

## **Urmi Juvekar Chiang vs Global Broadcast News Limited, A ... on 7 June, 2007**

**Equivalent citations: 2008(2)BOMCR400, 2007(109)BOM.L.R.981, MIPR2007(2)223, 2008(36)PTC377(BOM), AIR 2008 (NOC) 123 (BOM.) = 2007 (6) AIR BOM R 240, 2008 A I H C 74**

**Author: A.M. Khanwilkar**

**Bench: A.M. Khanwilkar**

ORDER

A.M. Khanwilkar, J.

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1. Heard Counsel for both the sides at length. Perused all the relevant documents and pleadings on record.

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2. This order will dispose of prayer for ad-interim relief claimed by the Plaintiff during the pendency of the Motion.

3. The Plaintiff claims to be a reputed script-writer having scripted various films and various television serials. She also claims to have authored and/or directed and/or produced various documentary films. In substance, the grievance of the Plaintiff against the Defendants, on the basis of which, interim relief is claimed against them is on two grounds

(a) Breach of Confidentiality by the Defendants.

(b) Infringement of copyright of the Plaintiff.

Both these causes are in relation to reproduction and adaptation in the format of the proposed television programme created by the Plaintiff titled "Work in Progress", by the Defendants by making the television programme by title "Summer Showdown" and proposing to broadcast the same on the CNN-IBN television news channel.

4. Some of the facts common to both these grounds as asserted in the Plaint are that, in or about

November 2005, the Plaintiff conceived an idea of a reality television programme, which would follow citizens from different parts of the Country as they took the initiative and set out to solve a civic problem of their choice in their locality. The Plaintiff asserts that the programme would follow the chosen protagonists through the quagmire of bureaucracy and conflicting interests and destructive attitudes as they tried to solve a civic problem of their choice. That the programme would highlight the fight of the protagonists on many fronts and in the end, even if the protagonists failed to solve the problem, the programme would highlight that the protagonists had tried to solve the civic problem. The Plaintiff transformed her idea into a concept and prepared a detailed concept note containing the concept, the form, the treatment, the problems, etc. (Exhibit A to the Plaint). The said concept note prepared by the Plaintiff of the television programme titled Work in Progress was registered with the Film Writers Association, Mumbai on 9th November 2005. The Plaintiff asserts that the concept note is a literary work within the meaning of Section 2(o) of the Copyright Act, 1957 (hereinafter referred to as the Act); and that the Plaintiff has the exclusive right to reproduce the said literary work and to make a television programme based on the same in terms of Section 14(c) of the Act. Insofar as the interaction with the Defendants, it is stated that in or about March 2006, the Plaintiff first approached Ms.Rasika Tyagi of the Defendants and on 10th March 2006 sent an e-mail thanking Ms.Rasika Tyagi for agreeing to look at the Plaintiffs concept. In the said communication, Plaintiff has recorded that the proposed programme was a news based television show titled Work in Progress. In response to this communication, Ms.Rasika Tyagi vide her e-mail dated 21st March 2006 replied to the Plaintiff that she has gone through the concept and the same sounds interesting. She further informed the Plaintiff to make it convenient to meet her whenever she is in Delhi to discuss the concept further. On the basis of this representation, the Plaintiff contacted one Mr.Arjun Gaurisaria, the Managing Director of Black Magic Movies Private Limited, who agreed to act as a producer of the television programme titled Work in Progress. Besides, the Plaintiff visited Ms.Rasika Tyagi of the Defendants and had a detailed discussion with her Page 0986 and also made a detailed presentation of her concept as further developed and also the production plan. The Plaintiff asserts that the further developed concept note and the production plan (Exhibit D) were also her "literary work". The same were discussed threadbare with the Defendants, but the Plaintiff was informed that the budget proposed by her for the proposed television programme was on the higher side. Thereafter, Plaintiff discussed with Mr.Arjun Gaurisaria on the budget of the proposed television programme titled "Work in Progress" and the same was revised. Accordingly, Mr.Arjun Gaurisaria on behalf of Plaintiff, on 19th April 2006 sent an e-mail to Ms.Rasika Tyagi of the Defendants informing her that the cost of the programme has been reworked and the budget has been brought down to Rs.10,50,000/- (Rupees Ten Lakhs Fifty Thousand) per week, which seems to be a manageable figure. It is recorded in the said communication that in case of any issue on the budget, that can be discussed in a meeting, for which he would come down to Delhi on the given date. It is stated that there was no reply to this communication from Ms.Rasika Tyagi, as a result, on 16th May 2006, Arjun Gaurisaria sent another e-mail to Ms.Rasika Tyagi of the Defendants stating that if the budget of the proposed programme is found expensive, other alternatives could be explored. In the meantime, the Plaintiff had also discussed the production plan with one Mr.Ramchandran Srinivasan, the Executive Producer. It is stated that the said Ramchandran Srinivasan was intimately known to Mr.Rajdeep Sardesai, Editor-in-chief of the Defendants. Accordingly, said Ramchandran Srinivasan on behalf of the Plaintiff sent an e-mail on 24th July 2006 referring to the Plaintiffs proposal and mentioning that

the budget of the proposed programme can be cut down. He also forwarded the budget as well as the original concept of the Plaintiff to Rajdeep Sardesai of the Defendants on e-mail. It is then stated that Arjun Gaurisaria happened to meet Rajdeep Sardesai of the Defendants on a flight and took that opportunity to discuss about the proposed programme and the effectiveness of the programme "Work in Progress". Apropos the said discussion, on 3rd February 2007, Arjun Gaurisaria again e-mailed the developed concept note and the production plan of the television programme Work in Progress to Rajdeep Sardesai of the Defendants. As no reply was received to this e-mail communication, Arjun Gaurisaria sent another reminder on 15th February 2007 to Rajdeep Sardesai enquiring as to whether he could find time to go through the material sent earlier. This was followed by another e-mail communication dated 17th February 2007 sent by Arjun Gaurisaria to Rasika Tyagi of the Defendants enquiring with her whether they can start discussing and doing initial ground work for programme Work in Progress. Thereafter, Arjun Gaurisaria sent another e-mail on 14th April 2007, both to Rajdeep Sardesai and Rasika Tyagi of the Defendants pointedly asking them whether they were interested in taking the programme Work in Progress. Plaintiff asserts that instead of receiving any response from the Defendants, the Plaintiff was shocked to see promotion of a programme titled "Summer Showdown" on the CNN-IBN Television Channel, which attempts to showcase five families across five cities, trying to find solutions to civic woes that come with Summer. This came to the knowledge of the Plaintiff on 19th May 2007, although the said programme titled "Summer Showdown" was already being aired from 14th May 2007. To know about more details of the said programme, Page 0987 the Plaintiff visited the website of the Defendants and viewed the promotional videos promoting the television programme "Summer Showdown" that were available on the website "ibnlive.com" of the Defendants.

5. It is stated that the Defendants television programme "Summer Showdown" also follows citizens from different parts of the country as they take the initiative and set out to solve a civic problem of their choice in their locality. It is further stated in Para 15 of the Plaint that the videos suggest that the television programme "Summer Showdown" follows the chosen protagonists through the quagmire of bureaucracy and conflicting interests and destructive attitudes as they try to solve a civic problem of their choice. It is further stated that the videos suggest that the television programme "Summer Showdown" also highlights the fight of the protagonists on many fronts. In Para 16 of the Plaint, it is then stated that on comparison of the Plaintiffs developed concept note of the television programme "Work in Progress" with the Defendants television programme "Summer Showdown", clearly indicates that the Defendants have copied the television programme of the Plaintiff in all material aspects. It is also asserted that the changes made by the Defendants such as having five families as protagonists instead of four individual protagonists, is a cosmetic change. Further, the basic idea and the format of the Plaintiffs television programme have been slavishly and flagrantly copied and/or reproduced by the Defendants. The Plaintiff asserts that this has been done with dishonest and fraudulent intention and that the Plaintiff had not granted any licence to the Defendants to make any television programme using her concept note. This clearly amounts to infringement of copyright of the Plaintiff in the literary work being the concept note of the television programme Work in Progress within the meaning of Section 51 of the Act.

6. The Plaintiff then asserts that inspite of the exclusive right of the Plaintiff in her literary work being the concept note (original and developed) and production plan of the television programme

"Work in Progress" , which was disclosed in confidence to the Defendants, who thereupon used it to develop it for their own commercial exploitation, de hors the Plaintiff, being the originator of the concept. It is stated that when the Plaintiff had submitted her concept note of the production plan to the Defendants, it was done with specific understanding that the Defendants would either accept or reject it. Instead, the Defendants by using the information imparted to them in strict confidence by the Plaintiff, breached the confidence reposed by her in them, by misappropriating the concept of the Plaintiffs television programme and by announcing the launch of the television programme on similar lines, which has resulted in inflicting huge loss and damage to the Plaintiffs television programme by luring away the potential sponsors. In substance, the Plaintiff asserts that the concept note and the production plan of the television programme "Work in Progress" was information of the type that could be treated as confidential and could not have been used by the Defendants without the Plaintiffs licence.

7. Having considered the rival submissions and the pleadings and documents on record, I shall consider the points in issue in the context of the rival submissions and pleadings hereinafter. The principles relating to the action of Page 0988 breach of confidence have been subject matter of catena of decisions. The Division Bench of our High Court in the case of Zee Telefilms Ltd. and Anr. v. Sundial Communication Pvt. Ltd. and Ors. , on analysing the decisions on the subject has expounded that the law of breach of confidence is different from law of copyright. The law of breach of confidence, is of breach of trust or confidence-"is a broader right" than proprietary right of copyright. In para 10 of this decision, the Court went on to observe as follows:

10. The law of confidence is different from law of copyright. In paragraph 21.2 (page 721), the learned author has pointed out that right to restrain publication of work upon the grounds, that to do so would be breach of trust or confidence, is a broader right than proprietary right of copyright. There can be no copyright of ideas or information and it is not infringement of copyright to adopt or appropriate ideas of another or to publish information received from another, provided there is no substantial copying of the form in which those ideas have, or that information has, been previously embodied. But if the ideas or information have been acquired by a person under such circumstances that it would be a breach of good faith to publish them and he has no just case or excuses for doing so, the Court may grant injunction against him. The distinction between the copyright and confidence may be of considerable importance with regard to unpublished manuscripts/works submitted, and not accepted, for publication or use. Whereas copyright protects material that has been reduced to permanent form, the general law of confidence may protect either written or oral confidential communication. Copyright is good against the world generally while confidence operates against those who receive information or ideas in confidence. Copyright has a fixed statutory time limit which does not apply to confidential information, though in practice application of confidence usually ceases when the information or ideas becomes public knowledge. Further the obligation of confidence rests not only on the original recipient, but also on any person who received the information with knowledge acquired at the time or subsequently that it was originally given in confidence.

8. The principles on which the action of breach of confidence can succeed, have been culled out as

(i) he (Plaintiff) had to identify clearly what was the information he was relying on;

(ii) he (Plaintiff) had to show that it was handed over in the circumstances of confidence;

(iii) he (Plaintiff) had to show that it was information of the type which could be treated as confidential; and

(iv) he (Plaintiff) had to show that it was used without licence or there was threat to use it. The Division Bench in Para 13 of the same decision has culled out the above said principles relying on the decision in the case of CMI Centers for Medical Innovation GMBH and Anr. v. Phytopharm PLC reported in 1999 Fleet Street Page 0989 Reports 235. It is further noted that at interlocutory stage, the Plaintiff does not have to prove (iii) and (iv) referred to above, as he will at the trial. But the Plaintiff must address them and show that he has atleast seriously arguable case in relation to each of them.

9. There can be no doubt that the Plaintiff in this case would be entitled for grant of ad-interim relief, if the Plaintiff were to make good the abovesaid requirements in relation to the action of breach of confidence. As is mentioned earlier, the cause set out in the Plaint is founded on two grounds. Firstly, on the breach of confidentiality and secondly, on infringement of copyright of the Plaintiff. The distinction between the two actions has been expounded by the Division Bench of this Court in Para 10 in the case of Zee Telefilms (supra) reproduced above. To put it differently, even if the Plaintiff were to make out arguable case in relation to the claim of breach of confidentiality, she may succeed in getting the interim relief. For that, we will have to bear in mind four principles referred to earlier. As observed by the Division Bench, at the interlocutory stage, the Plaintiff will not be required to prove (iii) and (iv) as she will at the trial. But it will be sufficient if she is able to address them and show that at least seriously arguable case in relation to each of them exist. Indubitably, this principle will have to be borne in mind moreso for considering the prayer for grant of "ad-interim relief" during the pendency of the Motion for interim relief.

10. The first aspect is to ascertain whether the Plaintiff has identified clearly what was the information she was relying on. Going by the averments in the Plaint, there can be no doubt as to the nature of information in relation to which breach of confidentiality is alleged. The Plaintiff has made it clear more than once that she was alleging breach of confidentiality in relation to "her concept" and the "concept note" regarding programme titled "Work in Progress", which was originally conceived and articulated by her in the initial concept note and also the further developed concept notes and the production plan thereof. Indeed, the issue of civic woes may be in public domain, but the concept developed by the Plaintiff for a reality show on the subject of the programme "Work in Progress" is a novel one. Besides, going by the averments in the Plaint and the contemporaneous record, there is no doubt that the Plaintiff passed on information regarding "her concept" and the format of the programme in "concept notes" to the Defendants in confidence. The case made out in the Plaint in this behalf is substantiated by contemporaneous record such as the communication exchanged in this behalf between the parties. The Plaintiff was interacting with the

Defendants with clear assumption that they would either accept or reject the proposed programme or work of the Plaintiff titled "Work in Progress". In no case, the Defendants would use the said information themselves or allow the same to be used without the licence of the Plaintiff.

11. The next question is: whether the Plaintiff has shown that the subject information was of such type which could be treated as confidential? Even on this issue, there should be no difficulty in accepting the claim of the Plaintiff. Indeed, the Defendants would contend that no confidentiality can be claimed in relation to matters in public domain. For, the issue of civic woes was in public domain and no confidentiality can be claimed in respect Page 0990 of the idea to solve the same. Moreover, the breach of confidentiality can be invoked only if it is a case of use of a script, characterisation, sequences, dialogues. The argument though attractive, clearly overlooks the principle expounded by the Division Bench of our High Court in the case of Zee Telefilms (supra). In the first place, the Plaintiff is not claiming confidentiality in relation to the issue of civic woes as such, but the claim in confidentiality is in relation to "her concept -of the programme" and the manner of spreading awareness of the civic problems. The Plaintiff is claiming confidentiality also in relation to her "concept notes and production plan" pertaining to programme "Work in Progress". For the purpose of action in breach of confidentiality, it is well established position that a party can claim confidentiality even in relation to a "concept or idea", unlike in a claim or action in infringement of copyright - if the Plaintiff were to satisfy the specified parameters to succeed in such action. In Para 16 of the decision, the Division Bench went on to advert to the exposition in the case of Fraser v. Thames Television Ltd. reported in 1983(2) All.E.R. 101. In that case, breach of confidence was claimed in relation to an idea of a television series and which idea was "disclosed orally" and in confidence to the Defendants. The Defendants used that idea to create television series with other actresses. The Court held that the Court would prevent person who had received idea expressed "in oral" or written form from disclosing it for an unlimited period or until that idea becomes general public knowledge. In the present case, the grievance of the Plaintiff is not confined to exploitation of her concept or idea of staging a television reality show to highlight the woes of a common man in respect of civic problem, but also in relation to the format, the treatment, the problems and the production plan articulated by the Plaintiff in the original concept note and further developed concept notes and production plan for the programme "Work in Progress". All these matters were undoubtedly of the type which ought to be treated as confidential. The fact that such information was received by the Defendants is not in dispute. It is also evident that the Plaintiff has not given licence to the Defendants to use the said information in any manner. It is also not possible to assume or infer that the said concept and the production plan of programme "Work in Progress" had become a general public knowledge. Even in a case where there is threat to use such information passed on in confidence, the Plaintiff would be entitled for protection. The Plaintiff would surely be entitled to protection even where the same (information) in fact has been used wholly or in part, with a threat of continued user thereof but also in case of threat to use it in posterity by the person to whom such information is given.

12. Incidentally, it is not the case of the Defendants that the information made available to them by the Plaintiff was not handed over in the circumstances of confidence as such. No such plea can be countenanced in the fact situation of the present case. The argument of the Defendants that the Plaintiff cannot succeed unless they were to assert and prove that the concept note was handed over

by the Plaintiff to Defendant No.1 with any express or implied term for the confidentiality of the Agreement. This argument will have to be stated to be rejected in the fact situation of the present case. In my opinion, from the materials on record, the Plaintiff has succeeded in making good all the four criteria for considering grant of ad-interim relief in Page 0991 relation to the action of breach of confidentiality. The Plaintiff has also relied on another decision which has bearing on the issue relating to action of breach of confidentiality. That decision is, in the case of Anil Gupta and Anr. v. Kunal Das Gupta & Ors. of the Delhi High Court reported in 2002 (97) Delhi Law Times 257. In fact, Paragraphs 27 and 29 of this decision have been extracted with approval in the Judgment of Zee Telefilms (supra) of the Division Bench of our High Court with approval. In Anil Gupta's case (supra), the Court has adverted to the decision in Talbot v. General Television Corporation Pvt. Ltd. reported in 1981 R.P.C.1, and then went on to observe that the Law of Trade Secrets by Robert Dean take into consideration that the word novel is sometimes used simply to mean previously unknown but its more common meaning is that of inventiveness, or that of the information is unique, akin to "manner of manufacture". It has further observed that whether it is described as originality or novelty or ingenuity or otherwise, there must be some product of the human brain which suffices to confer a confidential nature upon the information. The Court then referred to the exposition in the case of Fraser v. Thames Television (supra), which reads thus:

Clearly a claim that the disclosure of some information would be a breach of confidence is not to be defeated simply by proving that there are other people in the world who know the facts in question besides the man as to whom it is said that his disclosure would be a breach of confidence and those to whom he has disclosed them.

The Court then extracted the dictum in the case of Terrapin v. Builder Supply Company, which postulates that the essence of law on breach of confidentiality is that whatever the origin of it may be, is that a person who has obtained information in confidence is not allowed to use it as a spring-board for activities detrimental to the person who made the confidential communication, and spring-board it remains even when all the features have been published or can be ascertained by actual inspection by any member of the public. The Court also went on to observe in Para 39 that if such confidential information is going to be used in competition with the Plaintiff, it is not merely a matter of compensation in terms of money. It is useful to reproduce Para 27 of the decision which reads thus:

27. In the modern day, when the small screen has taken over the earlier means of mass communication like radio, idea/concept/script of a broadcaster has wider potentiality of capitalising revenue and if that idea/concept or script is not protected then in a given case, a person who has conceived an idea to be translated into the reality TV show which could be key to its success with audience then channels with their enormous resources could always be in a better position to take the idea/theme/concept from any author and then develop at their own end and the original author of the concept will be left high and dry. In appropriate cases interlocutory injunction may be issued restraining such breach of confidentiality of the theme, concept or scripts otherwise it would be catastrophic for the television

industry. One has to bear in mind that persons who create an idea/concept or theme which is Page 0992 original, laws must ensure that such like people are rewarded for their labour. A concept for reality show on television was given to the company, which in this case is the defendants. Creator provides raw material to the entertainment industry, themes or concepts originates from the person who has conceived the same, protection is vital for the functioning of the industry. Otherwise authors of the ideas who are individuals, their ideas can be taken by the broadcasting companies or channels owning companies and the persons who has conceived the same, would be robbed of its labour....

13. Reliance was also placed by the Plaintiff on the decision of the Madras High Court in the case of *The Daily Calendar Supplying Bureau, Sivakasi v. The United Concern* and lastly, on the decision of the Apex Court in the case of *Midas Hygiene Industries P.Ltd. and Anr. v. Sudhir Bhatia and Ors.* reported in 2004 (28) PTC 121 (SC). In Para 5 of this decision, the Apex Court has observed that the law on the subject is well settled. In that, in case of infringement either of Trade Mark or of Copyright, normally, an injunction must follow. Mere delay in bringing action is not sufficient to defeat grant of injunction in such cases. It is further observed that the grant of injunction also becomes necessary if it prima facie appears that the adoption of the Mark was itself dishonest. In the fact situation of the present case, if the Plaintiff were to succeed in establishing the fact that the Defendants have misused the information made over to them in confidence without the licence of the Plaintiff, it would necessarily follow that the attempt of the Defendants was nothing but dishonest. Suffice it to observe that the Plaintiff has made out more than seriously arguable case in relation to the ground of breach of confidentiality and would therefore, be entitled for the ad-interim relief in terms of prayer clauses (a) and (b) of the Motion.

14. That takes me to the second ground on which the Plaintiff is claiming order of injunction against the Defendants. It is the case of the Plaintiff that the Defendants by their act of commission and omission have infringed the copyright of the Plaintiff relating to her television programme "Work in Progress". Going by the pleadings, it is not possible to accept the argument of the Defendants that the Plaintiff was claiming infringement of copyright in relation to the abstract concept or idea of the programme as such. However, on fair reading of the Plaint as a whole, it is seen that the grievance of the Plaintiff is of infringement of copyright in relation to the original concept note articulated by her and the further developed concept note and the production plan of the stated programme. Those were the literary work of the Plaintiff in relation to the television programme "Work in Progress". It is seen that the concept of Plaintiff in relation to television programme titled "Work in Progress" has been registered with the Film Writers Association, Mumbai as back as on 9th November 2005. The Plaintiff made over said concept note to the Defendants. In fact, it cannot be disputed that the Plaintiff made over further developed concept note of the said programme and the production plan detailing the format, the treatment, the problems, etc. to the Defendants in Page 0993 or about March-April 2006. In such a situation, the question that will arise for consideration is: whether the Defendants have copied or reproduced the said work in any material form to make any film in respect of that work (Plaintiffs work) or have done adaptation thereof? The concept note as well as the further developed concept note and the production plan, it cannot be disputed, can be described as literary work of the Plaintiff in relation to which there was existing copyright in her favour.



Reproduction or adaptation of that work in any material form or any substantial part thereof by the Defendants would clearly attract the action of infringement of copyright. For considering such claim, it is well established that the Court will not enter into hypercritical and meticulous scrutiny but go by the broad observations and impressions of an average viewer. The Court will have to ascertain whether there has been reproduction, copy or adaptation of the work of the Plaintiff or any substantial part thereof. For that, the striking similarities in the two works will have to be examined. According to the Defendants, the programme aired by the Defendants titled as "Summer Showdown" is in no way comparable to the work of the Plaintiff. There are marked dissimilarities in both the works. Those dissimilarities articulated in the reply affidavit filed before this Court reads thus:

S.No. Summer Showdown:

Work in progress:

Families facing essentially summer related problems are featured.

The concept note visualizes individuals having faced a civic problem and taking initiative to resolve it.

2.

The families do not necessarily have a solution to their problem.

The individuals should already have a proposed solution.

3. The selection of the families was done on the basis of already existing contacts of reporters and through research. The families need not meet any criteria, except for facing a civic problem. The families were put through a simple screening test before being selected.

The selection of individuals is on the basis of whether the individual has sufficient initiative to resolve a civil issue and whether he already has a reasonable plan for resolving the issue.

4. The civic problem is required to be brought to the attention of the concerned civic authority.

The individual need not necessarily approach the civic authority for resolution of his problems. He or she may resolve the problem by approaching local resident's welfare association, industrial house, etc.

5. The civic authority's responsiveness plays a crucial role in this show and is continuously being monitored.

The civic authority is presumed to be an antagonist to the initiative of the individual. The individual's actions and reactions to various antagonistic agents is crucial to the show.

6. Reaction of civic authority has not been dramatized in its series. We are doing it in reality and will see the Page 0994 reaction of the authority. Not presume them as antagonistic and find its own solution, like 'Work in Progress' will do. So, the claim of alleged literary work of the Plaintiff being copied has not been made out.

The text of the Plaintiff's concept note very clearly lays down the script of what will happen in an ANTAGONIST -PROTAGONIST fashion. This already predicts, in writing, the reaction of the civic authority and people with conflicting interests as being antagonistic.

7. Aired 5 days in a week.

2-3 minutes story on one family from one city on one day of the week.

Conceived to be aired once a week - 60 minutes episode (Week that was)

8. Each day assigned to a different city.

Each episode features the four individuals

9. Macro level problems of the kind that plague the entire city. Addressing broader infrastructural issues. One family facing a civic problem and approaching the concerned civic authority for resolution of the problem. Thus, the solution is likely to affect the city at that macro level. Perhaps even at the level of the whole city. EG: power, flooding, sound pollution, etc. Micro-level problems and tackle them not only with authorities but also with other citizens, local associations, etc. EG: not having a zebra-crossing at the main-road, stray dogs. So the specific solution being proposed is at the level of that locality for that particular problem.

10. No screening of participants for intention/sincerity.

Screening of participants for intention/sincerity.

11. The 'Summer Showdown' show just brings to light a real incident with minimum interference by the channel. CNN-IBN is trying to show how easy or hard it is in this day and age to get your problem resolved through a civic body. No coverage of the families' emotions, no interviews of their friends and family members to find out what they are going through.

The concept note visualizes a show being high on building drama and tension, continuously assessing the trials and tribulations of the individual as well as the antagonistic agents.

12. If unsuccessful, the concerned civic authority' head is proposed to be brought to task. No chance to keep working at it and come back later on the show.

Even if unsuccessful, no concept of having lost. Each individual is to be appreciated on the basis of the efforts made. There is no spirit of competition, and no comparison, conscious or unconscious,

proposed to be made between the participants. It is a collective loss or a collective victory.

15. On the other hand, the Plaintiff has asserted in the Plaint to which reference has already been made in the earlier part of this Order that the Defendants television programme "Summer Showdown" also follows citizens from different parts of the country as they take the initiative and set out to solve the civic problems of their choice in their locality. Besides, the programme of the Defendants even follow the chosen protagonists through the quagmire of bureaucracy and conflicting interests and destructive attitudes as they Page 0995 try to solve civic problem of their choice. Similarly, the programme of the Defendants also highlights fight of the protagonists on many fronts. According to the Plaintiff, on comparison of the developed concept note of the television programme "Work in Progress" with the Defendants television programme "Summer Showdown", it definitely shows that Defendants have copied the programme of the Plaintiff in all material aspects. The changes brought about in the programme of the Defendants are only cosmetic ones. The Plaintiff asserts that the television programme of the Defendants has slavishly and flagrantly copied and/or reproduced the Plaintiffs work without licence of the Plaintiff and that conduct of the Defendants was clearly dishonest and fraudulent. In the Exhibit appended to the rejoinder affidavit filed before this Court, the Plaintiff has articulated the striking similarities in the two works in following terms:

S.No. Work in Progress:

Summer Showdown:

1.

The program is not news.

The program is not news.

2. It is a pre-recorded program where there may be off the screen interference. The show is therefore not live either.

It is a pre-recorded program where there may be off the screen interference. The show is therefore not live either.

3. Participants are screened as set out in the concept note.

Participants are screened (However, the details of such screening are deliberately not disclosed by the defendants)

4. Concept: A reality show in which across the country in four cities one individual each try to solve a civic problem of their choice. This effort is captured on camera. A reality show. The emphasis on participating in the civic process.

Concept: CNN IBN showcases in a reality show five families (instead of four individuals) across five cities who have resolved to solve a civic problem of their choice.

5. The individuals interact with civic authorities The families interact with civic authorities as well whilst finding a solution for the civic problem chosen by them. The civic authorities are described as antagonists since they are on the other side required to address the problems.

whilst finding a solution for the civic problem chosen by them.

6. Suggested Problems to be dealt with: Roads, drainage, water, health, protection of monuments, education, animal protection. Sample episodes for the purposes of understanding also set out in the concept note.

Problems being dealt with: Though the program states that the problems being dealt with are related to the summer, surprisingly the problems dealt with are water (Bangalore), drainage/flooding (Bombay), traffic/roads (Kolkatta) health and garbage (Chennai)

7. Episode 1: Introduction of protagonists and the civic problem they decide to try and solve. This episode highlights the reasons (emotional, personal) for choosing that particular civic problem and introduces the family members Page 0996 as well as friends. The episode urges viewers to watch the following episode to see what happens next.

Episode 1: Introduction of the protagonists and the family. The reasons behind taking up the issue. The episode urges viewers to watch the following episode to see what happens next.

8. The duration of this effort is 30 days i.e. about four weeks.

The duration is four weeks i.e. 28 to 30 days.

9. Episode 2: Shows what the protagonists journey is going to be. Details of the forces against solving of the issue and actions taken are shown.

Episode 2 : Protagonists begins his effort. His actions.

10. The ticking clock is uses The ticking clock is used to as a motif to show that the time is running out.

show that the time is running out.

11. Identification of the week and day for the viewer to capture the sense of time.

Day and week label appears on screen.

12. The concept of using daily 2/3 mins segment. These daily capsules were to deal with individual protagonist's course of action on a daily basis. Mentioned in all written concept notes as well as the visual presentation and correspondence.

The show is a daily 2/3 minutes capsule.

13. Anchor based show at the end of the week for 60 mins .

An anchor introduces each episode after giving a recap and ends the show after the clipping of what the family has done. Program though is just the daily capsule aforementioned with a proposed end of the month live show with all the families and civic authorities.

14. .Discussed the possibility of changing the number of protagonists as well as the program duration to make it financially viable until the concept picks up.

Used part of the format. Only daily capsules and not the weekly show.

15. No spy/hidden cameras are used and wherever the camera cannot be taken into a civic authority office (for example) the cameraman waits outside.

No spy/hidden cameras are used and wherever the camera cannot be taken into a civic authority office (for example) the cameraman waits outside.

16. Voice overs are used for commenting on the proceedings of the day.

Voice overs are used for commenting on the proceedings of the day.

17. The assistance of an NGO though not mandatory was possible to be sought.

For eg.: The assistance of an NGO was proposed in Chennai. (As set out in the First Affidavit on page 105)

18. At the end of four weeks a final show featuring all participants.

At the end of four weeks a final show featuring all participants.

19. Broadcasting platforms suggested: Web (which includes Broadband), Blogs, Newspaper, Radio.

Broadcasting platforms:

Broadband, blogs.

16. Suffice it to observe that in the present case in relation to the ground under consideration, the grievance is not one of infringement of mere idea or an abstract thought. On the other hand, the Plaintiff asserts that she had Page 0997 developed or expressed her idea into various concept notes, including production plan which are appended to the Plaint. In other words, the grievance of the Plaintiff was one of infringement of such literary work of the Plaintiff by the Defendants in respect of the programme titled "Work in Progress". Here, it may be useful to advert to the exposition in Copinger and Skone James on Copyright, 14th edition. In Para 2-05, it is observed as follows:

No copyright in ideas. Copyright is a property right, but copyright law is concerned, in essence, with the negative right of preventing the copying of material. It is not concerned with the reproduction of ideas, but with the reproduction of the form in which ideas are expressed. "Ideas, it has always been admitted,... are free as air." Copyright is not a monopoly, unlike patents and registered designs, which are. Thus,

if it can be shown that two precisely similar works were in fact produced wholly independently of one another, there can be no infringement of copyright by one of the other. The position is that, if the idea embodied in the plaintiffs work is sufficiently general, the mere taking of that idea will not infringe. If, however, the idea is worked out in some detail in the plaintiffs work and the defendant reproduces the expression of that idea, then there may be an infringement. In such a case, it is not the idea which has been copied but its detailed expression.

17. Reliance is also placed by the Defendants on the exposition in Paragraphs 3-10 of the same book, which read thus:

Protection afforded by copyright in a literary work. It is often stated that there is no copyright in ideas. There are two aspects to this statement, the first of which has been discussed above, namely that it is not the concern of copyright enactments to protect ideas unless and until the ideas have found expression in the form of a work of a category recognised as deserving of protection. The second aspect is the corollary of the first, that once the ideas have been expressed in the form of a work, it is the form of expression which is the subject of protection, not the ideas, which themselves may be freely extracted from the work and absorbed and used by others to produce their own works, so long as the form of expression of the work is not also taken. In this respect, however, it is to be noted that the form of expression of a literary work does not mean only the text in which that work is written; it may include the selection and arrangement in a particular order of incidents, whether factual or fictional.

The same considerations apply to literary works whose principal purpose is to communicate news, and indeed it is often stated that there is no copyright in news. This is perhaps not an accurate way of applying the general principle referred to above. The fact that the content of a literary work is news does not prevent that work from being capable of protection by copyright. But again, what is protected is the form of expression of that content. The information itself, as information stripped of its particular form of expression, may be freely used, as with any other literary work.

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18. In the first place, the two works are not news items but reality shows. More over, in the present case, the Plaintiff is questioning the action of the Defendants of reproduction of the "format" in which the ideas were expressed by the Plaintiff in her concept notes articulated from time to time and the production plan in relation to programme titled "Work in Progress". It is not the case of the Plaintiff that mere idea of the Plaintiff has been infringed, but it is the specific case of the Plaintiff that her idea had found expression in the form of detailed concept notes and the production plan relating to the programme "Work in Progress". That has been substantially reproduced by the Defendants in material form in several aspects which results in infringement of her copyright in that programme. It will be useful to straightaway

advert to the leading decision of the Apex Court in the case of R.G.Anand v. Delux Films and Ors. . In Paragraph 46 of this decision, after considering the gamut of the case law on the subject, the Apex Court elucidated the propositions emerging from different authorities as follows:

46. Thus, on a careful consideration and elucidation of the various authorities and the case law on the subject discussed above, the following propositions emerge:

1. There can be no copyright in an idea, subject-matter, themes, plots or historical or legendary facts and violation of the copyright in such cases is confined to the form, manner and arrangement and expression of the idea by the author of the copyrighted work.
2. Where the same idea is being developed in a different manner, it is manifest that the source being common, similarities are bound to occur. In such a case the courts should determine whether or not the similarities are on fundamental or substantial aspects of the mode of expression adopted in the copyrighted work. If the defendants work is nothing but a literal imitation of the copyrighted work with some variations here and there it would amount to violation of the copyright. In other words, in order to be actionable the copy must be a substantial and material one which at once leads to the conclusion that the defendant is guilty of an act of piracy.
3. One of the surest and the safest test to determine whether or not there has been a violation of copyright is to see if the reader, spectator or the viewer after having read or seen both the works is clearly of the opinion and gets an unmistakable impression that the subsequent work appears to be a copy of the original.
4. Where the theme is the same but is presented and treated differently so that the subsequent work becomes a completely new work, no question of violation of copyright arises.
5. Where however apart from the similarities appearing in the two works there are also material and broad dissimilarities which negative the intention to copy the original and the coincidences appearing in the two works are clearly incidental no infringement of the copyright comes into existence.

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6. As a violation of copyright amounts to an act of piracy it must be proved by clear and cogent evidence after applying the various tests laid down by the case law discussed above.

7. Where, however, the question is of the violation of the copyright of stage play by a film producer or a Director the task of the plaintiff becomes more difficult to prove piracy. It is manifest that unlike a stage play a film has a much broader perspective, wider field and a bigger background



where the defendants can by introducing a variety of incidents vie a colour and complexion different from the manner in which the copyrighted work has expressed the idea. Even so, if the viewer after seeing the film gets a totality of impression that the film is by and large a copy of the original play, violation of the copyright may be said to be proved.

19. Thus understood, to answer the claim of the Plaintiff for grant of ad-interim relief, it will have to be ascertained whether the work of the Defendants is similar in material and substantial aspects with that of the Plaintiff. While examining this, as noted by the Division Bench of our High Court in Zee Telefilms (supra), it will have to be borne in mind that "it is enough that substantial parts were lifted; no play right can excuse wrong for showing how much of his work he did not pirate". This quotation is extracted from the case of Sheldon v. Metro Goldwyn Pictures Corporation reported in 1993 (81) F 2nd 49. The standard to be applied, therefore, is not to compare the two works with hypercritical and meticulous scrutiny but from the stand point of the observations and impressions of an average viewer. As presently advised, there are striking similarities in the work of the Plaintiff as that of the work of the Defendants. The programme is not news, it is a reality show (programme). That is the stand now taken by the Defendants on affidavit.

20. It is a different matter that when the Notice of Motion was moved before the Vacation Judge of this Court on 23rd May 2007, representation was made on behalf of the Defendants through their Counsel that the Defendants were displaying a three minute "news clipping" which can neither be termed as reality show nor the same is based upon the concept note of the Plaintiff. The Defendants informed this Court that, in fact, their programme was a live programme. Indeed, a praecipe was moved on behalf of the Defendants immediately on 24th May 2007, calling upon the same Vacation Judge to clarify the statement of the Counsel of the Defendants recorded in the order dated 23rd May 2007. The Defendants wanted it to be clarified that the Defendants had submitted that their programme was not a reality show based upon the concept of the Plaintiffs claim in the Suit, inasmuch as the term reality show is a very wide generic term. With regard to the other statement of the Defendants recorded in the same order (dated 23rd May 2007) that, in fact the programme telecast by the Defendants was a live programme; the Defendants wanted even that statement to be changed to be read as their programme was in fact an earlier recording of events. This praecipe was considered by the same Vacation Judge on 24th May 2007 and the Court has noted that there was no ambiguity or any clerical error in its earlier order which required to be corrected. The request of the Defendants of speaking to the minutes of the earlier order was expressly rejected by observing that Page 1000 there was no merit in the application. It follows that, an incorrect statement was made on behalf of the Defendants before the Court in relation to the material facts, on 23rd May 2007. Nevertheless, the Court went on to observe that the earlier order was without prejudice to the rights and contentions of both the parties. In this backdrop, grievance was rightly made on behalf of the Plaintiff that because of such incorrect statement of fact made on behalf of the Defendants, the Court did not grant any ad-interim relief on 23rd May 2007 itself. That was the negative injunction secured by the Defendants from the Court by misrepresentation of material facts. According to the Plaintiff, although the Defendants programme "Summer Showdown" was aired on and from 14th May 2007, Plaintiff became aware about the infringement and breach on 19th May 2007, and immediately rushed to file the present suit which, in turn, was prepared on 21st May 2007 after collecting the basic documents, which became available to the Plaintiff and it was moved for

ad-interim relief on 23rd May 2007. It is not necessary for me to elaborate on this matter any further for the present. Suffice it to observe that the programme which is being telecast by the Defendants is not a news item but a reality show, which is strikingly comparable with the work of the Plaintiff.

21. Indeed, the Defendants have stated that the programme "Summer Showdown" was conceived in-house around March-April 2007 as a reality show comprising families in metros dealing with problems related to Summer, but was later on modified to a certain extent. The Defendants may be given benefit of having conceived an in-house programme "Summer Showdown" around March-April 2007 as a reality show comprising families in metros dealing with "problems related to Summer". However, if they intended to modify that programme, the modification ought to be in the context of the original theme of problems during Summer. Whereas, the form and contents of programme "Summer Showdown" which has been relayed by the Defendants, as is rightly pointed out by the Plaintiff, is the same as the programme of the Plaintiff "Work in Progress"; namely, a reality show in which across the country in four cities, one individual each try to solve a civic problem of his/her choice. The emphasis of the reality show was on participating in civic process. Whereas, the modified programme "Summer Showdown" showcases a reality show in which five families (instead of four individuals) across five cities, who have resolved to solve a civic problem of their choice. There is only a cosmetic change brought about. For, instead of individuals in four cities, it is five families across five cities. The Plaintiffs work focussed on problems such as roads, drainage, water, health, protection of monuments, education, animal protection, etc. The Defendants programme though titled as "Summer Showdown", also relates to the civic problems such as water, drainage/flooding, traffic/roads, health and garbage. The striking similarities in the two works have been elaborated by the Plaintiff in the rejoinder affidavit to which reference has already been made in the earlier part of this Order. What is noticed is that substantial part of the work of the Plaintiff has been lifted in the programme of the Defendants titled "Summer Showdown". The argument of the Defendants of the dissimilarities pointed out by them, to borrow the words of the learned Judge Hand in his Judgment in the case of Sheldon (supra), is only an excuse for showing how much of Plaintiffs work Defendants did not pirate. Although the first point noted by the Defendants Page 1001 is that the families facing essentially summer related problems are shown in their programme. However, from the material available on record, it is seen that the main theme of the Plaintiff in her work relating to programme "Work in Progress" has been substantially lifted and borrowed. The matters such as difference in selection process, the families or for that matter of period of airing the programme during the week or a given date, or screening of participants or that it is not anchor-based and the like highlighted by the Defendants are of no avail. Those changes are only cosmetic ones.

22. To get over this position, it was argued on behalf of the Defendants that in fact, the assertion in the Plaint do not spell out material facts to maintain action of infringement of copyright against Defendants. In any case, there is no cause of action to proceed against the Defendants. This technical arguments will have to be stated to be rejected. I have already observed in the earlier part of this Order that the Plaintiff has spelt out the relevant facts which, result in infringement of copyright. The Plaint will have to be read as a whole. In any case, the Plaintiff has brought on record in Paragraphs 15 and 16 how the Defendants have fraudulently copied the work of the Plaintiff.

Assuming that the specific case regarding similarities of the two works has not been spelt out by the Plaintiff in the Plaint, the Defendants have no manner of doubt about the case made out by the Plaintiff against them. Obviously, therefore, in the reply affidavit filed to oppose the Motion, the Defendants have meticulously dealt with several aspects on the merits of the work and highlighted the dissimilarities in the two works. The Plaintiff on the other hand in the rejoinder has re-iterated the position stated in the Plaint and has also elaborated on how and in what manner the Defendants have indulged in reproduction and adaptation of the Plaintiffs programme "Work in Progress". The similarities pointed out by the Plaintiff are more striking. The dissimilarities pointed out by the Defendants are trivial and insignificant to answer the point in issue. It is apparent that the theme in the Plaintiffs work in material form and substantial part thereof has been lifted and reproduced and adapted in the work of the Defendants. Suffice it to observe that the impression after going through both the works, viewed in the perception of an average viewer, is that, the Defendants work is based or taken from the original work of the Plaintiff though titled as "Summer Showdown".

23. Counsel for the Defendants would rely upon the decision of our High Court in the case of *Star India Pvt. Ltd. v. Leo Burnett (India) Pvt. Ltd.* reported in 2003 (27) PTC 81 (Bom.). The exposition in this decision is in the context of the script of two films which were different. No portion of the dialogues or scenes were common. Suffice it to observe that the Court was considering the claim of copyright in relation to the film/sound recordings and not of literary, dramatic or artistic work. In that case, the learned Judge was conscious of this position and has thus observed at Page 94 that ".....A narrow copyright protection is accorded to a film/sound recordings than for literary, dramatic or artistic work. The reason perhaps could be that they have to be original to satisfy the test of copyrightability, whereas the requirement of originality is absent for claiming copyright in cinematograph films/sound Page 1002 recordings". In the present case, however, the grievance is that the concept note, further developed concept note and the production plan which spell out the format, the treatment, the problems, etc., articulated by the Plaintiff which was her original literary work in relation to programme "Work in Progress", have been lifted and substantial part thereof has been reproduced and adapted by the Defendants in their programme titled "Summer Showdown".

24. Counsel for the Defendants would then rely on the decision of the Court of Appeal of Newzealand in the case of *Green v. Broadcasting Corporation of New Zealand* reported in (1989) RPC (No.16) 469. For the factual matrix of the present case and view that I have already expressed in the earlier part of this Order, which is following the exposition of our Apex Court and the Division Bench of our High Court including the decision of the Delhi High Court, it is not necessary to elaborate further on this decision.

25. The argument of the Defendants that there can be no copyright in the theme of citizen activism towards civic problems and the said theme cannot be considered to be original or entitled to copyright protection in favour of the Plaintiff exclusively, would have been valid only if this Court were to find that treatment, format, structure, expression and presentation of the programme "Summer Showdown" was materially dissimilar and do not resemble to the literary work of the Plaintiff. However, on the finding recorded earlier, this argument will not take the matter any further for the Defendants. Similarly, the argument of the Defendants that they were already running a show titled "Citizen Journalist" since December 2005. The said show covered stories

where citizens have raised their concern and voice for bringing about positive change through their efforts, such as through making an application under the Right to Information Act or by making a film or by gathering support from his neighbourhood towards addressing a common cause. Even this claim of the Defendants will be of no avail on the finding recorded that the programme tilted "Summer Showdown" has striking similarities with the literary work of the Plaintiff in relation to programme "Work in Progress".

26. There is substance in the argument of the Plaintiff that the plea taken by the Defendants in the reply affidavit is, to say the least, afterthought and to create gloss so as to mislead the Court. There is substance in the argument of the Plaintiff that at no stage Rasika Tyagi had conveyed to the Plaintiff that the Defendants were already broadcasting similar show in the name of Citizen Journalist. There is no contemporaneous record to support this position. On the other hand, the response of Rasika Tyagi to the Plaintiff belies this position. Rasika Tyagi in her communication showed interest in the concept of the programme of the Plaintiff. There is also substance in the argument of the Plaintiff that nothing prevented the Defendants to file affidavit of Rasika Tyagi or for that matter, of Rajdeep Sardesai to dispute the factual matrix indicating their involvement during negotiations as stated by the Plaintiff before this Court. It is not the case of the Defendants that their abovesaid two representatives were not available for affidavit. In such a case, adverse inference should be drawn against the Defendants. In Paragraph (b)(v) of the reply affidavit, it is asserted that Rasika Tyagi had communicated to the Plaintiff that her proposal is rejected. There is nothing to support this position. This claim of the Defendants, to say the least, is afterthought. In Page 1003 fact, the claim of the Defendants is belied by the subsequent conduct of the Defendants representative Rajdeep Sardesai who entertained the request of considering the Plaintiffs proposal which was much latter in point of time. Rajdeep Sardesai is the editor-in-chief of the Defendants. If the Defendant had already rejected the proposal of the Plaintiff, there was no reason for the Defendants representative to entertain the proposal of the Plaintiff. In Paragraph b(ix) of the reply affidavit, it is asserted that Rajdeep Sardesai was not aware of Ramchandran Srivinasans connection with the Plaintiff. In the first place, affidavit of Rajdeep Sardesai is not filed. In any case, this plea is in utter disregard of the contents of the communication sent by Ramchandran Srinivasan to Rajdeep Sardesai which clearly mentions that the Plaintiff was his friend and had pursued proposal through Rasika Tyagi earlier. In fact, Rajdeep Sardesai entertained the more detailed concept note and the production programme titled "Work in Progress" as recently till February 2007. The claim of the Defendants that they have conceived in-house programme "Summer Showdown" around March-April 2007 as a reality show comprising families in metros dealing with problems related to summer, even if accepted, that does not take the matter any further. For, the Defendants have eventually come out with the programme which departs from the theme of the title "Summer Showdown" but is ascribable to the theme of the programme of the Plaintiff titled "Work in Progress". The Defendants have advisedly stated in Paragraph c(viii) of the reply affidavit that the original theme of the programme "Summer Showdown" was subsequently modified to certain extent based on the research of the reporters. This excuse does not take the matter any further for the Defendants.

27. The Counsel for the Defendants had argued that it is not possible to discern the actual grievance of the Plaintiff whether it is in relation to infringement of concept or of literary work or artistic work. This argument is canvassed in the context of the comparison made by the Plaintiff regarding the

appearance of Clock. According to the Defendants, reproduction or copying of clock, at best, would be infringement of artistic work and not of literary work. This argument is devoid of any substance. As has been mentioned earlier, the grievance of the Plaintiff is not one of infringement of idea or concept, nor is that of infringement of artistic work. The complaint of the Plaintiff is specific to infringement of copyright in relation to her literary work of concept notes articulated by her from time to time and the production plan in relation to programme titled "Work in Progress".

28. Taking overall view of the matter, I have no hesitation in accepting the argument of the Plaintiff that the Defendants have indulged in infringement of copyright of the Plaintiff in relation to her original literary work of programme titled "Work in Progress".

29. Accordingly, in my view, Plaintiff is entitled to ad-interim relief also on the ground of infringement of copyright of Plaintiffs literary work in relation to programme titled "Work in Progress".

30. In the circumstances, ad-interim relief in terms of prayer clauses (a) and (b) of the Notice of Motion as prayed for is granted which read thus:

a. That pending the hearing and final disposal of the suit it is absolutely just, necessary and proper that the Plaintiff is entitled to an order and Page 1004 injunction of this Honble Court restraining the Defendants by themselves, its Directors, servants, agents and associate concerns/firms from in any manner whatsoever infringing the copyright of the Plaintiffs in the original literary work being the concept note of the television programme Work in Progress, by directing or making or copying or reproducing the same or publishing or broadcasting or otherwise exploiting the work by making and broadcasting the television programme Summer Showdown, without the Plaintiffs consent so as to infringe the copyright of the Plaintiffs in the original literary work being the concept note of the television programme Work in Progress;

b. That pending the hearing and final disposal of the suit it is absolutely just, necessary and proper that the Plaintiff is entitled to an order and injunction of this Honble Court restraining the Defendants by themselves, its Directors, servants, agents and associate concerns/firms from in any manner whatsoever breaching the confidential information imparted by the Plaintiff and contained in the concept note of the television programme Work in Progress, by directing or making or copying or reproducing the same or publishing or broadcasting or otherwise exploiting the work by making and broadcasting the television programme Summer Showdown, without the Plaintiffs consent and/or license, so as to breach the confidential information imparted by the Plaintiff and contained in the concept note of the television programme Work in Progress.

31. The above relief will operate till the disposal of the Notice of Motion. Notice of Motion be placed for hearing on 23rd July 2007. In the meantime, it will be open to the parties to exchange pleadings

and file the same in the Registry not later than 16th July 2007. Needless to observe that the Motion will be considered on its own merits in accordance with the law.

32. After the operative order was pronounced in Court, Counsel for the Defendants submits that this Court be kind enough to grant limited stay of operation of this order to facilitate the Defendants to take the matter in appeal or for that matter to issue instructions to all concerned for abiding by the ad-interim order passed today as the show is going on day-to-day basis. It is not possible to accede to this request in view of the detailed reasons recorded above. If the request was to be accepted, the Motion will become infructuous inasmuch as the programme that is going to be telecast by the Defendants is only limited till 10th June 2007 as per the statement made in the affidavit. Besides, the programme displayed by the Defendants is only for two to three minutes on any given day. Thus understood, no prejudice would be caused to the Defendants if the stay is refused. On the other hand, if stay as prayed for is granted, nothing would survive in the Notice of Motion though I have granted ad-interim relief in terms of prayer clauses (a) and (b) for reasons already recorded above. Hence, request for grant of stay is rejected.

33. All concerned to act on an ordinary copy of this order, duly authenticated by the Office.