

Super Cassettes Industries Pvt. Ltd vs Relevant E Solutions Pvt Ltd. & Ors on 31 August, 2020

Author: Mukta Gupta

Bench: Mukta Gupta

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CS(COMM) 347/2020
I.A. 7418/2020 (under Order XXXIX Rule 1 and 2 CPC)

SUPER CASSETTES INDUSTRIES PVT. LTD.. Plaintiff
Represented by: Mr. Amit Sibal, Senior Advocate with
Ms.Geetanjali Visvanathan,
Mr.Aditya Gupta, Ms.Aishwarya
Kane, Mr.Vinay Tripathi and
Mr.Saksham Dhingra, Advocates.

versus

RELEVANT E SOLUTIONS PVT LTD. & ORS. Defendant
Represented by: Mr.Akshay Bhandari, Advocate for
Defendant No.1.
Mr.Saikrishna Rajagopal, Mr.Ameet
Datta, Mr.Himanshu Bagai,
Mr.Jasman Dhanoa and
Ms.Deepshikha Sarkar, Advocates for
Defendant Nos.2 to 4.
Mr.Ashim Sood, Ms.Roopali Singh,
Mr.Abhimanyu Chopra, Ms.Sayobani
Basu and Mr. Rhythm Buaria,
Advocates for Defendant No.6.

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA
ORDER

% 31.08.2020 The hearing has been conducted through Video Conferencing.

1. In terms of order dated 27th August, 2020 an affidavit has been filed on behalf of defendant No.3 indicating its responses primarily to para-41 of the plaint claiming that majority of compliances as sought by the plaintiff CS(COMM) 347/2020 PageGUPTA alleging infringement have been carried out by the defendant No.3 in the weekend. The affidavit on behalf of defendant No.3 in para-2 states that as an interim measure pending adjudication of I.A. 7418/2020, defendant No.3's ROPOSO mobile application does not permit the upload of any songs residing on the user's device. Para-3 of the affidavit responding to para-41 (a), (b), (c), (d), (e), (g) and (h) notes as under:

(a) Music Library in the Mobile Application does not contain any content allegedly belonging to the plaintiff. This addresses the Plaintiff's concern highlighted at para 41(a) of the plaint.

(b) Commercials/Advertisement as identified by the Plaintiff at para 41(b) of the Plaint and screenshots of which have been shared on page numbers 133 to 136 of the List of Documents, allegedly containing the sound recordings owned by the Plaintiff, have been removed. This addresses Plaintiff's concern highlighted at para 41(b) of the plaint.

(c) The Defendant No.3's ROPOS0 Application currently does not permit the accessing of the phone music folder hence, the question of the application permitting removal of Rights Management Information does not arise. This addresses the concern raised at paragraph 41(c) of the Plaint.

(d) The interactive effects tool titled "Jai Ho" which has been described at paragraph 41(d) of the Plaint has also been removed and thereby addresses the concern highlighted in paragraph 41 (d) of the Plaint.

(e) Currently, the Defendant No.3's ROPOS0 Application does not have the local library feature hence, the question of ripping/illegality extracting songs from users' devices especially Apple Music Accounts and "Google CS(COMM) 347/2020 PageGUPTA Play Music Accounts" does not arise. This addresses the concern raised at paragraph 41(d) of the Plaint. This also addresses the concern of the Defendant No.3 related to alleged removal/alteration Rights Management Information of such songs as identified at paragraph 41(e) of the Plaint. Even otherwise, I state that the Defendant No.3's ROPOS0 mobile Application has never removed RMI in any manner.

(f) Currently, Defendant No.3's ROPOS0 application has also disabled the extraction/ripping of sound recordings along with underlying literary and musical works from videos of other users of the ROPOS0 Application. This addresses the concern at paragraph 41(g) of the Plaint.

It is stated that the change for Android/Apple devices is already effective.

(g) That Defendant No.3 has removed the identified infringing content "Dil to Bachcha Hai Ji" and "Ban Ja Rani" on Defendant No.2's account. This addresses the concern at paragraph 41 (h) of the Plaint.

2. In respect of para 41 (f), the defendant No.3 has expressed its inability at the moment due to the volume and the nature of relationship between the defendant No.3 and the user being that of an intermediary and claims that in case defendant No.3 is provided with the identified URLs, the defendant No.3 would take down the same also as it has already done by removing URLs identified

by the plaintiff in the legal notice dated 16 th July, 2020 and the email dated 7th August, 2020 as also the URLs in the suit.

3. This affidavit has been filed on behalf of defendant No.3 without prejudice to its rights and contentions or admission of any liability.

4. Considering that the plaintiff by way of an ad-interim injunction seeks restraining the defendants, their directors, employees etc. from CS(COMM) 347/2020 PageGUPTA using/exploiting the plaintiff's copyrighted work including the works detailed with the plaint as Annexure-A and the works of which the plaintiff becomes the owner in the future by way of storing, hosting, reproducing/making copies, issuing copies, commercially exploiting/monetising, communicating to the public, digitally transmitting at this stage, this Court finds that without hearing the parties on the application, it would not be appropriate to pass an ad-interim injunction of a sweeping nature as sought in para 41 (i), (ii) and (iii) of I.A.7418/2020. However, defendant No.3 would be bound by its affidavit till the decision in the application.

5. Till the next date of hearing the defendant No.3 would also consider whether the grievance made by the plaintiff in para-41 (f) of the plaint can be addressed by way of a digital mechanism and inform the same to the Court on the next date of hearing.

6. Reply affidavit to the application be filed within ten days. Rejoinder affidavit be filed within three days thereafter.

7. Learned counsel for the defendant No.6 states that he is not an investor of defendant No.3 which fact is refuted by learned counsel for the plaintiff. Learned counsel for the defendant No.6 states that he would file an application for deletion of defendant No.6 from the array of parties.

8. Learned counsel for the defendant No.1 states that the defendant No.1 is also neither a necessary party nor a proper party to the suit and that defendant No.1 will also file an application for deletion of defendant No.1 from the array of parties.

9. List on 15th September, 2020 at the end of the Board.

10. Written submissions be filed by the parties before the next date of CS(COMM) 347/2020 PageGUPTA hearing.

11. Order be uploaded on the website of this Court.

MUKTA GUPTA, J.

AUGUST 31, 2020
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