$~39

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

%

Date of Decision : 14.05.2026

CS(COMM) 378/2026, I.A. 10246/2026 & I.A. 10293/2026

TRIMURTI FILMS PRIVATE LIMITED .....Plaintiff

versus

B62 STUDIOS PRIVATE LIMITED & ORS. .....Defendants

Advocates who appeared in this case:

For the Plaintiff: Ms. Swathi Sukumar, Senior Advocate with Mr. R.A. Iyer, Mr. Ritik Raghuvanshi, Ms. Rishika Aggarwal, Ms. Anshu Tulsyan, Advocates with Mr. Umesh Mehta, AR of the plaintiff.

For the Defendants: Mr. Ravi Prakash, Senior Advocate with Mr. Nizam Pasha, Mr. Parag Khandhar, Ms. Anaheet Verma, Mr. Sidharth Kaushik Ms. Astu Khandelwal and Ms. Charu Sharma, Advocates for D-1.
Mr. Sandeep Sethi, Senior Advocate alongwith Mr. Ameet N., Ms. Madhu Gadolia, Mr. Harshvardhan Jha, Ms. Unnati Gambhani, Mr. Aman Pathak, Ms. Vinayika Shahi, Ms. Shruti Sharma, Mr. Krishna G. Ms. Shreya Sethi and Ms. Riya Kumar, Advocates for D-2.
Mr. Akhil Sibal, Senior Advocate with Mr. Harsh Kaushik, Mr. Aditya Gupta, Ms. Geetanjali Visvanathan, Ms. Asavari Jain, Mr. Shivansh Tiwari, Mr. Tarun Tripathi, Ms. Ridhie Bajaj and Mr. Krishnesh Bapat, Advocates for D-3.

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

O R D E R

TUSHAR RAO GEDELA, J.

I.A. 9697/2026 (Under Order XXXIX Rules 1 & 2, CPC)

1. This is an application filed by the plaintiff under Order XXXIX Rules 1 & 2, Code of Civil Procedure, 1908 (heareinafter referred to as *"CPC"*) seeking interim injunction against the defendants restraining infringement of copyright and other reliefs in relation to the plaintiff's rights in the sound recording/ song titled *'Tirchi Topiwale'* from the plaintiff's cinematograph film *'Tridev'* both in its original form and as a remixed version, by incorporation of the same within the cinematograph film *'Dhurandhar: The Revenge'*.

2. Plaintiff claims that it is one of the India's oldest and most respected film production houses, founded in 1969 by the late Gulshan Rai and presently managed by his son Mr.Rajiv Rai. The plaintiff is the producer of several iconic films including Tridev, Vishwatma, Mohra, Deewar and Gupt.

3. Plaintiff claims that the present suit concerns the plaintiff's copyright in the song titled *'Tirchi Topiwale'* forming part of the cinematograph film *'Tridev'*. The plaintiff claims to be the first owner of the copyright in the said song, including (i) the underlying literary work (lyrics by Anand Bakshi), (ii) the underlying musical work (composition by Kalyanji-Anandji) and (iii) the sound recording, all of which vest in the plaintiff.

4. Plaintiff claims that by an agreement dated 30.06.1988, the plaintiff assigned limited rights to defendant no.3 i.e. Super Cassettes Industries

Private Limited, confined to record-based exploitation, namely the manufacture and sale of cassettes and gramophone records. It further claims that the said agreement does not assign or contemplate any right to synchronise or incorporate the said song, whether in its original or remixed form, in any cinematograph film other than '*Tridev'*.

5. Plaintiff claims that in or around the fourth week of March 2026, the plaintiff discovered that the defendants had created a remixed version of the said song titled *'Rang De Lal (Oye Oye)'* and incorporated both the remixed version and the original sound recording of the said song in a new cinematograph film *'Dhurandhar: The Revenge'*, released on or about 19.03.2026.

6. In view of the above, the plaintiff seeks an *ad-interim* injunction against the defendants to the extent as prayed for in the application, which is extracted hereunder:

> *"35. The Plaintiff, therefore, prays that:-*
>
> *a. An order of interim injunction restraining the Defendants, directly or indirectly, by themselves, their concerns, firms, partners, servants, employees, agents, distributors and all persons claiming under them by a temporary order and injunction of this Hon'ble Court from in any manner whatsoever infringing the copyright of the Plaintiff in the said Song viz Tirchi Topiwale or any underlying works comprised therein including in particular the lyrics thereof and the tune / musical work thereof or any part thereof, whether in its original form or as a remixed version, by using, reproducing, incorporating, adapting, translating, communicating to the public or otherwise exploiting the same in any cinematograph film including in particular in the film Dhurandhar The Revenge, or through any other medium or platform whatsoever except the form of exploitation permitted under clause 2 of the said Agreement;*
>
> *b. An order of interim injunction restraining the Defendants, directly or indirectly, by themselves, their concerns, firms, partners, servants, employees, agents, distributors and all persons claiming under them by a temporary order and injunction of this Hon'ble Court from in any*

manner whatsoever exploiting, exhibiting or communicating to the public or broadcasting or causing to be exploited, exhibited, adapted, translated, or communicated to the public or broadcasted, the Impugned Film Dhurandhar The Revenge or any other cinematograph film to the extent that it comprises the said Song viz Tirchi Topiwale and the underlying works therein such as the lyrics and the tune or any other song from the Said Work Tridev or any underlying work thereof (i.e. the lyrics or tune or performance thereof) and from doing or continuing to do any of the above acts through any physical or non-physical medium including without limitation in cinema halls, the internet, satellites, DVDs, blue ray discs, removable or embedded drives, ring tones, MP3 CDs, CDs, caller tunes, broadcast and streaming platforms, or any soft / digital method of disseminating the said infringing material either on visual medium or an audio medium;

c. An order of interim injunction directing the Defendants, directly or indirectly, by themselves, their concerns, firms, partners, servants, employees, agents, distributors and all persons claiming under them to forthwith take down and remove the Impugned Song and the original sound recording of the said Song viz Tirchi Topiwale from all platforms and media on which they are made available, including online streaming platforms, digital platforms and any other mode of communication to the public, and to remove the same from the film Dhurandhar The Revenge in its entirety;

d. An order of interim injunction directing the Defendants to make full and complete disclosure of all information and documents in relation to the Impugned Song, including inter alia: (a) the details of all platforms, media and territories in which the Impugned Film Dhurandhar The Revenge and/or the Impugned Song has been exhibited, distributed or communicated to the public; (b) the revenues and profits earned by the Defendants from the exploitation of the Impugned Song in the Impugned Film Dhurandhar The Revenge across all platforms and media; and (c) the details of all agreements, licences or arrangements entered into by the Defendants in relation to the Impugned Song, and pending and upon such disclosure, the Defendants be restrained from disposing of or dealing with the proceeds of exploitation of the Impugned Film Dhurandhar The Revenge and/or the Impugned Song in any manner that may adversely affect the Plaintiff's ability to recover damages or other pecuniary relief as this Hon'ble Court may award;

e. An order for rendition of accounts for all royalties due and payable under the said Agreement in respect of the exploitation of the said Song viz Tirchi Topiwale, together with interest thereon at such rate and for such period as this Hon'ble Court may deem fit and proper;

f. pending the hearing and final disposal of the present application, ad-interim reliefs in terms of prayers (a), (b), (c) and (d) above be granted;

g. this Hon'ble Court may pass any order as it deems fit in the facts and circumstances of the case may require."

CONTENTIONS OF THE PLAINTIFF:

7. Ms. Swathi Sukumar, learned senior counsel appears on behalf of the plaintiff and contends as under:

7.1 Giving a brief background to the subject matter of the dispute, learned senior counsel would submit that the plaintiff entered into an assignment agreement dated 30.06.1988 (hereinafter referred to as *"the agreement"*) with the defendant no.3. According to her, the plaintiff had granted the defendant no.3 rights which are prescribed in para 2 of the agreement. She would contend that a reading of all the clauses of para 2 of the said agreement clearly disclose that the rights, title and interest in the literary, dramatic and musical works embodied in the cinematograph film were assigned to the defendant no.3; however, the same were for the limited purpose of making records, adaptation and broadcasting the said work and any such adaptation by means of records. She contended that the entire agreement was only for the purposes of creation of records of the aforesaid three works, for which the defendant no.3 was to pay royalty to the plaintiff at the rates prescribed in para 5 of the agreement. She states that no separate right in respect of the cinematograph film was ever assigned to defendant no.3.

7.2 In order to buttress the aforesaid arguments, learned senior counsel referred to para 7 of the agreement to submit that the adaptation granted to the defendant no.3 was only to the extent of adding to, taking from and altering the rights granted for the purposes of reproduction in the form of records and that defendant no.3 was also entitled to combine the said work with any other work.

7.3 In order to explain the words employed in the agreement, Ms. Sukumar, learned senior counsel, drew attention to para 1 thereof to submit that the words specified in clause (a) of para 1 were required to have the meaning assigned to them by the provisions of the Copyright Act, 1957. That apart, she heavily relied on clause (b) of para 1 to state that the word 'Record' clearly explains that it would include a disk, tape, perforated roll and all other devices in which sounds were embodied for reproduction by the means specified therein, other than a sound track associated with the cinematograph film. In other words, she asserted that the plaintiff retained the rights as an owner, being the Producer of the cinematograph film 'Tridev'. According to her, the defendant no.3 was merely to reproduce the records of the songs embodied in the cinematograph film in form of music cassettes and gramophone records, communicate them to the public, or offer the same for sale and pay the plaintiff a royalty as fixed in para 5 of the agreement.

7.4 The learned senior counsel vehemently contended that the agreement clearly draws a distinction between what it

contemplated as the 'said work' on one hand and 'record' on the other. She would contend that para 2 of the agreement, whereby assignment was conferred, granted the right, title and interest in the literary, dramatic and musical works embodied in the said work only for publication, sound broadcasting, public performance and mechanical reproduction and recording of the said work. According to her, this assignment did not grant any permission to the defendant no.3 to use the rights conferred in para 2 of the agreement for the purposes of embodying those in a cinematograph film. As to what constitutes the said work, Ms. Sukumar, learned senior counsel, drew attention to the first page of the agreement, where it was clearly specified that the Producer i.e. the plaintiff, was the sole author and absolute owner of the copyrights in the said work, which included literary, dramatic, musical, record and cinematograph film copyrights in the cinematograph film *'Tridev'*. She would assert that these rights, barring the rights specified in para 2 of the agreement are still retained by the plaintiff.

7.5 She would also assert that the rights of the plaintiff are tethered to the cinematograph film *'Tridev'*, which is evident from the fact that the agreement contemplates royalty on a percentage basis and is not an outright sale. While referring to para 2 of the agreement, she would contend that a newer version of the cinematograph film *'Tridev'* itself was not contemplated. However, the use of the song *'Tirchi Topiwale'*

used twice in the infringing film in the form of a new song titled *'Rang De Lal (Oye Oye)'*, adds value to the infringing cinematograph film *'Dhurandhar: The Revenge'*, which is being exploited by the defendant no.3 through various platforms like Jio, Saavn, Gaana and Spotify to name a few. She also submits that the song titled *'Rang De Lal (Oye Oye)'*, which is a remix version of the original song *'Tirchi Topiwale'*, has been used in the film *'Dhurandhar: The Revenge'* at the end, alongwith the credits. She would also submit that the defendants do acknowledge the lyricist Mr.Anand Bakshi and the music composer Kalyanji-Anandji of the original cinematograph film *'Tridev'*. She would contend that while the defendants acknowledge the lyricist as also the music composer of the said song *'Tirchi Topiwale'*, the same could not have been incorporated into a cinematograph film without specific permission from the plaintiff. That having been done, the plaintiff is entitled to an injunction of the said song being used in the film *'Dhurandhar: The Revenge'*.

7.6 Predicated upon the aforesaid arguments, Ms. Sukumar, learned senior counsel, referred to various reliefs i.e. interim reliefs sought by the plaintiff in the instant application. She would contend that though the cinematograph film *'Dhurandhar: The Revenge'* has already been released in movie theaters across India, since the defendants are contemplating release of the said infringing cinematograph

film *'Dhurandhar: The Revenge'* on an OTT platform, this Court may consider granting an injunction from the streaming of the cinematograph film *'Dhurandhar: The Revenge'* on the OTT platform to the extent that it comprises the song *'Tirchi Topiwale'*.

7.7 Learned senior counsel would contend that the relevant paragraphs in the agreement dated 30.06.1988, may be taken as having been considered and interpreted by the Division Bench of Bombay High Court in ***Shemaroo Entertainment Ltd. vs. Amrit Sharma & Ors.:2012 SCC OnLine Del 3772***, in which an agreement had been executed between the parties to the said suit containing terms which are *pari materia* to the agreement dated 30.06.1988. She would contend that having regard to the interpretation arrived at by the Bombay High Court, this Court can consider and adapt the reasons rendered therein and apply to the facts of the present case. The ***Shemaroo*** judgement was resolved in favour of the plaintiff therein, but for the fact that the plaintiff therein approached the Court at the eleventh hour, the Division Bench was convinced that a clear case for injunction was made out. However, on account of delay of 5 months in approaching the Court, the Court denied the interim relief of release of the movie *'Tamanchay'* and alternatively directed deposit of Rs.25 lakhs against the defendant. In the present case, according to her, the plaintiff approached the Court well before the proposed date of release of the cinematograph film *'Durandhar: The Revenge'*

on OTT platform. Thus, according to her, the plaintiff is entitled to an *ad-interim* injunction at the stage against the release of cinematograph film '*Durandhar: The Revenge'* on OTT platform.

7.8 It was argued that whenever the rights of the plaintiff are infringed by exploitation of the original song *'Tirchy Topiwale'*, or the remixed version, on any of the digital music platforms, it would give a fresh cause of action to the plaintiff to institute a suit.

7.9 Learned senior counsel for the plaintiff relied on the following judgements of the Supreme Court and various High Court:

a. ***Manmohan Nanda v. United India Assurance Co. Ltd.: (2022) 4 SCC 582***

b. ***Bharat Sanchar Nigam Limited vs. Haryana Telecom Limited & Anr.: 2010 (116) DRJ 597***

c. ***Syndicate of the Press of the University of Cambridge on behalf of the Chancellor, Masters & School vs. B.D. Bhandari & Anr.: 2011 SCC OnLine Del 3215***

d. ***Deen Dayal Anand Kumar Saraf vs. Paras Agarwal: 2024 SCC OnLine Del 6299***

e. ***M/s Power Control Appliances & Ors. vs. Sumeet Machines Pvt. Ltd: (1994) 2 SCC 448***

f. ***Bengal Waterproof Limited vs. Bombay Waterproof Manufacturing Company & Anr: (1997) 1 SCC 99***

g. ***Dashrath B. Rathod & Ors. vs. Fox Star Studios India Pvt. Ltd. & Ors; 2017 SCC OnLine Bom 345***

h. ***Midas Hygiene v. Sudhir Bhatia; 2004 3 SCC 90***

i. ***Saregama India Limited v. Balaji Motion; 2019 SCC OnLine Del 10036***

j. ***Bodhisattva Charitable Trust & Ors. vs. Mayo Foundation For Medical Education & Research, FAO(OS)(COMM)73/2024 Order dated 28.07.2025***

k. ***M/s MRT Music vs. Paramvah Studios Private Limited & Ors; 2026:DHC:2630, CS(COMM) 680/2024 dated 28.03.2026***

l. ***Nizam Sugar Factory vs. Collector of Central Excise, A.P; (2006) 11 SCC 573***

CONTENTIONS OF DEFENDANT NO.3

8. Mr. Akhil Sibal, learned senior counsel appears for the defendant no.3 and vehemently refutes the submissions made on behalf of the plaintiff and contends as under:

8.1 At the outset, learned senior counsel would contend that the present suit is hit by acquiescence, concealment, suppression and willful non disclosure of relevant facts, which would disentitle the plaintiff from seeking any discretionary relief from this Court. He invited attention to the plaint instituted by the plaintiff, particularly paragraphs 23, 24 and 25 to submit that the disclosure made in the said paragraphs is not only incomplete but also contains statements which are false and tantamount to deceit.

8.2 He would contend that in para 23 of the plaint, the plaintiff has purportedly made an innocent and passing reference to a

cinematograph film titled *'Azhar'* without disclosing why knowledge of the said film was relevant to the suit. In order to expose the falsity and deceit on the part of the plaintiff, Mr. Sibal, learned senior counsel had handed over to the Bench certain documents in the nature of a notice dated 26.04.2016, stated to have been issued by the plaintiff or under its instructions to three entities, namely Balaji Motion Pictures Pvt. Ltd., Sony Pictures Networks India Pvt. Ltd. and DJ Chetas, alleging infringement by the said three entities of the copyrighted songs *'Gali Gali Mein Phirta Hai'* and '*Gajar Ne Kiya Hai Ishara'* in the motion picture *'Azhar'*, over which the plaintiff claims copyrights. It was also pointed out that the said notice was issued by one Mr. Amey Nargolkar on behalf of a law firm named 'Vox Law'. Learned senior counsel would submit that another document, namely a notice dated 02.05.2016, demonstrated that the defendant no.3, having been approached by the aforesaid three entities, issued the said reply in response to the notice dated 26.04.2016 in respect of the aforesaid two songs, to the plaintiff, asserting its rights by reference to the agreement dated 30.06.1988. He submitted that *vide* the said notice, defendant no.3 not only refuted and challenged the plaintiff's assertion of ownership of copyrights but also asserted its own rights as the exclusive holder of rights under Section 14 of the Copyright Act, 1957. In fact, the plaintiff was directed to unconditionally withdraw the said notice. Learned senior counsel would submit that no reply was

ever received by defendant no.3 or its counsel from the plaintiff in response to the reply dated 02.05.2016 issued by the defendant no.3, till date.

8.3 On subsequent dates of hearing, Mr. Sibal, learned senior counsel, also handed over a compilation of documents which not only included the aforesaid notices but also documentary proof of service of the reply dated 02.05.2016 upon the law firm 'Vox Law' on 05.05.2016. In the said compilation, the defendant no.3 had also filed a number of orders passed by the ITAT, Mumbai, as also the judgments and other orders passed by the Bombay High Court in various litigations instituted on behalf of the plaintiff between the years 2016 to 2020. These orders were placed on record by defendant no.3 to establish two aspects: (i) that the plaintiff, in contradistinction to its statement in paragraphs 23 and 24 of the plaint that promoter of the plaintiff i.e., Mr. Rajiv Rai had left India in 1997 and was therefore, not in a position to monitor the misuse of the infringing song, is patently false and (ii) the statement that only upon the return of the promoter to India in the years 2018-19, lawsuits were instituted to protect the copyrights, was also a false statement. He would contend that this bogey was raised by the plaintiff to deflect any aspersion as to his innocence of non disclosure or suppression of material facts.

8.4 Referring to the documents and the orders placed on record by defendant no.3, learned senior counsel would vehemently contend that the plaintiff was not only pursuing remedies

available to it in law in respect of purported violations/infringement of songs etc., in other cinematograph films during the relevant period from 2016 to 2020, but also that it was the very same counsel, Mr. Amey Nargolkar, who had been appearing throughout most of the litigations during the said period. Plaintiff had also feigned ignorance of the knowledge of the status of Mr.Amey Nargolkar from the year 2020, when the law firm VoxLaw is stated to have closed operations. Mr. Sibal, learned senior counsel, in fact, would refer to a screenshot of the official trailer of the cinematograph film *'Zora',* produced by the plaintiff and released in the year 2025, available on the YouTube channel, wherein, under the heading 'Legal' in the credits section, the name of Mr. Amey Nargolkar is clearly specified. According to him, this disclosure which was suppressed by the plaintiff is relevant since the plaintiff had feigned ignorance to the issuance of the notice dated 26.04.2016 on behalf of Trimurti films by the law firm 'Vox Law' and had also claimed no knowledge of having received the reply notice dated 02.05.2016 issued by defendant no.3. In other words, Mr. Sibal would contend that the plaintiff was fully aware of his rights and had been pursuing all legal remedies available to him in the Courts of Law in respect of purported infringements of the copyrights of Trimurti Films from the years 2016 to 2020, while simultaneously, did not take any action whatsoever when the cinematograph film

'Azhar' was released on any time subsequent thereto after the notice dated 26.04.2016 and the reply dated 02.05.2016.

8.5 Another astounding fact, highly material to the discretionary relief sought by the plaintiff and which too would tantamount to suppression and willful concealment is the fact that a song *'Gali Gali'* from the same cinematograph film *'Tridev'* was used by the defendant no.3 to be incorporated and exploited in another cinematograph film called *'K.G.F: Chapter 1'* which was released all over India in the year 2019. He would contend that, insofar as this cinematograph film *'Dhurandhar: The Revenge'* is concerned, the plaintiff did not even issue a notice and has remained silent throughout until today. His contention is that whether the plaintiff initiated any action in respect of the cinematograph film *'Azhar'* or *'K.G.F: Chapter 1'*, is not less significant than the failure to disclose the material fact that the said cinematograph films containing one or more songs from the same cinematograph film *'Tridev'*, were already exploited and incorporated in two cinematograph films previously. According to him, such conduct would tantamount to suppression, willful non-disclosure and deliberate concealment of material facts, which, if disclosed, would adversely impact the interests of the plaintiff and would also disentitle the plaintiff from any discretionary relief from this Court.

8.6 Learned senior counsel also contended that, apart from the aforesaid material concealment and suppression, the plaintiff

had very conveniently asserted in the plaint that no royalty whatsoever was received by the plaintiff pursuant to the execution of the agreement dated 30.06.1988. He stated that this contention itself is *ex-facie* false. In support thereof, learned senior counsel placed on record a document executed on 30.06.1988, contemporaneous to the execution of the agreement, which is an acknowledgement of receipt of Rs.7,000/- in advance as a signing amount, which also refers to a future payment of the balance advance royalty amount of Rs.88,000/-. He would contend that the said acknowledgement was signed for and on behalf of Trimurti Films by one Mr. Gulshan Rai, the original producer of the cinematograph film *'Tridev'*. He also referred to documents placed on record by the defendant no.3, which are financial statements of the relevant years, which, according to him, are proof of payments made to the Trimurti Films towards the royalties payable under the agreement. By relying on the said document, learned senior counsel would contend that the suit of the plaintiff is clearly based on false statements and is replete with non-disclosure of material facts, which would disentitle the plaintiff from any discretionary relief whatsoever.

8.7 That apart, he also contended that so far as para 5 of the agreement regarding royalty is concerned, exploitation of the songs from the cinematograph film *'Tridev'* has continued from the time the agreement was executed, till date. He would state that the plaintiff had been exploiting the same through

cassettes and gramophone records. It is just that in the digital era, the said songs are being openly exploited by the defendant no.3 on various digital music platforms. Learned senior counsel, however, stated that in the rejoinder, the plaintiff has now given up the relief seeking injunction against audio streaming of the song which forms the subject matter of the present suit.

8.8 Mr. Sibal, learned senior counsel, drew attention to the prayer clause of the plaint to state that, under the garb of the impugned cinematograph film *'Dhurandhar: The Revenge'*, the plaintiff is seeking injunction, permanent as also mandatory against the defendants in respect of any other cinematographic film or any other song from the cinematograph film *'Tridev'* being exploited or incorporated in any cinematograph film, which is impermissible in law. He would contend that what was never challenged by the plaintiff in the years 2016 and 2019, when other songs pertaining to the cinematograph film *'Tridev'* were exploited by the defendant no.3, cannot now be made the subject matter of the present suit. He would also contend that it is a clever drafting where those causes of action which do not survive today are sought to be resurrected, albeit surreptitiously.

8.9 Learned senior counsel then referred to the rejoinder filed by the plaintiff to the reply of defendant no.3, particularly to para 4, 5, 6, 13, 14 and 19, to submit that the plaintiff has now taken a complete 360 degree turn with respect to the disclosure

regarding the cinematograph film *'Azhar'*; the legal notice dated 26.04.2016; the alleged non-receipt of defendant no.3's letter dated 02.05.2016 and the explanation that the concealment alleged by defendant no.3 is illusory.

8.10 Referring next to the arguments of the plaintiff based on the agreement executed between the parties, learned senior counsel submitted that it was never the case of defendant no.3 that the agreement dated 30.06.1988 was an act of relinquishment by the plaintiff, rather, it was a simple assignment of all the rights of the Producer i.e. the plaintiff, unto the defendant no.3 by virtue of para 2 of the said agreement. He would contend that defendant no.3 never asserted its rights over the cinematograph film *'Tridev'* itself, but only over the literary, dramatic and musical work embodied therein. He further argued that by virtue of para 8 of the agreement, defendant no.3 became the owner of the Original Plate of the said work and was to be construed as the Author of the said records.

8.11 Referring to what constituted the "said work" under the agreement, learned senior counsel invited attention to para 2 of the agreement, particularly clauses (i) and (xi), to submit that the plaintiff had surrendered all rights, title and interest in the literary, dramatic and musical works embodied in the "said work", including the rights to publication, sound broadcasting, public performance and mechanical reproduction and recording of the said work. This coupled with the right to

make or even authorize the making of any versions of the said work and of the musical, literary and dramatic works embodied therein, the plaintiff unequivocally conveyed to the defendant no.3 by virtue of the said agreement, all the rights embodied in the agreement except for the cinematograph film *'Tridev'*.

8.12 Learned senior counsel thereafter referred to various provisions of the Copyright Act, 1957, as was then in force in the year 1988, to submit that Section 14 as it then stood, conferred copyright in case of literary, dramatic or musical work to do or authorize the making of any cinematograph film or record in respect of the work. He would contend that para 2 of the agreement made it explicitly clear what constituted the 'said work'. As such, according to him, the defendant no.3, is entitled to even the rights over the cinematograph film, however, has not exercised any rights till date on such copyrights. He pointed out that as per sub clause (vii) of Clause (a) to sub-Section (1) of Section 14 of the Act, defendant no.3 was entitled to make any adaptation of the work. He correlated the said statutory right with the right conferred on defendant no.3 by virtue of para 7 of the agreement dated 30.06.1988. To the same effect, he referred to Clauses (c) and (d) of sub-Section 1 of Section 14 of the said Act. In this context, learned senior counsel also referred to para 12 of the agreement to submit that the rights and obligations under the assignment were to apply to all songs,

dialogues and sequences. Meaning thereby, that the assignment was complete by its very nature in favour of the defendant no.3 and all that was retained, if at all, by the plaintiff was in respect of the cinematograph film *'Tridev'* alone. According to Mr.Sibal, the terms of the said agreement were more expansive than the meanings provided in the definition clause of the Copyright Act, 1957. He relies upon the following judgments:

a. ***Trimurti Films v Dharma Productions Order dated December 23, 2025 in I.A. (L) No. 41013 of 2025 in Comm IP Suit No. 717 of 2025 before Bombay High Court.***
b. ***Shemaroo Entertainment Ltd. v. Amrit Sharma & Ors. : 2012 SCC OnLine Del 3772***
c. ***Dashrath B. Rathod & Ors. v. Fox Star Studios India Pvt. Ltd. & Ors. : 2017 SCC OnLine Bom 345***
d. ***Akashaditya Harishchandra Lama v. Ashutosh Gowarikar & Ors. : 2016 SCC OnLine Bom 5207***
e. ***Narendra Mohan Singh alias Mr. Sanjay Singh & Anr. v. Ketan Mehta & Ors. : 2015 SCC OnLine Bom 876***
f. ***Sona Mandhira Pvt. Ltd. & Anr. v. Sona BLW Precision Forgings Ltd. & Ors. : 2023 SCC OnLine Del 2184***
g. ***Marico Limited v. Dabur India Limited : 2023 SCC OnLine Del 3530***

h. ***Oswal Fats & Oils Limited v. Additional Commissioner (Administration) Bareilly Division, Bareilly & Ors. : (2010) 4 SCC 728***

i. ***ICOMM Tele Ltd. v. Bharat Sanchar Nigam Ltd. & Anr. : 2019 SCC OnLine Del 8667***

j. ***Warner Bros. Entertainment Inc. & Anr. v. Harinder Kohli & Ors. : 2008 SCC OnLine Del 1081***

k. ***Vendhar Movies v. S. Mukundchand Bothra : 2017 SCC OnLine Mad 13577***

l. ***Radha Bharadwaj v. Ellipsis Entertainment Media LLP & Ors. : 2019 SCC OnLine Bom 13139***

m. ***Rahul Mawai v. Union of India & Ors. [Order dated 18.12.2024 in W.P.(C) 17440/2024 before Delhi High Court]***

n. ***M/s Power Control Appliances & Ors. v. Sumeet Machines Pvt. Ltd. : (1994) 2 SCC 448***

o. ***Brihan Karan Sugar Syndicate Private Limited v. Yashwantrao Mohite Krushna Sahakari Sakhar Karkhana : (2024) 2 SCC 577***

p. ***Godhra Electricity Co. Ltd. & Anr. v. State of Gujarat & Anr. : (1975) 1 SCC 199***

q. ***Rupali P. Shah v. Adani Wilmer Limited & Ors. : 2025 SCC OnLine Bom 2540***

r. ***H.R. Basavaraj (Dead) By His LRs. and Anr v. Canara Bank and Ors. : 2009 SCC OnLine SC 1747***

s. ***KSL & Industries Ltd. v. National Textiles Corporation Ltd. : 2012 SCC OnLine Del 4189***

CONTENTIONS OF DEFENDANT NO.2:

9. Mr. Sandeep Sethi, learned senior counsel appearing on behalf of defendant no.2/JIO Studios and stated that the defendant no.2 would adopt the arguments addressed on behalf of defendant no.3 in toto. In addition, learned senior counsel addressed the following arguments:

9.1 At the outset, Mr. Sethi, learned senior counsel would contend that the prayer sought by the plaintiff in its stay application and the grant thereof would result in an incongruity in law. In that, he argued that, on the one hand, the song which is subject matter of the present suit would be permitted to continue to play in the credit section of the cinematograph film *'Dhurandhar: The Revenge'* in cinema halls, while, on the other hand, the said song would be restrained from being played in the background in the credit section, while being released on OTT platforms. He would contend that this would result in an incongruity which cannot be reconciled. He stoutly contended it is inconceivable that what would amount to an infringement on an OTT platform would not constitute as violation or infringement of the plaintiff's copyright in cinema halls/movie theaters.

9.2 He would further contend that despite the notice dated 02.05.2016 issued by defendant no.3 to the plaintiff and the use of two songs from the cinematograph film *'Tridev'* in the cinematograph film *'Azhar'* and subsequently the use of one song in the cinematograph film 'K.G.F: Chapter 1', the plaintiff never took any legal action against the defendant no.3 or any of the producers of the cinematograph films *'Azhar'* and 'K.G.F: Chapter 1'. He asserted that the lack of pursuit of legal remedies by the plaintiff effectively gave assurance to defendant no.3 to proceed further and confer rights upon defendant no.2 to commence and complete the production of the cinematograph film *'Dhurandhar: The Revenge'*.

9.3 Learned senior counsel referred to para 2(i) and 2(xi) of the agreement to contend that the provisions of these paragraphs are not conditioned by the words "Record", unlike other sub-clauses of para 2 and therefore, give the semblance of rights in the musical, dramatic and literary works in the cinematograph film to the defendant no.3.

9.4 Learned senior counsel referred to paras 16, 17 and 18 of the judgment of this Court in ***Deendayal*** *(supra)* to submit that, when a Court is considering an application under Order XXXIX Rules 1 and 2 of CPC, it is necessary that the party seeking such relief comes to the Court with clean hands and not conceal any material facts. He would contend that the learned Division Bench had clearly held that the non-disclosures adverse to the case of the party would warrant

denial of discretionary relief. Simultaneously, the Court must also assess whether the said facts have been suppressed deliberately. Predicated thereon, he would contend that, if both the factors as noted above by the learned Division Bench of this Court are applied to the facts of this case, the plaintiff would be disentitled to any discretionary relief from this Court.

CONTENTIONS ON BEHALF OF DEFENDANT NO.1:

10. Mr. Ravi Prakash, learned senior counsel appearing on behalf of defendant no.1 stated that he would adopt the arguments of Mr. Akhil Sibal and Mr. Sandeep Sethi, learned senior counsel appearing for defendant nos.3 and 2 respectively. Additionally,

10.1 Learned senior counsel by inviting attention of this Court to prayer clause (g) of para 47 of the plaint contended that the plaintiff is only seeking monetary damages, which can easily be ascertained during trial and would not require any restraint of release of the cinematograph film *'Dhurandhar: The Revenge'* on OTT platform. He would contend that, in any case, once the cinematograph film had already been released in theaters on 19.03.2026, no prejudice of any nature would be caused to the plaintiff for the reason that, in case the plaintiff is able to establish any rights whatsoever, as alleged in the plaint, the plaintiff can be suitably compensated in monetary terms.

10.2 He would contend that, where a party can be compensated with adequate damages, discretionary relief ought not to be granted. He relied upon the judgement of this Court in ***John***

Hart Jr. v. Mukul Deora : 2021 SCC OnLine Del 3499 to support his contentions.

REJOINDER ON BEHALF OF THE PLAINTIFF

11. In rejoinder Ms. Swathi Sukumar, learned senior counsel would contend as under:

11.1 Referring to the agreement dated 30.06.1988, Ms. Sukumar, learned senior counsel would submit that the only manner in which an author or original copyright holder is divested of his rights, is provided in Section 21 of the Copyright Act, 1957. It is stated the said section provides that the author can relinquish all or any of his rights comprised in the copyright by giving a notice in the prescribed form to the Registrar of Copyrights. She stated that it is only thereafter that the rights would cease from the date of the notice. In fact, she would contend that it is only upon the receipt of the notice that the Registrar of the Copyrights would cause it to be published in the official gazette and only then do the rights cease to exist.

11.2 She would contend that no such notice was ever issued by the plaintiff meaning thereby the plaintiff retained all rights as were available to him under the agreement dated 30.06.1988 and the argument to the contrary advanced by the defendants should not be accepted. She stated that inaction on the part of the plaintiff in pursuing any remedy after having issued notice dated 26.04.2016, or even after the release of cinematograph films *'Azhar'* or 'K.G.F: Chapter 1', cannot non-suit the plaintiff from claiming the reliefs sought in the present suit

based on the provisions of Section 21 of the Act. She relies on the judgment of ***Syndicate of Press*** *(supra)*, in paras 44 and 50 and ***Bhaktivedanta Book Trust*** *(supra)*, in para 22, in support of her contention.

11.3 She reiterated her contentions in the opening arguments and referred to various paragraphs in the agreement dated 30.06.1988 to contend that, when read cumulatively and harmoniously, the provisions thereunder do not give any right to the defendant no.3 other than the right of dissemination and communication of what is constituted as records in the agreement.

11.4 Learned senior counsel referred to the reply filed on behalf of defendant no.3 to the stay application, particularly paras 61 and 62, to be read in conjunction with the documents placed on record by defendant no.3, which are stated to be correspondences exchanged between the plaintiff and defendant no.3 during the year 1989. While referring to those documents, Ms. Sukumar, learned senior counsel forcefully contended that the said documents clearly demonstrate and reveal the real intention of the parties while executing the agreement dated 30.06.1988. She emphasised that most of the documents, which are correspondences emanating from the defendant no.3, the defendant no.3 has referred to the songs in the cinematograph film *'Tridev'* as "Your Songs". She would contend that, in case the plaintiff had surrendered or assigned all rights to the defendant no.3 under the said agreement, there

was no question or any statutory requirement for defendant no.3 to either seek any permission from or inform the plaintiff before such songs were broadcasted. In other words, she would contend that the assignment was limited only to creation of records of the songs and the exploitation thereof by defendant no.3, subject to payment of royalty to the plaintiff. According to her, the plaintiff retained all rights over the cinematograph film *'Tridev'* and the underlying works embodied in the songs contained in the said film.

11.5 In response to the contention of defendant no.3 that the agreement dated 30.06.1988 subsequently culminated into a lumpsum payment agreement whereby all rights, title and interest in the cinematograph film *'Tridev'* were assigned by the plaintiff to defendant no.3, learned senior counsel would contend that there is no proof, either documentary or oral, to substantiate or corroborate the said argument. She contended that so far as certain documents purported to be statements of account claiming to reveal payments of royalty made to the plaintiff are concerned, the same are merely self-serving statements of the defendant no.3, unsupported by any corresponding receipts of money having been received by the plaintiff. In the absence whereof, she would contend that the obligation of defendant no.3 to pay royalty was never discharged by the defendant no.3. So much so that, according to her, even the purported receipt dated 30.06.1988 claiming payment of Rs.7000/- as advance to the plaintiff, appears to be

a doubtful document and as such no reliance can possibly be placed on the same.

11.6 Handing over a compilation of documents consisting of screenshots of the closing credits of the cinematograph film *'Dhurandhar: The Revenge'*, Ms. Sukumar, learned senior counsel, contended that the original song *'Tirchi Topiwale'* was played in the cinematograph film *'Dhurandhar: The Revenge'* alongwith the remixed version which appeared in the credit section of the said film. She would contend that the use of the original song and the remixed version in the said cinematograph film clearly constitutes an infringement of the copyright of the plaintiff as the Producer of the cinematograph film *'Tridev'*, inasmuch as no permission or license was obtained by defendant no.3 from the plaintiff before using the said song in the said film. She further stated that the remixed version of the said song is available on multiple e-music platforms such as YouTube, YouTube music, Apple music etc., where defendant no.3 and the other defendants are exploiting the same and generating huge revenue, without payment of any royalties whatsoever to the plaintiff.

11.7 She also referred to an agreement dated 20.06.1989 executed between the plaintiff, as assignor, and defendant no.3 as the assignee for the purposes of assignment of video copyrights relating to the transferring, processing, recording, duplicating, copying, and taping the film *'Tridev'* onto the videograms, cassettes, discs and tapes. She would contend that the

assignment was for a consideration of Rs.12,50,000/- in the year 1989. Based on the said agreement, she would contend that, in case the version advanced by the defendant no.3 is taken to be gospel truth, there would have been no requirement for the plaintiff to execute the agreement dated 20.06.1989 i.e., almost one year after the agreement dated 30.06.1988, which, according to the defendant no.3, had already conveyed all rights title and interest in the cinematograph film *'Tridev'*. Even the agreement dated 20.06.1989 assigned only the video copyright of the plaintiff to defendant no.3 for the purpose of further exploitation and not the rights of the plaintiff in the cinematograph film *'Tridev'* or in the musical, literary or dramatic works embodied in the songs thereof.

11.8 She would contend that there is no statutory acquiescence under the Copyright Act, 1957, and therefore, mere silence or inaction on the part of the plaintiff on previous occasions would not, *ipso facto*, amount to an admission of acquiescence by the plaintiff.

11.9 She would further contend on the question that in case the agreement is construed as ambiguous, the ambiguity must be resolved in favour of the plaintiff since the agreement dated 30.06.1988 was drafted by the defendant no.3 as a dominating party and the doctrine of *"contra proferentem"* has to be resolved in favour of the plaintiff. She relies on the judgment of the Supreme Court in ***Manmohan Nanda*** *(supra)*,

particularly para 45 thereof, as well as the judgment of this Court in ***Bharat Sanchar Nigam Limited*** *(supra)*.

11.10 With regard to the alleged varying stands taken by the plaintiff in the plaint, thereafter in the rejoinder to the reply filed by defendant no.3 to the stay application, as also the affidavits of Mr. Rajiv Rai and Mr. Umesh Mehta, learned senior counsel would contend that this Court may adopt a sympathetic or a lenient view, as the non-disclosures coupled with the varying instances were neither intentional nor deliberate, nor were they intended to obstruct the administration of justice by this Court in any manner whatsoever. She would contend that the suppression, if any, would not confer any advantage or benefit upon the plaintiff and as such, the error may be condoned.

11.11 Lastly, Ms. Sukumar, learned senior counsel would also contend that the sanctity attached to the licensing regime under the Copyright Act, 1957, must be upheld by this Court, lest infringers in the nature of entities like the defendants would violate or infringe the rights of persons like the plaintiff with impunity and no one would bother approaching authors etc., for licenses or payment of royalty for exploitation of their musical, literary or dramatic works.

SUR REJOINDER ON BEHALF DEFENDANT NO.3:

12. In sur-rejoinder, Mr. Sibal, learned senior counsel for defendant no.3 would submit as under:

12.1 Mr. Sibal, learned senior counsel would vehemently contend that the inaction on the part of the plaintiff in the context of the cinematograph film *'Azhar'* in the year 2016, or 'K.G.F: Chapter 1' in the year 2019, was not a mere choice of the plaintiff in the context of a commercial decision as argued, but is a conduct which has led defendant no.3 to alter its position and take commercial and financial decisions based thereon, which cannot now be permitted to operate to the disadvantage or detriment of defendant no.3. Learned senior counsel contended that the complete absence of any legal action on the part of the plaintiff while defendant no.3 exploited other songs from the cinematograph film *'Tridev',* not only for the purpose of broadcasting the same but also using versions of the songs in two different cinematograph films, should enure to the benefit of the defendant no.3. Defendant no.3, in accordance with the agreement dated 30.06.1988 and by virtue of the subsequent use of the songs in *'Azhar'* and 'K.G.F: Chapter 1' and now *'Dhurandhar: The Revenge'*, has perfected its rights to use the said songs in any form whatsoever, including in remixed version in the cinematograph film *'Dhurandhar: The Revenge'*.

12.2 In response to the argument based on the agreement dated 20.06.1989, he would submit that the said agreement has been placed on record by defendant no.3 by way of a fair disclosure, and not by the plaintiff. He would contend that the said agreement was only for the purposes of display and

distribution of the cinematograph film *'Tridev'* separately through video cassettes, a technology which had recently developed at that time. He would contend that notwithstanding the rights and title conferred upon the defendant no.3 by virtue of agreement dated 30.06.1988, the rights of the plaintiff in the cinematograph film *'Tridev'* were sought to be preserved in favour of the plaintiff, though there was no requirement to do so. Thus, according to him, the mere fact that an agreement dated 20.06.1989 was executed would not imply that the plaintiff still retained any rights in the cinematograph film *'Tridev'*.

12.3 On the argument based on the doctrine *"contra proferentem"*, learned senior counsel would stoutly contend that it was never the case of defendant no.3 that there existed any ambiguity in the terms or conditions specified in agreement dated 30.06.1988. In fact, to the contrary, the defendant no.3 asserted that the terms of the said agreement unequivocally conferred all rights in the cinematograph film *'Tridev'* upon defendant no.3. The argument regarding ambiguity, if any, was raised by the defendant no.3 only in the alternative. As such, none of the judgments relied upon by the plaintiff in the context of *"contra proferentem"* require consideration by this Court.

12.4 Learned senior counsel relied upon the judgment of ***Trimurti Films Pvt. Ltd. v. Dharma Production Pvt. Ltd.*** *(supra)*, wherein the Court repelled the contention of the plaintiff

therein that what was assigned to the defendant was only limited to copyright in sound recordings for the purpose of making records and nothing more, on the grounds of the plaintiff having approached the Court belatedly after a period of 35 years. Similarly, according to learned senior counsel, in the present case, the plaintiff having approached this Court after a lapse of 38 years, and that too without any sufficient explanation or justification, would not persuade this Court to hold that the agreement dated 30.06.1988 was indeed limited in its assignment. Thus, he prayed that the present application be dismissed with exemplary costs.

ANALYSIS OF THE COURT

13. This Court has heard extensive arguments advanced by Ms. Swathi Sukumar, learned senior counsel appearing for the plaintiff, Mr. Akhil Sibal, learned senior counsel for defendant no.3, Mr. Sandeep Sethi, learned senior counsel for defendant no.2 and Mr. Ravi Prakash, learned senior counsel for defendant no.1 on 06.05.2026, 08.05.2026 and finally on 11.05.2026 and with their valuable assistance, perused the material on record and considered the judgments relied upon by the parties.

14. Significantly, while considering an application under Order XXXIX Rules 1 and 2 of CPC, the Courts are to be guided by the principles of *triple test* i.e., whether there exists a *prima facie* strong case in favour of the plaintiff, whether the balance of convenience lies in favour of the plaintiff and whether irreparable injury would be caused to the plaintiff which may not be adequately compensated in monetary terms. Apart from the aforesaid triple test, it is trite that the power of a Court under Order

XXXIX Rules 1 and 2, CPC is discretionary, albeit exercisable on justifiable grounds (See: ***Wander Limited vs. Antox India Pvt. Ltd.: 1990 Supp SCC 727***- para 9). It is also well settled that one who seeks equity must do equity. In other words, a party seeking discretionary relief has to approach the Court with clean hands and must not suppress or conceal material facts which, if revealed or disclosed, would adversely impact the case of the party or result in denial of any equitable or discretionary relief to such party.

15. Though the case of the plaintiff is predicated on the covenants in the agreement dated 30.06.1988, this Court must also examine as to whether the plaintiff, while seeking such discretionary relief, has disclosed all relevant and material facts which may entitle or disentitle the plaintiff to such discretionary reliefs.

16. This Court is fortified in its view by the judgment of a Co-ordinate Bench in ***Kent RO System Limited & Anr. vs. Gattubhai & Ors.:*** **(2022)** ***SCC OnLine Del 701***, wherein it was held as under:-

> *"**23**. **Furthermore, a party that approaches the court for a grant of discretionary relief has to come with clean hands and disclose all material facts, which would have a bearing on the merits of the case. It has been held in Wheels India v. S. Nirmal Singh[10] and Seemax Construction (P) Ltd. v. State Bank of India[11], that the orders granting injunction, which are obtained on account of deliberate suppression of material facts, are liable to be vacated on the ground of suppression and concealment alone.** The observations of this Court in Wheels India case[10] are set out below:*
>
> > *"18. **The plaintiff, therefore, has disentitled itself to the equitable relief of injunction on account of deliberate suppression of material facts in the plaint as well as suppression of documentary evidence from the scrutiny of this Court.***

> ***Concealment of material facts or documents deserves to be seriously viewed, for one who comes to the court owes a duty to the court to disclose all facts and documents to the court.*** *The contention of the plaintiff in the instant case that it had disclosed in the plaint that it was purchasing goods from the defendants is neither here nor there. The plaintiff deliberately and intentionally, in my view, hid from the court the fact that Defendant 2, M/s Prince Auto Industries had been dealing with the same goods, viz. wheel covers and auto accessories and had made a mark in its field of activity well before the plaintiff got registered the trade mark 'Prince'. The plaintiff also hid from the court the exact relationship between the plaintiff and the defendants and that there were written agreements to ensure the smooth working of the said relationship duly executed by the parties and registered with the statutory authorities. The reason for suppression of such material facts is clearly discernible. Had the plaintiff stated in the plaint that Defendant 2 had been in the same field of activity from the year 1998 under the trade name 'Prince Automobile Industries' and had the plaintiff further stated in the plaint that it had been working as the authorised stockiest of the plaintiff from the year 2001 to the 15-9-2004, the plaintiff, in my view, may not have succeeded in obtaining an ex parte ad interim injunction from this Court, which is enduring to the benefit of the plaintiff till date, though with some modification."'"*
>
> [Emphasis supplied]

17. The case of the plaintiff was predicated on the agreement dated 30.06.1988, upon which great emphasis was laid by Ms. Sukumar, learned senior counsel. It was contended that the covenants, if read cumulatively and harmoniously, would clearly indicate that the only rights conferred or

assigned to defendant no.3 under the said agreement was with respect to the rights and title over the musical, literary and dramatic works embodied in the songs of the cinematograph film *'Tridev'*. It was further contended, by referring to certain documents placed on record by defendant no.3, which may constitute *contemporanea expositio*, that the same, when read conjunctively, would demonstrate that the plaintiff had not assigned any right other than what was specified in para 2 of the agreement dated 30.06.1988 read with clauses 5 and 7 thereof.

18. It was also contended that the royalty which was stipulated in para 5 of the agreement dated 30.06.1988 was never paid to the plaintiff at any point in time. With respect to the previous exploitations by defendant no.3 in the cinematograph films *'Azhar'* and *'K.G.F: Chapter 1'*, it was vehemently contended that the inaction on the part of the plaintiff in approaching a Court of law would not non-suit the plaintiff from approaching this Court by way of the present suit, inasmuch as every unauthorized exploitation of the copyright of the plaintiff would constitute a fresh cause of action. Moreover, it was also contended that such inaction might only result in financial loss to the plaintiff, which is a commercial decision, the plaintiff is entitled to take, and surely would not prejudice any of the defendants. The plaintiff further stressed that the exploitation of the song *'Tirchi Topiwale'* in the cinematograph film *'Dhurandhar: The Revenge'* and the further exploitation of the remixed version of the said song in digital music platforms without any authorization or license from the plaintiff, would tantamount to infringement which needs to be restrained predicated on the principles laid down by the Supreme Court in ***Midas Hygiene Industries*** *(supra)*.

19. On facts, it is significant to note that the promoter of the plaintiff i.e., Mr. Rajiv Rai claimed to have left India in the year 1997 on the assertion that his life was under threat and that he had returned to India only in the years 2018-19. The plaintiff also asserted in the suit, that during the interregnum, he was not in touch with the affairs of the industry and therefore, had no knowledge of any misuse or exploitation of any works over which the plaintiff had copyrights. It is also significant to note that the plaintiff in para 23 of the plaint, made a passing reference to the cinematograph film *'Azhar'* stating that the plaintiff was aware that the said song has been used in that film. In para 24, the promoter of the plaintiff claimed that he was unable to monitor all uses of the said song on account of not being in India. Plaintiff further asserted that it was only when the plaintiff's promoter returned to India in the year 2018-19 that the plaintiff actively resumed protection and enforcement of its rights in its films and the underlying works comprising therein. The plaintiff also disclosed in para 26 of the plaint that it had successfully prosecuted a suit before the Bombay High Court against defendant no.3 and others in relation to certain songs in another film produced by the plaintiff, on similar grounds and under similar circumstances which was decided in its favour.

20. As against this, the defendant no.3 placed on record certain crucial and essential material documents, which appear to have, in the opinion of this Court, significant impact on the version rendered by the plaintiff as also on its *bona fide.* The defendant had placed on record, (i) the notice dated 26.04.2016 issued by the plaintiff through the law firm 'Vox Law' by one counsel, Mr. Amey Nargolker to three entities; (ii) reply notice dated 02.05.2016 issued by defendant no.3 to the plaintiff's law firm 'Vox Law'

in response to the notice dated 26.04.2016 on behalf of the said three entities; (iii) the proof of delivery by way of tracking reports of the speed post of the Postal Department in proof of delivery of the reply notice dated 02.05.2016; (iv) a number of orders and judgments of the ITAT, Mumbai Bench and the Bombay High Court in suits and other proceedings instituted by the plaintiff during the period 2016 to 2020, and; (v) a screenshot of the official trailer of the cinematograph film *'Zora',* claimed to have been produced by the plaintiff/its promoter, wherein in the credit section, the name of Mr. Amey Nargolkar is reflected under the heading 'Legal'.

21. It is significant to note that the plaintiff has neither disputed nor contradicted the aforesaid documents, except to state in the rejoinder that, (i) with respect to the notice dated 26.04.2016, while there is no reference to it in the plaint, it is claimed that one Mr. Umesh G. Mehta was the only person managing the day-to-day affairs of the plaintiff in India and who caused such notice to be sent upon telephonic instructions of Mr.Rajiv Rai and that so far as the reply notice dated 02.05.2016 is concerned, the plaintiff feigns ignorance on the ground that the same was claimed to have not been transmitted to the promoter - Mr. Rajiv Rai; (ii) with respect to the counsel, Mr. Amey Nargolker, the plaintiff took a stand in the rejoinder that to the best of his knowledge, the law firm 'Vox Law' had closed its operations in the year 2020 and that he had no records pertaining either to the notices or to Mr. Nargolker thereafter; however, the records reveal that not only were the notices served upon the firm 'VoxLaw' but also that Mr. Nargolker remained in touch with the plaintiff as late as the year 2025; and (iii) though the plaintiff asserted in the plaint that, on account of having migrated to the United Kingdom in the year 1997, the promoter of the

plaintiff had lost all touch with the industry and was unable to monitor any infringement of his copyrights or exploitation of his rights until the years 2018-19, however, the documents, particularly the orders and judgments in various legal proceedings instituted by the plaintiff in respect of certain cinematograph films and the copyrights subsisting thereunder for similar or identical allegations of infringement, demonstrate that the plaintiff was diligently and seriously filing lawsuits in various Courts and Tribunals in India during the relevant period from 2016 onwards at least till the year 2020. It is relevant to note that the legal actions undertaken by the plaintiff between the years 2016 and 2020 also included one suit filed against the defendant no.3 and others on similar allegations in respect of a song in another cinematograph film, where the plaintiff obtained a judgment in its favour. The said details are extracted hereunder:

S.No	Particulars	Citation	Court/Issuing Authority	Date
1.	Trimurti Films Pvt. Ltd. v. Income Tax Office, Mumbai	I.T.A. No.3018 & 5247/Mum/ 2016	Income Tax Appellate Tribunal "B" Bench, Mumbai	19.12.2017
2.	Trimurti Films Pvt. Ltd. v. Super Cassettes Industries Pvt. Ltd. & Ors.	Comm Suit (L) No.459/2017	High Court of Judicature at Bombay	22.08.2017

3.	Super Cassettes Industries Pvt. Ltd. v. Trimurti Films Pvt. Ltd. & Ors.	2017 SCC OnLine Bom 8999	High Court of Bombay	28.08.2017
4.	Trimurti Films Pvt. Ltd. v. M/s Eagle Home Entertainment Pvt. Ltd.	Comm IP Suit No.314/2017	High Court of Judicature at Bombay	22.12.2018
5.	Trimurti Films Pvt. Ltd. v. Rohit Shetty Pictures LLP & Ors.	Comm IP Suit No.1015/2019	High Court of Judicature at Bombay	05.03.2020
6.	Trimurti Films Pvt. Ltd. v. Dharma Production Pvt. Ltd. & Ors.	Comm IP Suit No.717/2025	High Court of Judicature at Bombay	23.12.2025

22. What is even more intriguing, apart from the aforesaid non-disclosures, is the affidavit now filed by the plaintiff attempting to explain circumstances which were hithertobefore pleaded in the plaint and the rejoinder, many times in contradiction to each other. It would be apposite to extract hereunder the relevant paragraphs of the affidavit of not only the promoter of the plaintiff Mr. Rajiv Rai but also Mr. Umesh G. Mehta which will clearly demonstrate the extent to which the plaintiff has taken contradictory stands and at times a complete 360 degree turn. The relevant paragraphs are extracted hereunder:-

Affidavit of Mr.Rajiv Rai dated 11.05.2026:

> *"2. I state that following an attempt on my life in 1997, I left India and permanently relocated to the United Kingdom, while also spending periods of time in the United States of America and*

Switzerland. I state that during this time, I was visiting India only for important matters and I attempted to be abreast with the most important issues of the Plaintiff company. My former wife and son initially lived with me abroad and then returned to India and lived in Pondicherry, and I used to visit them in Pondicherry from 2013-14 onwards, during my trips to India. Even on those trips, I did not always visit Mumbai as I preferred to spend my time with them.

--XXX--

4. I state that in April 2016, I became aware of unauthorized exploitation of the songs from the Plaintiff's film Tridev, in relation to an upcoming film Azhar. Hence, I telephonically instructed Mr. Umesh G. Mehta, to speak to Mr. Amey Nargolkar from M/s Vox Law, regarding issuance of a legal notice. Mr. Mehta is a local coordinator with no independent authority to engage lawyers without my instructions, as for all intents and purposes my company remained a family-run company. I was always the person who decided the legal priorities of the company. However, owing to my pre-occupation with the settlement proceedings and related pressing legal issues, I was unable to diligently follow up on or keep track of the developments regarding the same.

--XXX--

6. I state that I had telephonically communicated with M/s Vox Law from 2016 till about 2020 on matters that were unavoidable and pressing. From what I can recall, the law firm had around 50 members at that time, including Mr. Amey Nargolkar. During the period, I had instructed them to take appropriate actions to defend the Plaintiff in income tax proceedings where there were issues of tax liability & other high-stakes matters only. For certain matters instituted in and after 2017, I had also engaged other law firms/advocates with whom I communicated telephonically until my return to India during 2018-19. I state that I often sought my sister's help for issuing cheques to settle payments for the services rendered, as my absence from India created issues of administrative continuity. I was told that around 2020, Mr. Amey Nargolkar left M/s Vox Law to pursue independent counsel practice.

7. I state that owing to lapse of time, while issuing instructions for drafting the present plaint in 2026, I inadvertently forgot that I had instructed the issuance of a notice and did not enquire whether any action was taken, or whether he had sent or received any correspondence about the matter. I state that this lapse on my part led to a gap in the documentation, which was not deliberate nor intentional.

8. I state that I understand that the Defendant has raised an issue in the present Suit regarding my decision to selectively prosecute the

infringing use of the song Keh Doon Tumhe from the Plaintiff's film Deewar in the film Baadshaho in the year 2017. I state at the time I was focusing only on legal disputes with the most egregious cases of infringement in Bollywood. I state around the first week of August 2017, I came across news articles reporting the release of the track Socha Hai from the film Baadshaho, which was described as the 'remixed version' of the 'yesterhit Keh Doon Tumhe' from Deewar. Upon listening to the infringing song available online, it became evident that the lyrics and tune of the Keh Doon Tumhe was reproduced in the said song without any authorization from the Plaintiff and seemed to form a central part of the film's marketing efforts. The fact that the infringing song seemed to be central to the plot of the said film rendered the Badshaho case particularly egregious. Copies of some articles covering the launch of the infringing song Socha Hai are being filed along with this Affidavit to demonstrate that the infringing song in that case was central to the film. Accordingly, I gave instructions for immediate action in the matter and authorized Mr. Umesh G Mehta to represent the Plaintiff in the legal proceedings. I state that the authorization to Mr. Mehta minimized the requirement of my day-to-day involvement in the matters.

9. Since I was able to devote limited time to legal matters, the exploitation of the Plaintiff's song Gali Gali mein in the film KGF Chapter 1 escaped my attention as it was not a Bollywood film but a Kannada film which was also dubbed in Hindi."

Affidavit of Mr.Umesh G Mehta dated 10.05.2026:-

"3. In 1997, after the attempt on Mr. Rajiv Rai's life, the Plaintiff's office in India was operating with minimal staff and functional capacity and I was in-charge of managing the day-to-day affairs of the Plaintiff on Mr. Rajiv Rai's instructions. I state that my routine tasks included administration of the office and fulfilling jobs entrusted upon me by the Directors of the Plaintiff company.

4. I state that I was not authorized to initiate legal action or make a decision regarding any legal matter unilaterally without prior instructions from Mr. Rajiv Rai. In fact, I was not privy to details of all the legal matters that were pursued on the instructions of Mr. Rajiv Rai, as he considered some discussions confidential.

5. I state that only when any legal proceeding has to be filed before any court, I am authorized to access the Plaintiff's records to peruse them and to sign and execute all the requisite documents.

6. As for a legal action in relation to the film Azhar, I state that Mr. Rajiv Rai directed me to telephonically instruct the lawyers to issue a legal notice in the year 2016. However, neither was I aware of the dispatch of the legal notice issued nor was I expected to follow up on the matter with the said law firm. I was only in touch with Mr. Nargolkar and other lawyers as expressly directed by Mr. Rai as the engagement of lawyers had financial implications, which needed his prior approval. Follow up on all legal matters was done only by Mr. Rai based on the priorities that he had decided. When the present suit had to be filed, I used the records maintained in office and made statements as contained in the plaint which were all correct to my knowledge. I had no reason to believe that there was any correspondence exchanged on the matter.

7. When the present suit had to be filed, I had forgotten the telephone conversation from ten years ago. I used the records maintained in office and made statements as contained in the plaint which were all correct to my knowledge."

23. It is intriguing to note how the promoter of the plaintiff, Mr. Rajiv Rai, has sought to explain away the non-disclosure of material facts in the plaint. As can be observed from the contents of the affidavit, the promoter has stated facts which appear to be not aligning with either the plaint, the application seeking interim relief or the rejoinder. This Court does not intend to delve into the trivial details of the inconsistencies and contradictions, lest it may prejudice the case of the plaintiff in the long run. However, suffice it to state that the affidavit and the contents thereof do not instil confidence in the recitals contained in the plaint. Of course, this is not to say that the plaintiff may not have a case on merits or that the plaintiff is disabled from establishing infringement of its copyright; however, for the purposes of consideration of an application seeking interim relief under discretionary jurisdiction, the same gathers great significance.

24. The contents of the affidavit of Mr. Umesh G. Mehta is completely contrary to the stand taken by the plaintiff with respect to the legal

authorization conferred upon him, as also in respect of the controversy surrounding the cinematograph film *'Azhar'*. It is significant to note that neither the promoter Mr. Rajiv Rai nor Mr. Umesh G. Mehta refer to the use of the remixed version of the song *'Gali Gali'* in cinematograph film *'K.G.F: Chapter 1'* which was released in the year 2019. There is total absence of any reference to the contention of the defendant no.3 that several suits were instituted by and on behalf of the plaintiff during the years 2016 to 2020, when the promoter of the plaintiff is alleged to have no touch or connection with the happenings in the industry or with lawsuits being prosecuted in India on its behalf. Equally, and rather conveniently, none of the aforesaid circumstances surrounding the inaction pursuant to the reply notice dated 02.05.2016 has been explained either by the promoter or by Mr.Umesh G. Mehta.

25. The insufficiency of, or failure to provide, a satisfactory explanation in respect of the non-disclosure of material facts, in the opinion of this Court, tantamount to suppression. It is trite that *"suppresio veri suggestio falsi"* would disentitle a party from obtaining discretionary relief. In the opinion of this Court, the affidavits have not been able to satisfy the conscience of this Court that the non-disclosures were innocuous or that such disclosures would not have adversely impacted the plaintiff.

26. It is not as if a party which may have statutory rights, has an indelible right or guaranteed entitlement to discretionary relief, since the very concept of discretionary relief, granted by a Court is posited on principles of equity. In the opinion of this Court, even if a party has some semblance of a legal right, but its conduct displaces such semblance in the

manner in which the present facts postulate, the Court is not bound to exercise any such discretionary jurisdiction.

27. It cannot be canvassed by the plaintiff that the use, exploitation and embodiment of the songs in the cinematograph film *'Tridev',* previously in two cinematograph films, one in the year 2016 and the other in 2019, are facts which are neither material nor would impact, that too adversely, the plaintiff's case. It has to be borne in mind that almost seven to nine years have elapsed since the previous alleged violations/infringements took place in respect of the same cinematograph film, against which the plaintiff did not even move a muscle. Therefore, to contend that every infringement or exploitation without authorization would give rise to a fresh cause of action, though may be right, but to canvass that the Court is bound to exercise discretionary relief in such compelling circumstances, is untenable and unpalatable.

28. To compound the above, it is also necessary to note that due to the eerie silence and complete apathetic inaction on the part of the plaintiff in resisting or challenging the previous alleged infringements, evidently assured the defendant no.3 of exercising, what it claims to be complete assignment of the copyrights in the manner best suited to it. Moreover, on account of the complete inaction, and on account of issue estoppels, defendant no.3 altered its position, which cannot now be rendered detrimental to it. In that, not only did the defendant no.3 exploit the songs by incorporating the remixed versions of the songs, over which the plaintiff claims copyrights, but also invested hugely in entering into agreements with third parties who produced the previous films.

29. In the present case, defendant no.1 and defendant no.2 on the assurance and the agreement with defendant no.3 have invested huge sums of money, time and efforts in producing the cinematograph film *'Dhurandhar: The Revenge'* and cannot now be put to a detrimental or disadvantageous position and direct them to undergo huge financial losses merely at the askance of the plaintiff, as and when the plaintiff chooses to awaken from its deep slumber. (See: ***Sanjit Singh Salwan v. Sardar Inderjit Singh Salwan: 2025 SCC OnLine SC 1697***).

30. In view of the aforesaid circumstances and peculiar facts arising in the present case, even if there is no statutory bar of acquiescence under the Copyright Act, 1957, the conduct of the plaintiff, which has sadly remained unexplained even in the affidavits, this Court is of the considered opinion that it is well-nigh impossible to accede to the request of the plaintiff to exercise any discretionary relief.

31. Yet another relevant aspect which needs to be pondered over is the fact that the defendant no.3 also enclosed certain correspondences pertaining to the years 1988-89 exchanged between plaintiff and defendant no.3 and also had filed the agreement dated 20.06.1989. The plaintiff had contended that the said correspondences and the agreement dated 20.06.1989 are contemporaneous documents which, when read together, point out to the fact that the defendant recognized the copyrights of the plaintiff in the cinematograph film *'Tridev'* including the copyright in the songs of the film which were assigned to the defendant no.3 only to the limited extent of reproducing the records of the songs of the cinematograph film *'Tridev'* on cassettes and gramophone records on royalty basis. However, the correspondences exchanged between the parties do not

appear to convey the impression that the plaintiff is attempting to interpret. Even otherwise, what was the reason for such correspondences and for the execution of the agreement dated 20.06.1989, cannot be gathered by this Court without all the relevant documents of that period being placed on record and proved in accordance with law during trial. As such, the contentions advanced in that context can neither be tested at this stage nor do they appeal to this Court.

32. In the context of interpretation of the agreement, the plaintiff has relied upon the judgment of the Bombay High Court in ***Shemaroo*** (*supra*) to submit that the learned Division Bench had the occasion to consider an agreement between the parties to the suit which was almost *pari materia* with the covenants in the present agreement dated 30.06.1988. According to the plaintiff, after having considered the entire agreement, the learned Division Bench concluded that the defendants therein did not have any rights over the cinematograph film involved in the said suit. It is pertinent to note that in the extract of the agreement in the case of ***Shemaroo*** (*supra*), the learned Division Bench had set out the recitals from paragraphs 1 to para 7 of the said agreement which appear to be somewhat similar to the present agreement.

33. However, that said, it is crucial to note that, unlike the agreement in ***Shemaroo*** (*supra*), the present agreement dated 30.06.1988 clearly specified what would constitute "the said work". For the purpose of convenience, the relevant paragraphs are extracted hereunder:

> *"WHEREAS the Producers are the absolute owners, free from all encumbrances, of the various rights including literary, dramatic, musical, record and cinematographic film copyrights in the firm entitled "TRIDEV" (Hindi feature film)*

** Sunny Deol, Jackie Shroff, Naseeruddin Shah, Madhuri & others. [hereinafter referred to as the **"said work"**]*
*AND WHEREAS the Producer hereby warrants and assures the company that they are the sole authors and absolute owners, free of all encumbrances, of the copyrights in the said work including the right to make gramophone records, magnetic tape or any other sound bearing contrivancies or appliances or plates or records of the music, dialogues , and/ or other works embodied in the **said work**;"*

[emphasis supplied]

33.1 The aforesaid has to be necessarily read in conjunction with para 2(i) and (xi) of the agreement dated 30.06.1988 which are extracted hereunder:

> *"(i) all rights, titles and interests in the literary, dramatic and musical works embodied in the said work including all rights of publication, sound broadcasting, public performance and mechanical reproduction and recording of the **said work**;*
> *(xi) the right to make or authorise the making of any versions of the **said work**, and or of the musical, literary and dramatic works embodied in the **said work** including the right to perform and or broadcast and /or transmit such versions;"*

[emphasis supplied]

33.2 The paragraphs 7, 8 and 12 of the agreement dated 30.06.1988 reads thus:

> ***7. ADAPTATIONS:***
> *The Producers agree that in exercising their rights hereunder the company shall be entitled to add, to take from and alter the said work for the purpose of adaptation for reproduction of the said work in the form of records and may combine the said work with any other work including a literary, dramatic, artistic and/or musical work.*
> ***8. AUTHORSHIP:***
> *The company shall be the owner of the Original Plate from which the records are made a t the time of making of*

plate of the said work and shall be construed as the Author of the said records.

12. ENTITLEMENT :

The producers agree that all the rights and obligations under this Assignment shall be construed to apply to all son dialogues and sequences to be included in the said work irrespective of the fact that the said songs, dialogues and/or sequences find a place in the final or any other version of the said work.

The Company shall not be bound to insert in and shall be at liberty to remove from and /or restore to its catalogue at any time in its absolute discretion the records of the said work.

The Company shall be entitled to sell records of the said work at such price or prices as the Company shall think fit and shall also be entitled from time to time and at any time hereafter to alter/change the prices of such records or to cause or permit them to so altered.

33.3 Read conjunctively and harmoniously, the aforesaid extracts of the definition of "the said work" with para 2(i) and 2(xi) coupled with paras 7, 8 and 12, *prima facie* propel this Court to the opinion that the agreement in ***Shemaroo*** (*supra*) may not be entirely *pari materia* with the present agreement. It is pertinent to note that this distinctive feature of the definition of the "said work" is conspicuous by its absence in the agreement examined by the learned Division Bench in ***Shemaroo*** (*supra*). In the opinion of this Court, para 2 clearly assigns and specifies the nature of the rights, titles and interests in the literary, dramatic and musical works "*embodied in the said work*" and also grants the right to make or authorize the making of any versions of the said work and/or the musical, literary and dramatic works "*embodied in the said work*",

including the right to perform, broadcast and/or transmit such versions.

33.4 Para 7 of the agreement specifies that the plaintiff/producer agreed that the defendant would be entitled to add, to take from and alter "the said work" for the purpose of adaptation or reproduction of "the said work" in the form of records and "may combine the said work" with any other work including a literary, dramatic, artistic and/or musical works. Para 8 of the said agreement further specified and conferred the authorship of the Original Plate. It provided that the defendant no.3 would be the owner of the Original Plate from which the records were to be made at the time of making of the Plate of "the said work" and the defendant no.3 was to be construed to be the Author of the said records. Therefore, not only was the defendant no.3 the owner of the Original Plate, but also the author of the records, as specified in para 1(b) of the agreement.

33.5 It is also relevant to note that, while the words "the said work" have been selectively used in para 2, particularly in relation to the rights and title assigned to defendant no.3, the word "record" has been employed selectively to connote different meanings.

33.6 It would also be pertinent to note the recitals of para 12 of the agreement. It provides that the plaintiff agreed that all rights and obligations under the said assignment shall be construed to apply to all songs, dialogues and sequences to be included

in "the said work", irrespective of the fact that the said songs, dialogues and/or sequences find a place in the final or any other version of "the said work".

33.7 A holistic and harmonious reading of the aforesaid covenants, appear to be in the humble opinion of this Court, granting all right and title in the musical, literary and dramatic works in the "said work" i.e. which included the cinematograph film, however, excluded the cinematograph film by itself by incorporation in the definition of record contained in para 1 of the agreement. Ostensibly, this appears to be the sole reason why the defendant no.3 has not exploited the copyright in the cinematograph film *'Tridev'* by itself. Other than that, this Court is unable to accede to the contention that the plaintiff has still retained, *prima facie*, any rights over the musical, dramatic or literary works embodied in the cinematograph film *'Tridev'*. In fact, it appears that the defendant no.3 is at liberty to produce/reproduce remixed versions of the songs in the cinematograph film *'Tridev'*. That, precisely, appears to be the only reason why the plaintiff did not initiate any legal action *qua* the use and exploitation of certain songs in the cinematograph films *'Azhar'* and 'K.G.F: Chapter 1'.

34. To the argument of the plaintiff in respect of the invocation of the doctrine of *contra proferentem*, in the humble opinion of this Court, none of the judgments relied upon, are required to be considered by this Court. This is for the reason that, if and only if there is any ambiguity in the language employed in a particular document, that the said doctrine needs to

be invoked. In view of the fact that this Court has analyzed the recitals in the agreement dated 30.06.1988, there does not seem to be any clause which is ambiguously worded. However, since this Court is presently examining the covenants only on a *prima facie* basis, no concrete opinion is being rendered, lest it may prejudice any of the parties in trial.

35. With that aforesaid backdrop, this Court shall now examine whether any of the judgments relied upon by the parties would be relevant at this stage.

36. Learned senior counsel for the plaintiff had extensively relied upon the judgment of the Supreme Court in ***Bengal Waterproof Limited*** *(supra)* and ***M/s Power Control*** *(supra)* to contend that acquiescence, as a defence, is available only in certain statutory jurisdictions, whereas in the Copyright Act, 1957, there is no such statutory presumption or objection available to a defendant. It was contended that there is a distinction between mere negligence and acquiescence, in that, if the plaintiff being fully aware, permits the defendant to build up an important trade until it becomes necessary to crush it, acquiescence would stand proved while, under the Copyright Act, 1957, there is no such statutory acquiescence available to the defendant. Thus, according to the learned senior counsel delay, negligence or any inaction on the part of the plaintiff would neither enure to the benefit of the defendant nor could it be stated to be acquiescence on the part of the plaintiff.

37. Though there is no quarrel with the propositions laid down in the aforesaid judgments, however, the concepts developed and the principles enunciated therein, would enure to the benefit of the defendants. In that, by virtue of the reply notice dated 02.05.2016, the defendant no.3 asserted

complete rights on the anvil of the agreement dated 30.06.1988, followed by actual use and exploitation of certain songs from the cinematograph film *'Tridev'* by incorporating the same in a remixed version not only in the cinematograph film *'Azhar'* in the year 2016 but also in the cinematograph film 'K.G.F: Chapter 1' in the year 2019. Thus, it is not merely an assertion of the rights but also the assertion of such rights by actual exploitation, against which the plaintiff did not take any action despite having issued the legal notice dated 26.04.2016 *qua* the cinematograph film *'Azhar'* which stands as an insurmountable wall. Thus, it does not lie in the mouth of the plaintiff to contend to the contrary.

38. The plaintiff also relied upon the judgment of the Supreme Court in ***Nizam Sugar Factory*** *(supra)* to contend that a fact which is already in the knowledge of the defendant, but not disclosed by the plaintiff in its plaint, would neither amount to suppression nor to willful and deliberate non-disclosure. Thus, it was the contention of the plaintiff that non-disclosure of the legal notice dated 26.04.2016 issued by the plaintiff; the non-disclosure of the reply dated 02.05.2016 issued by the defendant no.3; the receipt of the said reply notice by the law firm 'Vox Law', engaged by the plaintiff on 05.05.2016; the non-disclosure of various lawsuits instituted by the plaintiff, at the instance of its promoter Mr. Rajiv Rai, between the years 2016 and 2020; and most importantly the non-disclosure of the use and exploitation of the remixed version of the song *'Gali Gali'* in the cinematograph film 'K.G.F: Chapter 1', were all facts already in the knowledge of the defendant and therefore, did not constitute concealment of material facts which, if revealed would adversely impact the case of the

plaintiff or that it would disentitle the plaintiff from any discretionary relief, does not arise.

39. This Court is unable to countenance the aforesaid contention for the simple reason that it is these very material facts, which, if disclosed, may disentitle the plaintiff to seek or invoke discretionary jurisdiction of this Court. Thus, it is immaterial whether the aforesaid facts, *arguendo* were in the know of the defendant no.3 or not. Assume a case where the defendant had not appeared on advance service for any reason whatsoever, then, in such circumstances, the Court would, in the absence of disclosure of such material facts, possibly have been persuaded to pass an *ex-parte ad-interim* injunction in favour of the plaintiff, little realizing, that on disclosure of such material facts, perhaps, the plaintiff may not be entitled to any such discretionary relief without, atleast, hearing the defendant before grant of any such relief. Thus, merely for the reason that the defendant had appeared, cannot work to its disadvantage and the non-disclosure of material facts possibly impacts adversely the case of the plaintiff which may ultimately disentitle it from any discretionary relief. As such, the said judgment in the present circumstances does not come to the rescue of the plaintiff. For the same reason, the ratio of the judgment in ***Phushpam Pharmaceuticals Company*** (*supra*) would also not apply to the facts of the case.

40. The plaintiff placed reliance on ***Saregama India Ltd.*** (*supra*) to submit that once the defendant had acknowledged the plaintiff's right by paying royalties, the doctrine of estoppels would apply and the defendant is precluded from disputing the title of the plaintiff. In the present case, the plaintiff contended that the defendants do not dispute that the agreement

dated 30.06.1988 for exploitation of certain songs in the cinematograph film *'Tridev'* upon payment of royalty to the plaintiff. Thus, according to the plaintiff, the defendant no.3 presumably cannot question the title of the plaintiff and therefore, an injunction ought to follow.

41. This Court finds that in ***Saregama India Ltd.*** *(supra),* the defendants did not deny infringement during the course of their arguments, whereas, in the present case not only does the defendant no.3 not admit any infringement whatsoever, but actually asserts all rights, title and interest over the literary, dramatic and musical works embodied in the songs of the cinematograph film *'Tridev'* including the rights to exploit remixed versions of the said songs in any other cinematograph film. Pertinently, the defendant demonstrated or established such right by using such songs from the said cinematograph film by incorporating remixed versions in the cinematograph films *'Azhar'* in the year 2016 and '*K.G.F: Chapter 1*' in 2019. Thus, the said judgment may not apply to the facts arising in the present case and the reliance is misplaced.

42. The defendant no.3 relied upon the judgment of this Court in ***John Hart Jr. & Anr.*** *(supra)* to contend that, where the loss which might have occasioned or likely be occasioned to the plaintiff, is capable of being adequately compensated in monetary terms, an injunction restraining release of cinematograph film ought not to be granted. In the present case, it is undisputed that the cinematograph film *'Dhurandhar: The Revenge'* had already been released in cinema halls/movie theaters pan India on 19.03.2026. The plaintiff had approached this Court on 09.04.2026 and sought a limited relief of restraining the release of the said cinematograph film on OTT platforms and during arguments, limited its relief only to

restraining the use of the remixed version *'Rang De Lal (Oye Oye)'* in the background score appearing in the credits section.

43. While the plaintiff may be correct in contending that in case this Court finds the plaintiff to have its copyrights subsisting the release of the cinematograph film *'Dhurandhar: The Revenge'*, despite the release of the cinematograph film in Cinema Halls, an interim order restraining release of the same in OTT platforms can still be passed, however, in the opinion of this Court, acceding to such argument would result in an incongruous situation. In that, so far as the broadcasting of the said cinematograph film in Cinema Halls/Movie theaters is concerned, the presence of the alleged infringing song/remixed version would be permissible, whereas, the same would become an infringing act so far as the OTT platforms are concerned. This, to the mind of this Court, is inconceivable and cannot be countenanced. That apart, in any case, if the plaintiff is able to establish its rights as asserted, adequate compensation in form of damages can always be granted.

44. The contention of the plaintiff that, in case restraint of release of the cinematograph film in OTT Platforms is not granted, despite the plaintiff's *prima facie* establishment of copyrights, the licensing regime under the Copyright Act, 1957, would suffer, is untenable and unmerited. This is for the reason that the opinion formed by this Court is only *prima facie* and the parties will have adequate and complete opportunity to establish their rights in accordance with law in trial, and if the plaintiff is able to establish its rights, then, of course, the right of the plaintiff to demand any person, including defendants to obtain permission/license from it, shall stand vindicated. Thus, for the aforesaid reason the contention is unacceptable.

45. Having observed as above, it appears that to do complete justice and to balance equity as also to ensure that the plaintiff does not suffer any monetary loss on account of the undisputed fact that the defendants, particularly defendant no.3, is exploiting the remixed version of the song *'Tirchi Topiwale'* on digital music platforms and might be liable to pay royalties to the plaintiff on account of the agreement dated 30.06.1988, which in para 1(b) contemplates "record" to include any disc, tape, perforated roll and all other devices "(***now or hereafter known***)" in which sounds are embodied for reproduction therefrom by any means whatsoever which would align with paras 2(xi), 7 of the said agreement, the defendant no.3 can be directed to deposit a reasonable amount in this Court. The words "***now or hereafter known***" in para 1(b) clearly contemplate technical advancements which may not have been envisaged in the year 1988 and would surely include within its ambit, the dissemination, broadcasting and communication of the remixed versions of the suit songs by way of distribution through digital music platforms too.

46. In view of the above and as a consequence, this Court is unable to pass any orders as prayed for by the plaintiff. However, in terms of para 45 above, this Court finds it adequate to direct defendant no.3 to deposit a sum of Rs.50 lakhs within four weeks from date in this Court. The said deposit shall be made in the name of Registrar General of this Court, who shall invest the said amount in an interest bearing FDR with an auto renewable clause, which may enure to the benefit of the successful party at the end of the trial.

47. Having regard to the aforesaid analysis, the present application is disposed of in view of the above directions.

48. The aforesaid analysis and observations shall not tantamount to any expression of the merits of the suit and are confined only to the consideration for the adjudication of this application.

CS(COMM) 378/2026

49. List before the Joint Registrar (Judl.) on the date already fixed i.e. 13.07.2026.

50. List before Court on 21.08.2026.

TUSHAR RAO GEDELA
(JUDGE)

MAY 14, 2026/*rl*