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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 730/2023, I.A. 20182/2023, 20183/2023, 20184/2023,**
20185/2023

VIACOM18 MEDIA PRIVATE LIMITED Plaintiff

Through: Mr. Sidharth Chopra, Mr. Yatinder Garg, Mr. Akshay Maloo, Ms. Srishti Dhoundiyal & Mr. Priyansh Kohli, Advs. (M: 7987503554)

versus

BIGGBOS.LIVE & ORS. Defendants

Through: Mr. PD Gupta and Ms. Kiran Bala Agarwal, Advs for Applicant. (M: 9811647897)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **12.10.2023**

1. This hearing has been done through hybrid mode.

I.A.20183/2023 (for exemption)

2. This is an application filed by the Plaintiff seeking exemption from filing certified/cleared/typed or translated copies of documents, left side margins, electronic documents, etc. Original documents shall be produced/filed at the time of Admission/Denial, if sought, strictly as per the provisions of the Commercial Courts Act and the DHC (Original Side) Rules, 2018.

3. Exemption is allowed, subject to all just exceptions. Accordingly, the application is disposed of.

I.A. 20185/2023 (for additional documents)

4. This is an application filed by the Plaintiff seeking leave to file additional documents under the Commercial Courts, Commercial Division



and Commercial Appellate Division of High Courts Act, 2015 (hereinafter, 'Commercial Courts Act'). The Plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act and the DHC (Original Side) Rules, 2018.

5. Application is disposed of.

CS (COMM) 730/2023

6. Let the plaint be registered as a suit.

7. Issue summons to the Defendants through all modes upon filing of Process Fee.

8. The summons to the Defendants shall indicate that the written statement(s) to the plaint shall be positively filed within 30 days from date of receipt of summons. Along with the written statement(s), the Defendants shall also file an affidavit of admission/denial of the documents of the Plaintiff, without which the written statement(s) shall not be taken on record.

9. Liberty is given to the Plaintiff to file the replication(s) within 15 days of the receipt of the written statement(s). Along with the replication(s), if any, filed by the Plaintiff, an affidavit of admission/denial of documents of the Defendants, be filed by the Plaintiff, without which the replication(s) shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

10. List before the Joint Registrar for marking of exhibits on 1st December, 2023. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

11. List before Court on 9th April, 2024.

I.A. 20182/2023 (u/O XXXIX Rules 1 & 2 CPC)



12. Issue notice.

13. The Plaintiff-Viacom18 Media Private Limited, a leading broadcaster has filed the present suit seeking protection of rights including reproduction rights in the programme 'Bigg Boss' in all formats, against the Defendant Nos.1 to 5 who are the streaming and downloading websites. 'Bigg Boss' is a reality show, which is based on the format of international Dutch show 'Big Brother' in which the rights are owned by M/s Endemol Shine IP BV. The said show revolves around a number of participants and their interpersonal relationships, who live isolated in a particular premise.

14. The Plaintiff has obtained the format rights for this programme from M/s Endemol Shine IP BV, which was recognized vide agreement dated 17th August, 2020 for Bigg Boss Hindi, seasons 17 and 18. 'Bigg Boss' programme has been produced and broadcasted in India since 2008. The said programme has had 16 seasons in Hindi language and season 17 of Bigg Boss Hindi is expected to be launched on 15th October, 2023.

15. The format of the show is owned by M/s Endemol Shine IP BV. The Bigg Boss show has also been produced and telecasted in two regional languages Kannada and Marathi. Endemol Shine IP BV has given the exclusive license of the format to the Plaintiff for Bigg Boss Hindi seasons 17 and 18, scheduled to be broadcasted from 15th October, 2023 and Bigg Boss Kannada Seasons 10 to 12 to be broadcasted from 8th October, 2023 as also Bigg Boss Marathi seasons 5 to 8. The Plaintiff broadcasts these programmes on the television channels Colors and Colors Kannada as also on its OTT platform 'JioCinema'.

16. It is the case of the Plaintiff that it owns the rights in the format of the show having been licensed the same from M/s Endemol Shine IP BV. In



addition, in the original broadcast, which are produced and created in India, the Plaintiff owns the cinematographic rights as also the broadcast reproduction rights.

17. The Defendants 1 to 5 are the following domain names :

| | |
|----------------------|----------------|
| Biggbos.live | Defendant No.1 |
| Bigg-boss.in | Defendant No.2 |
| Bigg-boss17.com | Defendant No.3 |
| Biggboss17online.com | Defendant No.4 |
| Biggbosslive.net | Defendant No.5 |

18. They are currently running the websites wherein previous seasons and programmes of Bigg Boss are being made available in an unauthorized and non-licensed manner for viewing. The domain name of the Defendants are also registered in the name of Bigg Boss. As per paragraph 22 of the Plaint, these Defendant websites work through the mode of Video-On-Demand (VOD), where users are required to first register and then subscribe and /or make payment to access the unauthorized content which is hosted, streamed *etc.* It is submitted by Mr. Chopra, Id. Counsel for the Plaintiff that the websites are also advertising the next two seasons, which are going to be produced and telecasted on the Plaintiff's platform, contending that the same would also be launched on these websites.

19. The Domain Name Registrars, who have registered the said domain names are Dynadot LLC - Defendant No.6 and NameCheap, Inc. - Defendant No.7. The Defendant Nos.8 to 14 are ISPs and the Defendant Nos.15 & 16 are DoT and MeitY respectively and Defendant No.17 are Ashok Kumar (s).



20. The apprehension of the Plaintiff is that apart from the unauthorized dissemination, which has already been indulged into by the Defendants for the previous seasons and programmes, the Defendants are going to completely make a monetary dent on the Plaintiff's business. Even permitting the recordings of the programmes of the new seasons, which are yet to be launched on their platforms would cause gross violation of the copyrights of the Plaintiff. It is, thus, prayed that the injunction be granted against the said domain names/websites.

21. Heard, the counsel for the Plaintiff. The Bigg Boss programme enjoys enormous popularity even in India and the unauthorized and illegal dissemination of the Bigg Boss programmes, irrespective of past and future seasons, would be clear infringement of the Plaintiff's copyright of broadcast and reproduction rights. If such mushrooming of websites, which also use the name Bigg Boss, is permitted, it would boost piracy and unauthorised dissemination causing heavy losses to the Plaintiff, which may have obtained the rights in the said event/programme after making considerable investment. The Plaintiff's OTT channel Jio cinema is also a subscription platform and if the illegal websites are permitted to unauthorizedly telecast these programmes, the subscription base of the Plaintiff is also likely to be jeopardized.

22. Considering the overall facts, this Court is convinced that the Plaintiff has made out a *prima facie* case of *ex- parte* injunction. Irreparable loss/harm will be caused to Plaintiff if the Defendants are not restrained from illegal and unauthorized telecasting, broadcasting of the Plaintiff's show BIGG BOSS, either past or present episodes as also the said episodes which are already scheduled for telecast shortly. Balance of convenience would



also be in favour of the Plaintiff against the Defendants.

23. Accordingly, the Defendant Nos.1 to 5 are restrained from broadcasting, telecasting, streaming, retransmitting and hosting any episodes of the Bigg Boss programme, which have already been telecasted or which are likely to be telecasted in near future. The domain names of the said websites shall be suspended/locked immediately by the said DNRs, to whom the Plaintiff shall communicate the exact domain name details to the Grievance Officer of the said DNRs. The DoT- Defendant No.15 and MeitY- Defendant No.16 shall issue blocking orders against these websites, which shall be blocked by all the ISPs upon receiving communication from the Plaintiff or from DOT/MeiTy.

24. If any further websites with the name Bigg Boss are found by the Plaintiff, or any other websites which are telecasting illegally the programmes of the Plaintiff, an application shall be filed impleading these websites as parties under Order 1 Rule 10 CPC, 1908, along with an affidavit before the Joint Registrar showing evidence that these are rogue websites infringing the Plaintiff's exclusive right in broadcasting and telecasting Bigg Boss show. The present injunction shall accordingly extend to those websites as well. Upon filing of such an affidavit, the said domain names shall also be locked/suspended and the blocking orders shall be issued to the ISPs by the DoT and MeitY. All ISPs to comply with the blocking orders, on receipt of affidavit or blocking orders.

25. The DNRs shall give details of the registrants of the impugned domain names upon receiving communication from Id. Counsel for the Plaintiff.

26. Compliance of Order XXXIX Rule 3 CPC within one week is



permitted to be made through email.

27. List on the dates fixed above.

PRATHIBA M. SINGH, J.

OCTOBER 12, 2023/dk/ks