IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS COMMERCIAL DIVISION

INTERIM APPLICATION NO.3170 OF 2026

IN

COMMERCIAL IP SUIT (L) NO. 29486 OF 2025

BRG Education Institute …Applicant/Defendant

V/s.

Novex Communication Private Limited ...Respondent/Plaintiff

WITH

COMMERCIAL IP SUIT (L) NO. 29486 OF 2025

WITH

INTERIM APPLICATION (L) NO.29648 OF 2025

Novex Communication Private Limited …Plaintiff/Applicant

V/s.

BRG Education Institute ….Defendant/Respondent

Ms. Arundhati Mukherjee (through VC) i/by Ms. Radhika Samant, for the Applicant/Defendant.

Mr. Rashmin Khadekar a/w Mr. Kunal Parekh, Ms. Nirali Atha and Ms. Kiti Gada i/by Dua Associates for the Plaintiff.

CORAM : MADHAV J. JAMDAR, J.

DATED : 8 OCTOBER 2026

P. C. :-

1. Interim Application No. 3170 of 2026 has been taken out on 29 October 2025 by the Original Defendant *inter alia* seeking rejection of the Plaint under Order VII Rule 11(a) of the Code of

Civil Procedure, 1908 (CPC). Yesterday the said Interim Application is mentioned urgently after almost about 1 year.

2. It is the contention of the learned counsel appearing for the Applicant/Defendant that the cause of action is not disclosed in the plaint. She therefore, submits that as Order VII Rule 11(a) of the CPC specifically provides that where the plaint does not disclose any cause of action, it shall be rejected. It is submitted that the plaint has been filed only on the basis of an apprehension and there is no cause of action. It is submitted that, therefore, as in the plaint no cause of action is disclosed, the plaint is required to be rejected.

3. On the other hand, Mr. Khandekar, learned counsel appearing for the Plaintiff points out paragraph nos.3, 4 and 24 to 26 of the plaint and submitted that the averments concerning the cause of action are specifically set out in the plaint. Learned counsel, therefore, submits that the Interim Application be rejected.

4. Before considering the rival contentions, the following factual position is required to be noted :-

(i) On 16 September 2025, the Commercial IP Suit (L) No.29486 of 2025 has been filed *inter alia* seeking following

substantive reliefs:-

> "a) that this Hon'ble Court be pleased to issue a perpetual order of injunction restraining Defendant, its partners, directors, their servants, employees, agents, assignees, licensees, representatives, and/or any person claiming through them or acting on their behalf, from publicly performing or in any manner communicating the sound recordings of the songs assigned and authorized to the Plaintiff or allowing their premises or any premises under their control to be used for the said purposes, or otherwise infringing the copyright in any work owned and protected by the Plaintiff;
>
> b) that this Hon'ble Court is pleased to pass a mandatory order, injunction, and decree of this Hon'ble Court directing the Defendant to hand over all disks, CDs, laptops, mobile phones, SD cards, flash drives, hard disks, computers and other media containing the Plaintiff copyrighted works and used by the Defendant and to deliver them up for destruction."

(ii) The plaintiff also filed Interim Application (L) No.29648 of 2025 *inter alia* seeking following interim reliefs: -

> "(a) that pending the hearing and final disposal of this Suit, this Hon'ble Court be pleased to issue a temporary order of injunction against restraining the Defendant, their Partners, their servants, employees, agents, assignees, licensees, representatives, and/or any person claiming through them or acting on their behalf, from publicly performing of in any manner communicating the sound recordings of the songs assigned and authorised to the Plaintiff or allowing their premises or any premises under their control to be used for the said purposes or otherwise infringing the copyright in any work owned and protected by the Plaintiff."

(iii) A learned Single Judge by an order dated 20 September 2026 has granted ad interim relief in terms of prayer clause (a) of the Interim Application.

(iv) At this stage, it is required to be noted that the said order is not an ex parte order, but the order has been passed after service upon the Defendant and inspite of service the Defendant has failed to appear. The same is specifically mentioned in paragraph no. 6 of order dated 20 September 2025 passed by a learned Single Judge in Interim Application (L) No.29648 of 2025.

(v) It is further significant to note that this application under Order VII Rule 11(a) of the CPC was taken out on 29 October 2025 and almost for 1 year, the reliefs sought in the application were not pressed.

(vi) Praecipe dated 7 October 2026 has been filed by the Defendant seeking urgent hearing as Navratri event is scheduled to start from 12 October 2026.

5. In the above background of the matter, it is required to be noted that during the hearing of this Interim Application, learned counsel appearing for the Applicant/ Defendant specifically submitted that although it is the apprehension expressed in the

plaint that sound recordings of the Plaintiff would be performed, even on an earlier occasion also, the same were not performed and they will not be performed in this Navratri festival also. Thus, even as per the submission of the learned counsel appearing for the Applicant/Defendant, the said ad-interim order dated 20 September 2025 passed by a learned Single Judge will not affect the event organised by the Defendant as according to the Defendants they are not going to perform impugned "sound recording". The said order has not even been challenged by filing Appeal.

6. Thus, in this background of the matter, moving this application filed, about one year ago, under Order VII Rule 11(a) of the CPC seeking rejection of the plaint on the ground that cause of action is not disclosed, when the Navratri event is going to start on and from 12 October 2026 is significant.

7. As it is the contention of the learned counsel appearing for the Plaintiff that in paragraph nos.3, 4 and 24 to 26 of the plaint, the cause of action is disclosed, the said paragraphs are set out hereinbelow for ready reference :-

"3. The Defendant is a company incorporated under the provisions

of the Companies Act, 1956 having its registered address as described in the cause title. **The Defendant owns, operates and manages VVN Garba Ground located at BRG Campus, Near Hanumanii Mandir, Maharaja Chowk, Sun Pharma Road, Vadodara ('Premises'). The Defendant is conducting an event called Vadodara Vibrant Navratri" ('Event') at the Premises from 22 September 2025 to 1 October 2025.**

4. The Plaintiff says that the Defendant at the said Premises hold several events including but not limited to garba events in which musical and dance performances are showcased wherein the Sound Recordings of the Plaintiff are communicated. That the said events are ticketed events attended by thousands of people and are held on a huge commercial scale with multiple sponsors."

"24. The Plaintiff submits that accordingly, the Plaintiff sent a pre intimation and introductory email dated 5th September, 2025 to the Defendant on the following email addresses, i.e. info@vadodaravibrantnavratri.com and brggroup77@gmail.com wherein the Plaintiff apprised the Defendant that License of the Plaintiff is required for the Event that the Defendant are set to organize and conduct. In the email of 5th September 2025, the Plaintiff has also apprised the Defendant of the coordinates of the representatives whom the Defendant can contact for procuring the license. Lastly, the Plaintiff also stated, **in the email dated 5th September 2025, that the same be treated as a cease and desist notice.** Hereto annexed and marked as Exhibit "JJ" is a copy of the pre intimation and introductory Email dated 5th September 2025 addressed by the Plaintiff to the Defendant.

25. The Plaintiff says that **the Plaintiff has issued 5 Public Notices**

dated 3rd September 2025 and 1 Public Notice dated 5th September 2025 in popular newspapers having widespread circulation in Gujarat. The details of the same are annexed hereinbelow :

Sr. No.	Newspaper	Publication Date
1	TOI Ahmedabad (Covers Rajkot, Baroda, Surat)	5-Sep-25
2	Gujarat Samachar - Ahmedabad	3-Sep-25
3	Gujarat Samachar - Rajkot Saurashtra	3-Sep-25
4	Gujarat Samachar - Surat	3-Sep-25
5	Gujarat Samachar - Baroda	3-Sep-25
6	Gujarat Samachar - Bhavnagar	3-Sep-25

Hereto annexed and marked as Exhibits "KK" to "PP" are the screenshots of the Public Notices.

26. The Plaintiff submits that **it is apparent that at the said Event organized by the Defendant in its Premises, the sound recordings of the Plaintiff will be played for entertainment and commercial purposes. The Plaintiff submits that though the said Event has been marketed as live performances, the Plaintiff has reason to believe that the sound recordings of the Plaintiff will be communicated in some form or other.** Further during these events, which proceed for hours together and late into the night, it is inconceivable that performances are only live. The Plaintiff says that the singers lip sync to the sound recordings of the Plaintiff.

> Sound recordings from the Plaintiffs repertoire are often used for entertainment during these events."
>
> **(Emphasis added)**

8. It is required to be noted that although in paragraph no.3 of the plaint, the event which was scheduled to be performed from 22 September 2025 to 1 October 2025 is set out, however in paragraph no.4, it is specifically set out that the Defendant at the said premises hold several events including but not limited to garba events in which musical and dance performances are showcased wherein the sound recordings of the Plaintiff are communicated and that the said events are ticketed events attended by thousands of people and are held on huge commercial scale with multiple sponsors. The paragraph nos.24 to 26 also discloses the cause of action.

9. In fact, various averments in the plaint makes it very clear that various acts of infringement on the part of the Defendant could have gone unnoticed and unmonitored, giving the Defendant an absolute free hand to continue its illegal activities.

10. The action of rejection of plaint under Order VII Rule 11(a) of the CPC is a drastic action which has to be taken where the Court finds that without disclosing any cause of action, the plaint

has been filed.

11. It is required to be noted that the scope of Order VII Rule 11(a) of the CPC is not to consider the merits of cause of action disclosed. The scope is to examine only whether cause of action has been disclosed in the plaint or not. As noted hereinabove, the cause of action is disclosed in the plaint. Even the contention that the cause of action was only for the event which was to be performed from 22 September 2025 to 1 October 2025 and as the event is over, the cause of action does not survive, is also not correct. It is true that the suit was filed on or about 16 September 2025 when the said event was organised, however, the reading of the entire plaint shows that the Plaint has been filed as there are various occasions wherein sound recordings of the Plaintiff are communicated.

12. Thus, no case is made out for passing drastic order of rejection of plaint on the ground that the plaint does not disclose cause of action.

13. Accordingly, the Interim Application is dismissed.

[MADHAV J. JAMDAR, J.]