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

+ CS(COMM) 483/2022

BIKRAMJEET SINGH BHULLAR Plaintiff

Through: Mr. Chander M. Lall, Senior Advocate
with Mr. Joseph Koshy, Ms. Ananya Chug and
Ms. Puja Singha Roy, Advocates.

versus

YASH RAJ FILMS PRIVATE LIMITED & ORS..... Defendants

Through: Mr. Abhishek Malhotra and Ms. Shilpa
Gamnani, Advocates for D-1, 3, 8 and 9.
Mr. Deepak Biswas and Ms. Varsha Agarwal,
Advocates for D-6 and D-7.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **18.08.2022**

I.A. 12942/2022 (seeking amendment of the plaint, by Plaintiff)

1. Present application has been preferred on behalf of the Plaintiff seeking amendment of the plaint.
2. For the reasons stated in the application, the same is allowed.
3. Amended plaint is taken on record.

I.A. 11030/2022 (under Order 39 Rules 1 and 2 CPC, by Plaintiff)

4. Present suit has been filed seeking injunction against the Defendants from making, producing, distributing, broadcasting, communicating to the public, adapting, telecasting, exhibiting in theatres, and/or on television and/or online platforms (including any 'OTT platform' or other streaming platform) the impugned film titled "*Shamshera*", or any part(s) thereof, or any other

similar work, so as to amount to infringement of Plaintiff's copyright in the literary work 'Kabu na chhadein Khet'.

5. The suit when filed initially was predicated on the trailer of the impugned film "*Shamshera*", which was released on 24.06.2022 on Youtube. It is an undisputed fact that thereafter the impugned film was released in the theatres on 22.07.2022.

6. On 26.07.2022, learned counsel appearing on behalf of Defendants No. 1, 3, 8 and 9, on instructions, had undertaken that the film shall not be released on the OTT Platforms till the next date of hearing and the undertaking has continued till date.

7. Learned counsel appearing on behalf of Defendants No. 1, 3, 8 and 9 prays that Defendant No. 1 be permitted to release the film on various OTT Platforms tomorrow i.e. 19.08.2022, failing which it shall be in breach of contractual obligations *qua* third parties in that respect. It is further submitted that in case the film is not released on 19.08.2022 on the OTT Platforms, irreparable injury shall be caused to Defendant No. 1, while the Plaintiff can always be compensated in terms of money in case he succeeds.

8. On the other hand, learned Senior Counsel appearing on behalf of the Plaintiff opposes the release of the film on the ground that Defendants have not only infringed the copyright of the Plaintiff in its literary work by making a substantial reproduction but there is also flagrant and dishonest breach of confidence as Defendants No. 2, 5 and 6 admittedly had access to Plaintiff's entire literary work, which is evident from the host of correspondence placed on record. It is further submitted that while the plaint was filed based on the

trailer of the film, however, subsequently the plaint has been amended after the screening of the film and Plaintiff has brought out substantial similarities between the rival works, which leave no doubt that Plaintiff's work has been copied and plagiarized by the Defendants.

9. Considering the totality of the circumstances as well as the fact that the impugned film has already been released in theatres and is scheduled to be released on the OTT Platforms tomorrow i.e. 19.08.2022, in my view, in order to balance the equities between the parties, at this stage, it would be appropriate to permit Defendant No. 1 to release the impugned film "*Shamshera*", on the OTT Platforms, subject however, to Defendant No. 1 depositing a sum of Rs.1 Crore with the Registrar General of this Court, latest by 22.08.2022. The money so deposited shall be invested in an interest bearing fixed deposit by the learned Registrar General in a Nationalised Bank for an initial period of three months.

10. It is made clear that if the money is not deposited within the timeline granted by this Court, an injunction shall operate against further telecast of the movie on the OTT Platforms with effect from 23.08.2022.

11. Needless to state, the deposit is without prejudice to the rights and contentions of the parties to the *lis* and is only to balance the equities at this stage.

12. List the application for hearing on 12.09.2022.

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13. Learned counsel for Defendant No. 1 submits that written statement to the amended plaint has already been filed.

14. Replication, if any, be filed before the next date of hearing.
15. Amended written statement be filed by the remaining Defendants in accordance with law.

JYOTI SINGH, J

AUGUST 18, 2022/*shivam*