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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS (COMM) 216/2021 & I.As. 6110-6113/2021

POCKET FM PVT LTD ... Plaintiff

Through Mr.Jayant K. Mehta, Sr. Adv with
Mr.Kshitij Parashar, Mr.Aman
Chaudhary, Mr.Soham Goswami and
Mr.Surya Kapoor, Advs.

versus

MEBIGO LABS PRIVATE LIMITED
& ORS. ... Defendants

Through Mr.Aditya Narayan Mahajan,
Ms.Aditi Mittal, Mr.Siddhant
Tripathi, Mr.Jatin Kumar, Advs. for
Defendant No.1.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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04.05.2021

This hearing is conducted through video conferencing.

CS (COMM) 216/2021

Let the plaint be registered as suit.

Issue summons to the defendants. Learned counsel for defendant No.1 accepts summons. Summons be issued to defendant No.2 and defendant No.3 through courier and e-mail.

Written statement be filed within 30 days. Replication, if any, be filed within 30 days thereafter.

I.A. 6111/2021(under Order 11 Rule 1(4))

Allowed subject to just exceptions.

I.A. 6112/2021(exemption)



Allowed subject to just exceptions.

I.A. 6113/2021(exemption from filing court fees till regular functioning of court)

This is an application filed seeking extension of time in filing court fees.

Application is allowed.

I.A. 6110/2021

1. This is an application under Order 39 Rule 1 and 2 CPC seeking an ex parte injunction to restrain the defendants Nos. 1 and 2 from infringing the Audio Books uploaded by defendant No.1 and defendant No.2 or from distributing, publishing, offering for sale or communicating to the public or broadcasting through any media or platform the novel 'Main Teri Chandani'. Other connected reliefs are also sought.
2. It is the case of the plaintiff that plaintiff approached the author Defendant No.3 with a proposal to release the Novel in the form of an audio book once significant portion of the Novel is published. Plaintiff and defendant No.3 entered into in-principle understanding on 15.03.2019 that an audio book version will be published by the plaintiff on an exclusive basis once the significant portion of the novel is released to the public in text form.
3. In March, 2020 Defendant No.1 approached the author Defendant No.3 for grant of audio rights in respect of the novel for a fixed term in exchange of royalty. On 23.03.2020 an alleged agreement was executed between defendant No.1 and defendant No.3 for the said audio rights of the said novel. It is stated that the defendant No.3 signed this document on



23.03.2020 but defendant No.1 electronically signed the said document on 27.03.2020. Prior to that, on 25.03.2020 defendant No.3 addressed an e-mail to the defendant No.1 withdrawing her consent from the said alleged agreement stating that she was already in a contractual agreement for the audio rights with the plaintiff.

4. In this context, reference was made to the e-mail written by defendant No.3 to defendant No.1 on 25.03.2020 which reads as follows:

“Dear Team,

I am sorry to inform you that i was already under a contractual agreement for this script and made a mistake by signing a contract with you. I do not have the audiorights available for this script. Apologies for the inconvenience. I would request you not to transfer any amount basis the contract we signed. The agreement stands void as I don't have the authority to transfer my Audiorights.

We could definitely get in touch for any of my future scripts. I assure you that I won't be repeating such a mistake as i will take proper legal consultation before signing any other contract.”

5. Similarly, my attention has also been drawn to an e-mail written by defendant No.3 on 11.05.2020 where the Defendant No.3 stated as follows:

“Hello Mem,

I mailed you informing that I am cancelling the contract signed with you, but even then you have transferred the money to my account without informing me. Due to the lockdown, I did not know that you have transferred the money to my account. In two-three days, as soon as the bank starts, I will transfer your money to your account. If you put any part of my story “Main Teri Chandani” on kuku fm without my permission, then I will make your complaint in Google Play Store. I hope you understand me.”



6. Another e-mail has been sent on 03.06.2020 by defendant No.3 to defendant No.1 which reads as follows:

“Dear Team,

I have tried sending back the amount you have wrongly transferred into my account, however your account is not accepting the inward payment. Kindly send me you correct account details so that I may transfer you back the amount transferred to me wrongly for the Audiorights. Further emphasizing and already stated to you that i do not have the Audiorights for the mentioned work as i had already transferred the same to someone else.”

7. Hence, it is pleaded that there is no valid agreement existing between defendant No.1 and defendant No.3 which entails defendant No.1 to use the copyright of the serial in question as is being wrongly done by defendant No.1. It is pleaded that defendant No.1 is broadcasting audio book on its app “Kukufm” illegally and hence the defendant No.1 may be restrained from doing the needful.

8. Learned counsel for the defendant No.1 has pointed out that agreement entered into by plaintiff and defendant No.3 dated 15.03.2019 was digitally signed by parties on 26.03.2020. He also points out that the stamp paper itself on which the agreement is executed was bought on 25.03.2020. Hence, it is pleaded that the said agreement between plaintiff and defendant No.3 was actually executed after 23.03.2020 i.e. the date when defendant No.3 signed the agreement by digital signature with defendant No.1.

9. Before any order is passed in this application it will be necessary to issue notice to defendant No.3.

10. Issue notice to defendant No.2 and defendant No.3 by courier and e-



mail, returnable for 11.05.2021. Let a short reply be filed by the defendants within three days.

MAY 4, 2021/st

JAYANT NATH, J.