

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

NOTICE OF MOTION (L) NO.1986 OF 2019

IN

COMMERCIAL I.P.SUTT (L) NO.901 OF 2019

Zee Entertainment Enterprises Ltd.)....Applicant/Plaintiff

V/s.

Entertainment Network (India) Limited)....Defendant

Mr.Ravi Kadam, senior Advocate a/w Mr.Hiren Kamod, mr.nadhish mehrotra and Ms.Astha Pandey i/by Parul Sharma for applicant/plaintiff.

Dr.Birendra Saraf a/w Mr.Alankar Kirpekar i/by MAG Legal for defendant.

CORAM : K.R.SHRIRAM,J

DATE : 4.9.2019

P.C.:-

1. On the intervention of the court, parties have arrived at an adhoc arrangement and the following order by consent, is passed :-

ORDER

1. The Defendant shall file application under Section 31-D before IPAB within a period of two weeks from today.

2. IPAB is hereby directed to hear the aforesaid application in accordance with Copyright Act and rules thereof, preferably within a period 12 weeks from communication of this order.

3. The Plaintiff states that IPAB is the appropriate authority to decide the rates under section 31 D and has no objection to the IPAB deciding the rates as stated above in accordance with law.

4. In the meantime, if Defendant wants to utilize the Plaintiff's repertoire it can do so on payment of Rs. 62.5 lacs per quarter. The payment of first quarter from 16 August 2019 to 16th November 2019 shall be made on or before 10th September 2019. And for future usage it shall be made within a period of one week from the date of expiry of preceding quarter.

5. Upon fixation of rate by IPAB if the amount calculated as per rate fixed by IPAB is found to be less then in that case Plaintiff shall refund the difference amount to Defendant alongwith 7% simple rate of interest to be calculated from the date of receipt of each payment. For this purpose the Defendant shall be considered as secured creditor.

6. The rate fixed by IPAB shall bind the parties from 16th August 2019 for the purposes of calculation of royalty rate.

7. This order shall not be communicated to any third party or news paper by any of party directly or indirectly.

8. Defendant to file written statement on or before 15 October 2019.

9. During the pendency of proceedings before IPAB the trial of the suit is stayed.

10. Liberty to parties to mention after fixation of rate by IPAB.

11. Notice of Motion is accordingly disposed off.

2. Minutes of order signed by the advocates representing plaintiff and defendant is also taken on record and marked 'X' for identification. For ease of reference, minutes of order is also scanned and reproduced below :-

Without prejudice to the rights and contentions of parties in suit following order is passed as an interim arrangement.

1. The Defendant shall file application under Section 31- D before IPAB within a period of two weeks from today.
2. IPAB is hereby directed to hear the aforesaid application in accordance with Copyright Act and rules thereof preferably within a period 12 weeks from communication of this order.
3. The Plaintiff states that IPAB is the appropriate authority to decide the rates under section 31- D and has no objection to the IPAB deciding the rates as stated above in accordance with law.
4. In the meantime, if Defendant wants to utilize the Plaintiff's reports it can do so on payment of Rs. 52.5 lacs per quarter. The payment of first quarter from 16 August 2019 to 16th November 2019 shall be made on or before 10th September 2019. And for future usage it shall be made within a period of one week ^{from} ~~from~~ the date of expiry of preceding quarter.
5. Upon fixation of rate by IPAB if the amount calculated as per rate fixed by IPAB is found to be less than in that case Plaintiff shall refund the difference amount to Defendant alongwith 7% simple rate of interest to be calculated from the date of receipt of each payment. For this purpose, the Defendant shall be considered as secured creditor.
6. The rate fixed by IPAB shall bind the parties from 16th August 2019 for the purposes of calculation of royalty rate.
7. This order shall not be communicated to any third party or newspaper by any of party directly or indirectly.
8. Defendant to file written statement on or before 15 October 2019.
9. During the pendency of proceedings before IPAB the trial of the suit is stayed.
10. Liberty to parties to mention after fixation of rate by IPAB.
11. Notice of Motion is accordingly disposed off.

[Signature]
04/09/2019
for Parul Sharma
Adv. for Plaintiff

[Signature]
For PNB Legal
Adv. for Defendant

3. This arrangement will not be treated as a precedent in any proceedings not just in the litigations related to parties in this suit.
4. The statements noted above of defendant paying the amount is accepted as undertaking to this court. Dr.Saraf for defendant states that if there is a breach of the undertaking as recorded herein, defendant shall forthwith stop using repertoire of plaintiff. Statement accepted as an undertaking.
5. Notice of Motion accordingly stands disposed.
6. All to act on authenticated copy of this order.

(K.R.SHRIRAM,J)