order dated 1st August, 2018 passed by the learned
Single Judge refusing ad-interim reliefs in a notice of motion as filed by

the appellant/plaintiff. In the notice of motion, the appellant/plaintiff had prayed for the following reliefs:-

- “a) That pending the hearing and final disposal of the suit this Hon'ble Court be pleased to pass an order and injunction restraining the Defendants, its servants, agents or representatives from in any manner representing that the Defendants or any of them are entitled to distribute, exhibit, exploit the commercial and non-commercial theatrical rights for the Film “Fanney Khan” for all India territory,
- b) That pending the hearing and final disposal of the suit this Hon'ble Court be pleased to pass an order and injunction restraining the Defendants, its servants, agents or representatives from distributing, exhibiting or exploiting the commercial and non-commercial theatrical rights for the Film “Fanney Khan” for all India Territory and from committing any breach of terms of the Agreement dated 16.12.2017 executed between the Plaintiffs and Defendant No.1 in respect of the Film “Fanney Khan” by directly and/or indirectly distributing, exhibiting or exploiting or causing it to be distributed, exhibited or exploited for commercial and non-commercial theatrical rights for the Film for all India Territory,
- c) That pending the hearing and final disposal of the Suit, this Hon'ble Court be pleased to order and direct the Defendant Nos.1 to 7 to make full and complete disclosure of all the agreements, contracts, dealings, business statement, accounts in respect of the exploitation of the rights for the suit film and all revenues received and/or to be received from the exploitation of the suit film and to deposit in Court the amounts collected from exploitation of the rights for the Suit film,
- d) For ad-interim and interim reliefs in the terms of prayer clause (a) to (c) above;”

2. The learned Single Judge for detailed reasons as set out in the impugned order has refused to grant any ad-interim relief and has made notice of motion returnable for hearing on 16th August, 2018.

3. The learned Counsel for the appellant/plaintiff at the outset submitted that at this stage the appellant/plaintiff is seeking relief only of

protection of monetary interest which is reflected in prayer clause (c) of the notice of motion as noted above and that the appellant/plaintiff is not seeking any injunction in respect of release of the film in question “Fanne Khan” which is being released tomorrow.

4. We have perused the impugned order passed by the learned Single Judge, we have also perused the averments as made in the plaint and the documents as placed on record. Having heard the learned Counsel for the parties and in the facts and circumstances of the case, we are not persuaded to admit this appeal. In any event it arises from an ad-interim order passed by the learned Single Judge, the notice of motion itself is made returnable on 16th August, 2018. As noted above, the learned Counsel for the appellant has fairly not pressed for any injunction against release of the film which was the principal bone of contention before the learned Single Judge.

5. We accordingly dispose of the appeal, keeping all contentions of the parties open on the merits of the notice of motion/suit, however with a direction that the defendants shall maintain all the accounts in respect of the revenue which would be received/accrued on the release of the film “Fanne Khan”.

6. It is clarified that the observations as made by the learned Single Judge in the impugned order are prima facie observations at the ad-interim stage. The learned Single Judge shall decide the notice of motion on its own merits and without being influenced by the impugned order.

7. The appeal is accordingly disposed in the above terms. No costs.

(G.S.KULKARNI, J.)

(NARESH H. PATIL, J.)