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IN THE HIGH COURT OF DELHI AT NEW DELHI

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FAO(OS) (COMM) 49/2024, CM Nos.15802/2024, 15804/2024 & 15805/2024

GLOBAL MUSIC JUNCTION PVT LTD

..... Appellant

Through: Mr. Dushyant Dave, Mr. Akhil Sibal,
Sr. Advs. with Mr. Yashvardhan, Ms.
Rhia Marshall, Ms. Kritika Nagpal, Mr.
Gyanendra Shukla, Mr. Akshay
Gupta, Ms. Asavari Jain, Mr.
Adityaraj Patodia & Mr. Gaurav
Saxena, Advs.

Versus

MR SHATRUGHAN KUMAR AKA KHESARI

LAL YADAV & ANR.

..... Respondents

Through: Mr. Sandeep Sethi, Sr. Adv. Ms.
Samiksha Godiyal, Mr. Govind
Manoharan, Mr. A. Karthik, Ms.
Smrithi Suresh, Ms. Sreepriyank, Ms.
Gunjan Rathore & Mr. N. Sharma,
Advs. for R-1.
Mr. Neel Mason, Mr. Vihan Dang, Ms.
Pragya Jain, Mr. Ujjawal Bhargava &
Mr. Aditya Mathur, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

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14.03.2024

CM No.15803/2024 (for exemption)

1. Exemption is allowed, subject to all just exceptions.
2. The application is disposed of.

FAO(OS) (COMM) 49/2024

3. The appellant has filed the present appeal impugning an ad-interim order dated 21.02.2024 (hereafter *the impugned order*) passed in an application being I.A. No.4065/2024 in CS(COMM) No.715/2022 captioned



Global Music Junction Pvt. Ltd. v. Annapurna Films Pvt. Ltd. & Ors., filed by respondent no.1 under Order XXXIX Rule 2A read with Section 151 of the Code of Civil Procedure, 1908 (hereafter *CPC*).

4. The appellant is essentially aggrieved by the operative part of the impugned order as well as certain observations made in the impugned order. The learned Single Judge had *prima facie* found that the judgment passed earlier (that is, judgment dated 05.09.2023) was wilfully flouted. The learned Single Judge had also issued directions for restraining the appellant from issuing any further communications, which were subject matter of the respondent's grievance before the learned Single Judge.

5. Mr. Dave, learned senior counsel appearing for the appellant submits that the judgment dated 05.09.2023, violation of which was complained of, is a detailed judgment rendered by the Division Bench of this Court against the respondent. He submits that therefore the application alleging violation of the aforesaid judgment by the respondent is not maintainable. He referred to the decision of the Supreme Court in ***Food Corporation of India v. Sukh Deo Prasad: (2009) 5 SCC 665*** and drew the attention of this Court to paragraph 38 of the said judgment, which is set out below:

“38. The power exercised by a court under Order 39 Rule 2-A of the Code is punitive in nature, akin to the power to punish for civil contempt under the Contempt of Courts Act, 1971. The person who complains of disobedience or breach has to clearly make out beyond any doubt that there was an injunction or order directing the person against whom the application is made, to do or desist from doing some specific thing or act and that there was disobedience or breach of such order. While considering an application under Order 39 Rule 2-A, the court cannot construe the order in regard to which disobedience/breach is alleged, as creating an obligation to do something which is not mentioned in the “order”, on surmises, suspicions and inferences. The power under Rule 2-A should be exercised with great caution and responsibility.”

6. He submits that since the judgment dated 05.09.2023, violation of



which was alleged, was passed against the respondent, the provisions of Order XXXIX Rule 2A of the CPC are not available to the respondent.

7. We note that the impugned order is an ad-interim order and the appellant will have full opportunity to respond to the application filed by the respondent. The said application is now listed before the learned Single Judge on 06.05.2024. Notwithstanding the same, the learned senior counsel appearing for the appellant submits that a blanket order has been issued against the appellant and the matter is of some urgency.

8. Mr. Sethi, learned counsel appearing for the respondent fairly states that he has no objection if the application is taken up by the learned Single Judge at an earlier date.

9. In view of the above, we consider it apposite to request the learned Single Judge to consider the application as expeditiously as possible.

10. We, accordingly, dispose of the present appeal by requesting the learned Single Judge to take up the said application on 19.03.2024. The Registry is directed to place the said application before the learned Single Judge on 19.03.2024.

11. We clarify that all rights and contentions of the parties are reserved.

12. The appellant may file a reply by tomorrow, that is 15.03.2024. Rejoinder, if any, thereto be filed on or before the next date of hearing, that is 19.03.2024.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

MARCH 14, 2024

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