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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**INTERIM APPLICATION (LODGING) NO. 35266 OF 2022
IN
COMMERCIAL IP SUIT (LODGING) NO. 35265 OF 2022**

Phonographic Performance Limited

...Applicant/Plaintiff

Versus

Xeco Media LLP & Ors.

...Defendants

* * *

- Mr. Amogh Singh, Mr. Asmont Nimbalkar, Mr. Alero Ramchandai i/
by Mr. D.P. Singh, for the Applicant/Plaintiff.

* * *

CORAM : MANISH PITALE, J

DATE : 21ST NOVEMBER, 2022.

P. C. :

1. Heard learned Counsel for the Plaintiff.

2. By the present application, the Applicant/Plaintiff is pressing for *ex-parte* ad-interim relief. It is pointed out that the Plaintiff is a Company that owns and holds rights in respect of around 400 music label with more than 45,00,000 International and Domestic sound recordings. It is stated that Plaintiff issues licenses for public performances/communication to the public of such sound recordings, on the basis of assigning such exclusive copyrights that it holds in the music label.

3. It is submitted that the Plaintiff issues such annual licenses for playing the sound recordings of which it holds copyrights and also issues event specific licenses to those who approach it for

grant of such licenses. It is further submitted that this Court has granted such *ex-parte* ad-interim reliefs on earlier occasions also when Defendants therein have sought to exploit the sound recordings in which the Plaintiff has copyright, without obtaining a license for the same.

4. Insofar as the Defendants in the present case are concerned, it is submitted that they have put in public domain advertisement regarding a New Year Bash at their premises on 31st December, 2022. It is further submitted that even as on today Defendants have been illegally exploiting aforesaid sound recordings, without any license or permission from the Plaintiff. An employee of the Plaintiff had visited the premises and submitted the information to the Plaintiff as regards the aforesaid misuse of the sound recordings, in this backdrop; the Plaintiff has moved this Court for *ex-parte* ad-interim relief in terms of prayer clause (a).

5. This Court finds that the Plaintiff has incorporated pleadings in Paragraph No. 4 of the Plaint to state that it is the owner of copyright of large number of sound recordings on the basis of assignment agreements that were executed in its favour by several music companies. Considering the number of such agreements and the voluminous record, all such agreements are made available on the website of the Plaintiff, showing the extent of rights held by the

Plaintiff in respect of such sound recordings. In order to press ad-interim relief, a sample of one such agreement is placed on record. A perusal of the same would show that the Plaintiff has acquired rights in such sound recordings from music companies and music labels, which grant exclusive rights to the Plaintiff to exploit such sound recordings and further issue licenses in respect of the same to others on charging royalty.

6. The material on record also indicates the manner in which the Defendants intend to organize the New Year Bash, on 31st December, 2022. A copy of notice dated 19th August, 2022, issued on behalf to the Plaintiff to the Defendants is also placed on record, wherein the Plaintiff has asserted its rights in the said sound recordings and the Defendant has been asked to desist from exploiting such sound recordings, without acquiring appropriate license from the Plaintiff. There is no response from the Defendant to the aforesaid notice, as a result of which, the Plaintiff has moved this Court for grant of such *ex-parte* ad-interim reliefs. A perusal of the orders passed by this Court at the behest of the Plaintiff in similar cases, shows that the exclusive rights of the Plaintiff have been recognized even at the preliminary and *ex-parte* stage, in order to grant ad-interim reliefs in favour of the Plaintiff.

7. Considering the aforesaid material, this Court is of the

opinion that a strong *prima facie* case is made out by the Plaintiff for grant of such limited *ex-parte* ad-interim relief. In the event, the Applicant is not granted such relief urgently, it is likely to suffer loss, thereby showing that the balance of convenience is indeed in favour of the Applicant.

8. In view of the above, *ex-parte* ad-interim relief is granted in terms of prayer clause (a), which reads as follows :

“(a) That pending the hearing and final disposal of this Suit, this Hon’ble Court be pleased to issue an order of injunction against restraining Defendant, its 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, from publicly performing or in any manner communicating the sound recordings of the songs assigned and authorized to the Plaintiff or allowing their premises or any premises under their control to be used for the said purposes, without obtaining non-exclusive public performance rights in sound recordings from the plaintiff, or otherwise infringing the copyright in any work owned and protected by the Plaintiff;”

9. List this application for further consideration on **09th January, 2023**, till which time the aforesaid ad-interim relief shall continue to operate.

(MANISH PITALE, J.)