

IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) 1494/2010

THE INDIAN PERFORMING RIGHT SOCIETY LTD Plaintiff
Through : Sh. Jagdish Sagar and Ms. Geetanjali Vishvanathan, Advocates.

versus

M/S GOLDEN GREAT and ORS

Defendants

Through : Nemo.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

ORDER

28.07.2010

I.A. No. 9708/2010

Learned counsel for the plaintiff states that the originals/certified copies of documents relied upon would be filed within eight weeks. I.A. No. 9708/2010 is disposed of in the above terms.

CS (OS) 1494/2010

Issue summons to the defendants, returnable on 19.10.2010; service through all modes.

I.A. No. 9707/2010

Issue notice to the defendants, returnable on 19.10.2010; service through all modes.

The plaintiff company limited by guarantee is a copyright society within the meaning of the expression under Section-33 of the Copyright Act. It claims to have administering rights in respect of the works of inter alia 1879 Authors, Lyricists, Composers of musical works and, therefore, entitled to maintain the present proceeding. The list of the plaintiff's members is disclosed in the list of documents filed with the suit.

The plaintiff contends that the defendants are likely to infringe the copyrights of works of which they are the assignees. Reliance is placed on certain Assignment Deeds to submit that the plaintiff, as assignee, has to pass on royalty to other copyright owners such as lyricists, composers etc. in a prescribed ratio. The plaintiff relies upon a previous legal notice issued, particularly on 26.06.2010, placed on the record, at page 34 of the list of documents, to submit that the defendants were asked to pay License Fee but they

have not done so. Reliance is also placed upon a previous letter written by the defendants, proposing to pay License Fee for another event which took place earlier, at Rs. 7,200/- which the plaintiff says, was not encashed. It is submitted that the defendants' going ahead with the event as proposed, would constitute violation of the plaintiff's copyrights in the musical works, by unauthorized public performance. In the circumstances, an interim injunction is sought.

Having considered the materials on record, the Court is of the prima facie opinion that the plaintiff being the assignee is under an obligation to

share the revenue obtained by the licensees in the events such as the defendants are proposing to hold on 31.07.2009, i.e.. Golden Greats Sirf Rafi. In the circumstances, the defendants, their agents, representatives or anyone acting on their behalf are restrained by an ex-parte injunction from going ahead with the said public performance; however, in the event the defendants pay the license fee proposed by the plaintiff, i.e. Rs. 34,125/-, they are free to proceed with the show on the date scheduled.

Provisions of Order 39 Rule 3 shall be complied within three days.

Order dasti under signatures of the Court Master.

S. RAVINDRA BHAT,J

JULY 28, 2010

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