



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL ORDINARY APPELLATE JURISDICTION
IN ITS COMMERCIAL DIVISION

INTERIM APPLICATION (L) NO. 36005 OF 2025
IN
COMMERCIAL IP SUIT NO. 668 OF 2025

Phonographic Performance Limited

... Applicant

Versus

Trinetra Venture and Ors.

... Defendants

AND

INTERIM APPLICATION (L) NO. 32745 OF 2025
IN
COMMERCIAL IP SUIT (L) NO. 32556 OF 2025

Phonographic Performance Limited

... Applicant

Versus

Anoor Paripati and Ors.

... Defendants

Mr. Sharan Jagtiani, Senior Advocate along with Mr. Amogh Singh, Ms. Avanti, Mr. Asmant Nimbalkar, Mr. Neeraj Nawar, Ms. Shikha Dutta, Ms. Sheryl D'souza i/by Mr. D.P. Singh, Advocates for the Applicant-Plaintiff.

Mr. Sandeep Parikh along with Arsalan A. Thaver i/by Mr. Abhiraj Parab, Advocates for the Defendants.

Coram : SHARMILA U.DESHMUKH J.
Closed on : DECEMBER 5, 2025
Pronounced : DECEMBER 24, 2025

VISHAL
SUBHASH
PAREKAR

Digitally signed by
VISHAL SUBHASH
PAREKAR
Date: 2025.12.24
18:01:43 +0530

ORDER :

1. As both applications raise common issues, at request of learned counsel for parties, the applications were taken up together for hearing and are disposed of by this common order.

2. The present suit has been filed for infringement of copyright and *quia-timet* action for apprehended future violation by the Defendants. The Plaintiff has pleaded that it is the owner/exclusive licensee of the copyright in the sound recordings in its repertoire on the basis of assignment deeds /exclusive agreements of the relevant copyrights in its favour by several music companies. The Plaintiff claims to be exclusively entitled to grant licenses for communication to the public/ public performance of its repertoire of sound recordings under Section 30 of the Copyright Act, 1957 (for short, "Copyright Act"). The suit has been initiated as the Plaintiff claims that the Defendant who are the owners of about 94 restaurants, without obtaining the license from the Plaintiff as contemplated under Section 30 of the Copyright Act, are unauthorisedly broadcasting the Plaintiff's sound recordings infringing the Plaintiff's copyright.

3. The defences are that the suit itself is not maintainable for non

impleadment of owner of copyright, that the Plaintiff not being registered society is not entitled to grant licences, there is suppression of material facts as the copies of purported agreements in favour of the Plaintiff have not been annexed to the plaint, that incomplete assignment deeds have been annexed to the plaint and that the assignment deeds are inadequately stamped.

4. Mr. Jagtiani, Leaned Senior Advocate for the Plaintiff submits that the Plaintiff is the owner/exclusive licensee of copyright in the sound recordings in its repertoire. He submits that the assignment deeds/exclusive licenses being voluminous documents are set out in the Compact Disk (CD) which is filed along with the plaint and a sample agreement is annexed at Exhibit "E" to the plaint which demonstrates the Plaintiff's copyright ownership in the sound recordings. He would submit that cease and desist notice was issued to the Defendants who are operating about 94 establishments without securing the license from the Plaintiff. He would further point out to the affidavit of Plaintiff's representative who has deposed on oath about his visit to the Defendant's establishments and video recorded the unauthorised broadcasting of the songs. He has taken this Court through various interim orders granted in favour of Plaintiff by this Court in identical matters. He would submits that the

Defendants' contention of the license terms being unreasonable which amounts to refusal to allow public performance and premised on the decision of the Delhi High Court in the case of ***Al Hamd Tradenation v. Phonographic Performance Ltd.*** (supra) cannot constitute a defence to an action for copyright infringement. He would further submit that in event the said defence is taken, it constitutes an admission of the Plaintiff's ownership in the copyright which itself is being denied by the Defendant. He would further submit that this Court in a group of petitions in the case of ***Novex Communications Pvt. Ltd. v. Trade Wings Hotesl Limited***¹ has taken a view that the Plaintiff is entitled to seek relief as sought for in the plaint without being registered as copyright society under Section 33(1) of the Copyright Act. He would submit that the contrary view taken by the Delhi High Court does not bind this Court. He would further point out Section 54 and Section 55(1) of the Copyright Act to contend that even exclusive licensee is entitled to maintain an action for infringement. Relying upon extract from Copinger and Skone James on Copyrights, Mr. Jagtiani submits that a copyright owner or exclusive licensee may apply for interim injunction without joining the owner or obtaining leave of the Court.

¹ 2024 SCC OnLine Bom 252

5. Mr. Jagtiani would submit that reliance placed upon Section 61 of the Copyright Act is misplaced as the Court can dispense with the requirement of impleading the owner a party to the proceedings and in any event, the non impleadment of the owner would not come in the way of consideration of interim application. He would submit that the sample agreement annexed has been redacted in order to protect the confidential information. He submits that Schedule I of the agreement provides for the partial and restricted assignment of non physical rights in the song recordings by music label exclusively to Plaintiff which is the relevant consideration for deciding the application at the interlocutory stage. He would further point out that the issue as regards the agreement being an incomplete document was considered by this Court in the case of ***Phonographic Performance Limited vs. Sky Inn Services and Ors.***² and it has been held that such objection is unsustainable for resisting grant of interim relief. He would further submit that in case of the ***Phonographic Performance Ltd. Vs. Iron Hill Brewery Ltd and Ors.***³ this Court has considered the defence as regards the agreement being not properly stamped and has declined to interfere at the ad-interim stage. In support he relies upon the following decisions:

(i) Novex Communications Private Limited v. Trade Wings

² IAL No.1488/25 Dt.05-02-2025.

³ Notice of Motion (L) No.3061/2018 Dt.24-12-2018.

Hotesl Limited⁴

(ii) Byke Hospitality Ltd. v. Phonographic Performance Ltd. with connected Applications⁵

(iii) Byke Hospitality Ltd. v. Phonographic Performance Ltd.⁶

(iv) Phonographic Performance Ltd. v. Azure Hospitality Private Limited⁷

(v) Phonographic Performance Ltd. v. Azure Hospitality Private Limited⁸

(vi) Suhail Abdul Kadar Ishkay vs. Riyad Rashid Oomerbhoy and Ors.⁹

(vii) Ashwatha Developers vs. Shree Vardhaman Stanavasi Jain Shravak Sangh and Ors.¹⁰

(viii) M/s. Pride Association and Ors. vs. Damodardas Bhaidas Bhuta and Ors.¹¹

(ix) Marine Container Services (I) Pvt. Ltd. vs. Rajesh Dhirajlal Vora¹²

(x) Nalluri Sai Vasavi vs. Kolluri Nageswara Rao¹³

(xi) Ranjit Vardichand Jain vs. Nirmal Gagubhai Chhadwa and Ors.¹⁴

6. Mr. Parikh, learned Counsel for the Defendant would point out the provisions of Section 61 of the Copyright Act to contend that the non-impleadment of owner is fatal to the suit drawing support from the decision of the Delhi High Court in **ESPN Stars Sports vs. Global Broadcast News and Ors.¹⁵** which had dismissed the suit for non

4 2024 SCC OnLine Bom 252

5 IA.(L) No.10772 of 2024, Dt.12-12-2024

6 In SLP (Civil) Diary No(s).26340/2025, Dt.21-05-2025

7 In Petition(s) for Special Leave to Appeal (c) No(s).10977/2025, Dt.21-04-2025.

8 In Special Leave to Appeal (C) No(s).10977/2025, Dt.19-06-2025.

9 2021 SCC OnLine Bom 6711.

10 2016 SCC OnLine Bom 261.

11 2013 SCC OnLine Bom 902.

12 2001 SCC OnLine Bom 270.

13 2022 SCC OnLine AP 3349

14 (2023) 1 High Court Cases (Bom) 568.

15 2008 SCC OnLine Del 1766.

impleadment of owner. He would submit that the document annexed as sample agreement which is an incomplete unstamped document and cannot be looked into. He draws attention of this Court to the provisions of Article 5(h)(A)(v) of Stamp Act, which provides for payment of stamp duty on assignment agreements. He submits that the Plaintiff would seek to rely on Article 25 in Schedule I of the Stamp Act and the explanation contained therein is an obvious error as Article 25 deals with conveyance. He would further submit that the reliance which has been placed on the extract of Copinger and Skone James on Copyright applies to the UK laws and has no relevance to Indian Copyright laws.

7. Mr. Parikh would further submit that in case of ***Azure Hospitality Private Limited vs. Phonographic Performance Pvt. Ltd,*** the Delhi High Court vide its judgment dated 15th April, 2025 had directed the Plaintiff therein to make payment to PPL as per the tariff of RMPL and the Hon'ble Apex Court has stayed even the direction to make payment as per the tariff of a registered copyright society. He would further submit that though this Court has held that the Plaintiffs are entitled to seek relief without being registered as a copyright society, there is note of caution as the Court did not go into the question as to whether the Plaintiffs are exclusive owner of

copyright and have the right to prevent infringement.

8. In rejoinder Mr. Jagtiani would contend that the issue as regards the unstamped agreements has already been dealt by this Court and would not come in the way of grant of ad-interim relief. He would further point Section 34 of Stamp Act to contend that at the stage of evidence, it will be considered whether the document is admissible in evidence or not.

9. I have considered the submissions and perused the record.

10. The issue of the Plaintiff's right to grant license without being registered as copyright society under Section 33(1) of the Copyright Act is no longer *res integra* as this Court in ***Novex Communications Pvt. Ltd.*** (supra), has upheld the Plaintiff's right. The decision being rendered by Co-ordinate bench of this Court binds this Court. The Appeal against the order of Learned Single Judge was dismissed by the Hon'ble Division Bench. In SLP before the Hon'ble Apex Court, a statement was made by the Plaintiffs that they would not proceed with the hearing of the suit. The concession given by the Plaintiff in that case cannot inure to the benefit of Defendant in resisting the ad-

interim relief as the statement cannot be construed as restraining the Plaintiff from proceeding against any infringer till adjudication of the SLP. The contention that the statement made by the Plaintiff amounts to selective prosecution is not acceptable as non prosecution against each and every infringer cannot constitute a defence in infringement action. In so far as the observation in Trade Wings Hotesl Limited (supra) as to whetehr the Plaintiffs are exclusive owner of copyright or not, the Learned Single Judge did not venture into the said aspect as the issue under consideration was as regards Section 33(1) of Copyright Act.

11. The contrary decision taken by the Delhi High Court would not bind this Court and judicial discipline demands that the decision of Co-ordinate Bench be followed by the subsequent bench.

12. Dealing next with the contention of Section 61 of Copyright Act, the said provision provides for impleadment of owner as Defendant, unless the Court otherwise directs, in suits instituted by exclusive licensee. The pleading in the plaint is that the Plaintiff is owner/exclusive licensee of copyright in the sound recordings in its repertoire. The provisions of Section 61 would come into play where

suit is instituted as exclusive licensee. The present proceedings instituted in capacity as owner of copyright and exclusive licensee in respect of some of the music labels cannot be terminated at the threshold even in face of section 61 as the cause of action is joint. It would be pertinent to note the submission by Plaintiff in the case of ***Novex Communications Pvt. Ltd.*** (supra), that the Plaintiff has assignment with 60% of labels in its repertoire and with respect to eleven labels, the Plaintiff is exclusive licensee. The provisions of Section 61 of Copyright Act vests discretion in the Court to grant leave and non impleadment of owner would not result in absolute embargo in institution of suit. In this context, the provisions of Section 54 and Section 55 of the Copyright Act deserves consideration. Section 54 and 55 finds place in Chapter XII of the Copyright Act which deals with civil remedies. Section 54 provides that for purpose of that chapter, the expression “owner of copyright” includes an exclusive licensee and Section 55 entitles the owner of the copyright to maintain action for infringement. Section 54 of Copyright Act thus takes the exclusive licensee within the fold of expression “owner of copyright”. Conjoint reading of Section 54 and Section 55 of Copyright Act would *prima facie* entitle the exclusive licensee to maintain an action for infringement of copyright. The Defendant’s reliance on decision of ***ESPN Star Sports*** (supra) is misplaced as subsequently the Division

Bench of Delhi High Court has set aside the order of Learned Single Judge.

13. Coming to the defence that the assignment agreements annexed to the plaint are incomplete documents, the plaint pleads that all assignment deeds/exclusive agreements are available on Plaintiff's website and that a compact disc containing the list of music labels, assignment deeds/exclusive agreements and list of sound recording repertoire is appended to the plaint. To the plaint is annexed sample agreement granting partial and restricted assignment. The objection is to the annexing of redacted version of this sample agreement and blank schedule to the agreement. In paragraph 17 of the reply affidavit, the Defendant has pleaded that it has perused the Plaintiff's website and the Plaintiff's purported agreements. To avoid burdening the Court record with voluminous documents, the compact disk is placed on record. There is no pleading that the agreements hosted on the Plaintiff's website is lacking in material particulars or that the agreements set out in the compact disk are incomplete documents. The Defendants have stated to have perused the documents on the website and therefore are aware of the Plaintiff's copyright in the sound recordings. The objection to incomplete agreement being annexed to the Plaint is irrelevant at this

stage. This Court in ***Phonographic Performance Limited*** (supra) had considered identical submission and accepted the redacted agreement in order to protect confidential information. The Court further accepted that the pleadings sufficiently satisfy the requirements and the contention is unsustainable for resisting an interim relief. This Court finds identical pleadings in present plaint.

14. As regards the defence of unstamped agreements, Section 34 of the Stamp Act places a statutory embargo on admissibility of such document in evidence. The stage is yet to arrive in the present case. At the interim stage for the purpose of grant of interim relief, the unstamped agreement will not create obstacle in consideration of prayer for interim relief. (See ***Suhail Abdul Kadar Ishkay vs Riyad Rashid Oomerbhoy 2021 SCC OnLine Bom 6711, Ashwatha Developers Vs Shree Vardhaman Stanakvasi Jain Shravak Sangh 2016 SCC OnLine Bom 261, Pride Associates vs Damodardas Bhaidas Bhuta 2013 SCC OnLine Bom 902, Marine Container Services (I) Pvt Ltd vs Rajesh Dhirajlal Vora 2001 SCC OnLine Bom 270, Nalluri Sai Vasavi vs Kolluri Nageswara Rao 2022 SCC OnLine AP 3349***).

15. The unreasonable licensing fee structure of the Plaintiff is put

up as defence to the infringement action by relying on decision in ***Al Hamad Tradenation v. Phonographic Performance Ltd.*** (supra) passed by Delhi High Court. The judgment of Delhi High Court arose out of proceedings filed under Section 31 of the Copyright Act by the Defendant therein seeking grant of compulsory license and assignment of license right. In present case, it is not the Defendant who has approached this Court under Section 31 of Copyright Act but the Plaintiff claiming infringement. Mr. Jagtiani is right in submitting that Section 31 cannot be pressed in service as defence and the submission accepts the ownership right of the Plaintiff.

16. What is pertinent to note that there is specific pleading in the plaint of infringement of copyright by the Defendants establishment on 30th November, 2023, 24th February, 2024, 27th April, 2025 and 4th November, 2025 supported by the Affidavit of Plaintiff's representative. The Defendants have not able to demonstrate any entitlement to broadcast the Plaintiff's copyrighted sound recordings. *Prima facie*, there is no reason to disbelieve the plea of infringement, which is supported by affidavit on oath. As the Defendants have *prima facie* infringed the Plaintiff's copyright, the Plaintiff has established the foundation for apprehended violation of copyright. The

Defendants are operating about 94 establishments and continuing infringement would result in loss and damage to the Plaintiff tilting the balance of convenience in favour of the Plaintiff.

17. In light of the above, the Plaintiff is entitled to interim relief in terms of prayer clause (a). Pending the hearing and final disposal of this Suit, the Defendants, its office bearers, partners, directors, their servants, employees, agents, assignees, licensees, representatives, third-party event management companies, or otherwise and/or any person claiming through them or acting on their behalf, are restrained from publicly performing or in any manner communicating the sound recordings assigned and exclusively licensed to the Plaintiff or allowing their premises or any other premises under their control to be used for the said purposes, without obtaining non-exclusive public performance licence from the Plaintiff, or otherwise infringing the copyright in any work owned and protected by the Plaintiff.

18. Interim Applications are allowed accordingly.

[SHARMILA U. DESHMUKH, J.]