

Ashwini

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8071 OF 2024**

Azhar Basha Tamboli ...Petitioner
Versus
Ravi S Gupta & Ors ...Respondents

Mr Mayur Khandeparkar, *with Aneesa Cheema, i/b Rekha Musale, for the Petitioner.*

Mr Rahul Narichania, *Senior Advocate, with Siddharth T, Niyati M, i/b Kirit Hakani, for Respondents Nos. 1 to 6.*

Mr Advait Sethna, *with P Roychoudhary, for Respondents Nos. 7, 8 and 14.*

Ms Kavita N Solunke, *AGP, for the Respondent-State.*

**CORAM Kamal Khata &
 Rajesh S Patil, JJ.
DATED: 6th June 2024**

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PC:-

1. As predicted we are faced with a second round in this matter. Aggrieved by order passed yesterday i.e. 5th June 2024 by Division Bench (NR Borkar and Kamal Khata, JJ) whereby the said Division Bench injuncted Respondents Nos. 1 to 6 exhibiting the film (Hamare Baarah) in any manner to the general public the producers (Respondents Nos. 1 to 6) have come to Court.
2. This matter is re-heard since the Bench has changed.
3. We have heard learned Senior Advocate Mr Narichania on behalf of Respondents Nos. 1 to 6, Mr Sethna for Respondents Nos. 7, 8 and 14 and also Mr Khandeparkar for the Petitioner.

4. Having considered all the rival submissions as well as keeping in mind the findings of our order dated 5th June 2024 we have permitted mentioning of this matter on a praecipe.

5. The injunction order passed exparte if continued would cause the producers severe financial loss as the film release is scheduled for tomorrow submits Mr Narichania.

6. Only with a view to balance the equities and in view of our finding in paragraph 8 of our order that “a prima facie case is made out” and “the film may also be required to be viewed to draw any conclusion with regard to the rival contentions” we deem it fit to direct the Respondents Nos. 7, 8 and 14 to form a panel of three individuals including at least one member from the Muslim community to view the movie in the course of the day today.

7. It is a case of the Petitioner that the trailer (teaser as contended by the Respondent Nos. 1 to 6) exhibits the theme of entire film which is objectionable. Mr Narichania opposes this. He submits that at least three of the dialogues mentioned at page 17 of the Petition have been removed and the other dialogues are views that have been countered amongst the hero and villain characters in the film. He submits that the film is released only after certification and reviewed by two committees. Moreover the film was exhibited at Cannes festival on 18th May 2024. Mr Narichania submits on instructions that there have been substantial number of tickets already sold by theatres all over India. Whether it is a teaser

according to Mr Narichania or trailer according to Mr Khandeparkar is an argument for another day.

8. We direct the panel would give their comments on the theme of the movie and more particularly on the averments in the Petition only.

9. We recall the injunction on the release of the film and the film is allowed to be released until further orders of the Court.

10. The objections, if any, by the Petitioner would be considered by this Court by tomorrow, i.e. on 7th June at around 9.00 am keeping in mind that the first show is scheduled at 10.00 am and this we believe would balance the equities amongst both the parties.

11. In any event if the Court finds after hearing the parties that the further exhibition of the film is to be enjoined the same will be considered tomorrow, i.e. 7th June 2024. It is clarified that the release of the film is now allowed, and shall be subject to further orders of this Court.

12. So far as the link of the teaser and/or trailer displayed on platforms such as YouTube, Book My Show etc is concerned we direct that the same shall be disabled by Respondents Nos. 1 to 6 and removed from circulation/exhibition on social media platforms by all the concerned parties until further orders of the Court.

13. The certified film that is intended to be exhibited will be made available to the panel at the earliest convenience by the Respondent Nos 1 to 6.

14. In view of the paucity of time, the Respondents are permitted to give the said film for the viewing by the committee in the MP4 format.

15. We further clarify that rival contentions of both sides are expressly kept open and we have not expressed any opinion on the merits of the case.

16. The findings of the committee would be communicated or served on all concerned parties by Respondents Nos. 7, 8 and 14 as early as possible and in any event before 8.00 am tomorrow i.e 7th June 2024.

17. We clarify that this order is passed in the facts and circumstances of this case and shall not be treated as a precedent.

18. List the matter on 7th June 2024 at 9.00 am.

19. All parties to act on an authenticated copy of this order.

(Rajesh S Patil, J)

(Kamal Khata, J)