

17.10.2023
Court No. 13
Item No. 24-25
pk

**FMAT 381 of 2023
CAN 1 of 2023
Channel B Entertainment
Vs.
Sri Sumit Mondal and others**

With

**FMAT 382 of 2023
CAN 1 of 2023
Channel B Entertainment
Vs.
Sri Sumit Mondal and others**

Mr. Saumyen Datta,
Mr. Sudhir Kumar Sadhukhan

..for the appellant.

1. Despite service of notice on the address of the plaintiffs in the plaint, they are not represented. The postal endorsement indicates that the door was locked.
2. This Court is of the view that the respondents are avoiding service.
3. The appeals are directed against an order of injunction passed by the learned Judge, 11th Bench of the City Civil Court at Calcutta dated 21.03.2023 and its confirmation on 1st April, 2023 in T. S. No. 564 of 2023. By the said order, the application of the appellant/defendant under Order 39 Rule 4 was also rejected.
4. The brief facts relevant to the case are that the plaintiff is the writer of a stage play called "Parabas". He had granted permission to the

- plaintiff/respondent, Sumit Mondal to make a cinematic film based on the stage play “Parabas” for a period of five years from 28.03.2016.
5. The said Sumit Mondal did not make any film within the aforesaid five year period. Thereafter, the appellant and or its predecessor permitted a third party said to make a cinematic film based on the story of the stage play. The name of the cinematograph feature film is “Shudhu Jaaoya Asa”.
 6. This Court has carefully considered the impugned order dated 21.03.2023 which was passed ex parte. Even after contest, the said order was confirmed on 01.04.2023 and the application for vacating the said order under Order 39 Rule 4 was rejected.
 7. After the feature film was made, substantial amounts were invested by the appellants in promoting it. The exploitation of the said stage play and the grievance of the respondents/plaintiffs, if any, can definitely be addressed and compensated in terms of money. A blanket order of stay on the exhibition of the film “Shudhu Jaaoya Asa” is undesirable and unwarranted in the facts of the case.
 8. In view of the above and since the respondents have deliberately chosen not to appear before this Court, it is ordered that the impugned injunction restraining screening and exploitation of the film

“Shudhu Jaaoya Asa” is quashed and set aside.

The feature film shall be released and exhibited.

9. The appellant shall, however, maintain faithful and diligent accounts of all sums of money received from each of the distributors and exhibitors for the said film “Shudhu Jaaoya Asa”.
10. The appellant shall keep aside 50 per cent of the entire value of exploitation and screening of the aforesaid film “Shudhu Jaaoya Asa”.
11. All accounts as directed hereinabove duly certified by a registered auditor, shall submitted by way of affidavit in the court below.
12. The said interim order as above shall be communicated to the respondents by the appellant forthwith. The directions passed by this Court shall subsist until disposal of the suit.
13. With the aforesaid observations, FMAT 381 of 2023 and FMAT 382 of 2023 are disposed of.
14. In view of disposal of the appeals, connected applications are disposed of.
15. There will be no order as to costs.
16. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Supratim Bhattacharya, J.)