

BY EMAIL & DoT-Website

Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, 20, Ashoka Road, New Delhi - 110 001
(Data Services Cell)

No. 813-07/LM-47/2022-DS-II

Dated: 21.03.2023

To,

All Internet Service Licensee's

Subject: Unblocking of website in CS (Comm.) No. 726 of 2022 titled as Cape of Good Films LLp V/s hitmovies4u.live & Ors., Before Hon'ble Delhi High Court

Kindly find the enclosed Hon'ble Delhi High Court order dated 20.02.2023 and Affidavit dated 06.03.2023 on the subject matter.

2. Please refer to **para 4** of said court order in respect of **unblocking** of **01 website** enumerated in **para 13** of the aforesaid affidavit.
3. Accordingly, in view of the above, all the Internet Service licensees are hereby instructed to take immediate necessary **Unblocking** of one(01) website for compliance of the request in the affidavit as above in view of the said court order.


Director (DS-II)

Tel: 011-2303 6860

Email: dirds2-dot@nic.in

Encl: A/A

Copy to:

- (i) Sh. V.Chinnasamy, Scientist E (chinnasamy.v@meity.gov.in), Electronics Niketan, Ministry of Electronics and Information Technology (MeitY) New Delhi (Respondent no. 33) for kind information and necessary action.
- (ii) Sh. Ashish Jacob (theoryanews@gmail.com) for kind information.
- (iii) IT wing of DoT for uploading on DoT website please.

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

+ CS(COMM) 726/2022 & I.A. 17029/2022 (O-39 R-1 & 2)

CAPE OF GOOD FILMS LLP

..... Plaintiff

Through: Ms. Shyel Trehan, Mr. Pranay Sarthi
and Mr.Rohan Poddar, Advocates

versus

HITMOVIES4U.LIVE & ORS.

..... Defendants

Through: None for defendants No.1 to 22
Mr. Saurabh Malhotra, Advocate for
defendant No.23
Mr.Adity Gupta, Advocate for
defendant No.30/Google
Mr. Azhar Qayum, Advocate for
defendant No.39
Ms. Manisha Agarwal, CGSC with
Mr. Vedansh Anand, Advocate for
defendants No.40 and 41

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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20.02.2023

1. As per the order dated 20th December, 2022 passed by the Joint Registrar, the defendants no.1 to 23, the main contesting parties, have been served through email.
2. None appears on behalf of the defendants no.1 to 22.
3. Counsel appears for the defendant no.23 and submits that the offending material has been removed from their website. The statement is taken on record. Let an affidavit to this effect be filed within one week with advance copy to the counsel for the plaintiff and counsel for defendant

no.30.

4. Upon such an affidavit being filed and a copy being served to the counsels by the defendant no.23, the defendant no.30 shall unblock the website of the defendant no.23.

5. Counsels appear on behalf of the defendants no.30, 39, 40 and 41 and submit that the said have complied with the directions passed in the order dated 20th December, 2022 of this Court.

6. Counsel for the plaintiff submits that the plaintiff is only pressing for the reliefs sought in prayer clauses (a) and (b) of the suit and does not press for reliefs sought in the remaining prayers.

7. In view of the fact that neither have the defendants no.1 to 22 entered appearance despite service, nor has any written statement has been filed on their behalf, a decree of permanent injunction is passed in favour of the plaintiff and against the defendant no.1 to 22 in terms of prayer clause (a) of the suit.

8. Further, a decree is passed in terms of prayer clause (b) of the suit, directing the defendants no. 24 to 29, who are the Domain Name Registrants, to suspend/block the domain names registrations of the defendants no.1 to 22, which are registered with them and details of which are provided in paragraph 49 of the plaint.

9. The suit is decreed accordingly.

10. Decree sheet be drawn up.

11. Pending applications, if any, are disposed of.

AMIT BANSAL, J.

FEBRUARY 20, 2023/dk

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(COMM) 726/2022

CAPE OF GOOD FILMS LLP

..... Plaintiff

Through: Ms.Tanwangi Shukla,
Advocate

versus

HITMOVIES4U.LIVE & ORS.

..... Defendant

Through: Mr.Azhar Qayum,
Advocate for D-39 (VC)
Ms.Manisha Agarwal
Narain CGSC,
Mr.Vedansh Anand, GP,
Mr.Sandeep Singh
Somaria, Ms.Rakshita
Goyal, Advocates for
D-40.

CORAM:

**JOINT REGISTRAR (JUDICIAL) SH. PURSHOTAM
PATHAK (DHJS)**

ORDER

20.12.2022

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Ld. Counsel for defendant no. 39 & 40 submits that they have already complied with the order dated 18.10.2022.

Defendant no. 1 to 23 have been served through email.

Process issued to remaining defendants have not received back.

Service report is awaited.

Let affidavit of service be filed by plaintiff atleast one week before next date of hearing.

Signature Not Verified

Digitally Signed
By: PURSHOTAM PATHAK
Signing Date: 21.12.2022
11:01:35



Written statement not filed by the served defendants. Let the same be filed as per rules with advance copy to opposite party. Replication, thereto be filed as per rules thereafter.

Put up for service / completion of pleadings on 06.02.2023.

**PURSHOTAM PATHAK (DHJS),
JOINT REGISTRAR (JUDICIAL)**

DECEMBER 20, 2022/sk

Signature Not Verified

Digitally Signed
By: PURSHOTAM PATHAK
Signing Date: 21.12.2022
11:01:35



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

+ CS(COMM) 726/2022

CAPE OF GOOD FILMS LLP Plaintiff

Through: Ms. Shyel Trehan, Mr. Hitesh Jain,
Mr. Pranav Sarthi, Mr. Pranav Nair, Ms. Monisha
Mani, Ms. Tanwangi Shukla and Mr. Rohan
Poddar, Advocates.

versus

HITMOVIES4U.LIVE & ORS. Defendants

Through: None.

**CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH**

ORDER
18.10.2022

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I.A. 17031/2022 (Exemption)

1. Subject to the Plaintiff filing certified, clearer, proper and translated copies of the documents with proper margins, which it may seek to place reliance on, within four weeks from today, exemption is granted.
2. Application is allowed and disposed of.

I.A. 17030/2022 (Exemption from advance service to Defendants No.40 and 41)

3. Since there is an urgency in the matter and the same is being heard today, Plaintiff is exempted from serving advance notice on Defendants No. 40 and 41.
4. For the reasons stated in the application, the same is allowed and disposed of.

CS(COMM) 726/2022

5. Let plaint be registered as a suit.
6. Upon filing of process fee, issue summons to the Defendants, through all permissible modes, returnable on 20.12.2022 before the learned Joint Registrar.
7. Summons shall state that the written statement shall be filed by the Defendants within 30 days from the receipt of summons. Along with the written statement, Defendants shall also file an affidavit of admission/denial of the documents filed by Plaintiff.
8. Replication be filed by the Plaintiff within 15 days of the receipt of the written statement. Along with the replication, an affidavit of admission/denial of documents filed by the Defendants, shall be filed by the Plaintiff.
9. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

I.A. 17029/2022 (under Order 39 Rules 1 and 2 CPC, by Plaintiff)

10. Present application has been preferred by the Plaintiff under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 for grant of an *ex-parte* ad-interim injunction.
11. Issue notice to the Defendants through all prescribed modes, returnable on 20.02.2023, before Court.
12. Present suit has been filed seeking permanent injunction and damages, for infringement of copyrights of the Plaintiff in the film 'Ram Setu' (hereinafter referred to as 'film'). Plaintiff is stated to be a leading film production and distribution entity in India, with a history of producing blockbuster films and the repertoire of films of the Plaintiff include National

Award winning films such as Rustom, Padman, Singh is King etc. It is stated that Plaintiff is the producer of the film and also has exclusive distribution rights to publicly exhibit and communicate the film through all modes including but not limited to theatrical exhibition.

13. It is the case of the Plaintiff that being the producer of the film, Plaintiff is the Author of the film under Section 2(d) of the Copyright Act, 1957 (hereinafter referred to as the 'Act') and thus, owner in terms of the provisions of Section 17 of the said Act. The exclusive rights, as enumerated under Section 14(d) of the Act *qua* the film, vests in the Plaintiff. It is stated that the film being a work of visual recording including sound recordings qualifies as a 'cinematograph film' under Section 2(f) of the Act and by virtue of Section 13(1) and 13(2) read with Section 5 of the Act, since the film is going to be released in India, the film would be entitled to all rights and protections granted under the Act for cinematographic films. Section 14(d) provides an exclusive right to the Plaintiff to 'communicate' the film to public as defined in Section 2(ff) of the Act. Any third party who interferes with or exploits any of the exclusive rights, without permission of the Plaintiff, would be deemed to infringe Plaintiff's copyright in terms of Section 51 of the Act.

14. Plaintiff states that the film is an eagerly awaited Bollywood release and is scheduled for a theatrical release on 25.10.2022. Plaintiff has spent huge sums in production of the film and has been actively promoting the same with a great deal of work and exercise in marketing, exploitation, distribution and advertising. The official teaser of the film was released on 26.09.2022 and promotional videos have gained immense popularity which is evident from nearly 17.8 million views officially received on youtube.com

till 04.10.2022. The trailer of the film released on 11.10.2022 has garnered upwards of 4.5 million views on YouTube.

15. It is further averred that in view of the copyright of the film vested in the Plaintiff, any hosting, streaming, reproduction, distribution, making available to the public and/or communicating the film to the public or facilitating the same, without authorisation from the Plaintiff, by any means, on any platform, including internet and mobile would infringe Plaintiff's copyright.

16. It is averred that the present suit has been filed against Defendant websites, i.e. Defendants No. 1 to 23, which are primarily and substantially engaged in communicating to the public, hosting, streaming, etc. the copyright protected work and are vehicles of infringement, whose whole business model is designed to provide members of the public access to copyright contents, unauthorisedly.

17. It is the case of the Plaintiff that it is an industry practice to release the film for theatrical exhibition first and then make it available for viewing on different platforms. Theatrical release of a film is the most important stage as the commercial value of a film depends on the popularity and success it achieves in this period. However, the rogue websites in order to make illegal gains make infringing copies and make them available for viewing, downloading and communication to the public, almost simultaneously with the theatrical release of the film. In the past, infringing copies of several movies produced/distributed by the Plaintiff were communicated to the public and made available for viewing and downloading, on various websites, within hours of the theatrical release. In the present case, the film is scheduled to be released on 25.10.2022 and Plaintiff apprehends that the

rogue websites, Defendants No. 1 to 23 will communicate infringing copies of the film on various websites which would directly impact the Plaintiff's business and erode the value of the film besides infringing its copyright.

18. Learned counsel appearing on behalf of the Plaintiff submits that the identities of these rogue websites i.e. Defendants No. 1 to 23 are veiled and their owners are located at unverifiable locations and on account of their anonymity, they satisfy the test of being categorized as Rogue Websites laid down by this Court in *UTV Software Communication Ltd. and Others v. 1337X.To and Others, 2019 SCC OnLine Del 8002*. In the said judgment, relying on plethora of judicial precedents, the Court held that rogue websites can be made liable for copyright infringement and they are not entitled to exemption under Section 52(1)(c) of the Act, since they are not entities that transiently or incidentally store Plaintiff's work therein. It was held that an infringer of copyright on internet is to be treated at par with an infringer in the physical world.

19. It is further submitted that Defendants-websites provide directories, indexes and categories for hyperlinks to third party content located on a host or server. The hyperlink re-direct the end-user to the host site to stream/download the content. Defendants-websites provide a means of locating sources for content to be downloaded directly from a cloud storage site. Websites such as Defendants No. 22 and 23 facilitate the download and streaming of the copyrighted content by preparing directories with links where the illegal content is uploaded in utter disregard of copyrights.

20. I have heard learned counsel for the Plaintiff and examined the contentions raised.

21. There is no gainsaying that piracy has to be curbed and needs to be dealt with a heavy hand and injunction against screening of copyrighted content by rogue websites ought to be granted. This position is acknowledged and re-affirmed in several decisions and in order to avoid prolixity, I may only allude to two judgments of this Court in *Department of Electronics and Information Technology v. Star India Private Limited, 2016 SCC OnLine Del 4160* and *UTV Software Communication Ltd. (supra)*. The legal position with regard to grant of dynamic injunctions is settled in *UTV Software Communication Ltd. (supra)* and learned counsel for the Plaintiff is right in his submission that several orders have been passed by this Court in the past, restraining the rogue websites.

22. Tested on the anvil of these decisions, in my view, Plaintiff has made out a *prima facie* case for grant of *ex parte* ad-interim relief. Balance of convenience lies in favour of the Plaintiff and it is likely to suffer irreparable harm in case the injunction, as prayed for, is not granted. For the sake of convenience, particulars of Defendants No. 1 to 23, i.e. the rogue websites along with their domain name Registrars are set out as under:-

Name of Defendant Website	Domain Name Registrar
Hitmovies4u.live (Defendant No. 1)	GoDaddy.com, LLC (Defendant No. 26)
7starhd.monster (Defendant No. 2)	Porkbun LLC (Defendant No. 24)
Yesmovies4u.biz (Defendant No. 3)	Name Cheap Inc. (Defendant No. 25)
Watchfilmy.cc (Defendant No. 4)	Name Cheap Inc. (Defendant No. 25)

Gomoviz.uno (Defendant No. 5)	Name Cheap Inc. (Defendant No. 25)
Hitmovies4u.com (Defendant No. 6)	Name Cheap Inc. (Defendant No. 25)
Movierulzhd.site (Defendant No. 7)	Name Cheap Inc. (Defendant No. 25)
Mpvmoviez.watch (Defendant No. 9)	Name Cheap Inc. (Defendant No. 25)
Hindimovieslive.com (Defendant No. 10)	GoDaddy.com, LLC (Defendant No. 26)
Filmyzilla2.one (Defendant No. 11)	Name Cheap Inc. (Defendant No. 25)
123movieshindi.me (Defendant No. 12)	Instra Corporation Limited (Defendant No. 28)
Tamilblasters.city (Defendant No. 13)	Name Cheap Inc. (Defendant No. 25)
1tamilmv.hair (Defendant No. 14)	Name Cheap Inc. (Defendant No. 25)
Cinevood.biz (Defendant No. 15)	Name Cheap Inc. (Defendant No. 25)
Vegamovies.team (Defendant No. 16)	Name Cheap Inc. (Defendant No. 25)
4movierulz1.me (Defendant No. 17)	Name Cheap Inc. (Defendant No. 25)
0gomovies.eu (Defendant No. 18)	P.D.R Solutions (U.S) LLC (Defendant No. 29)

Kuttymovies2022.fun (Defendant No. 19)	Name Cheap Inc. (Defendant No. 25)
Isamini.vip (Defendant No. 20)	Name Cheap Inc. (Defendant No. 25)
Moviesda.vin (Defendant No. 21)	Name Cheap Inc. (Defendant No. 25)
Infodible (Defendant No. 22)	GoDaddy.com, LLC (Defendant No. 26)
TheAryaNews.com (Defendant No. 23)	Google LLC (Defendant No. 30)

23. Looking at the investments made by the Plaintiff in the production and promotion of the film as also the exclusive right vested in it under the provisions of the Act, this Court *prima facie* agrees with the Plaintiff that if the rogue websites communicate the film in any manner, on any platform, simultaneously with the theatrical release of the film on 25.10.2022 or in its close proximity thereafter, it would severely impact the interest of the Plaintiff monetarily and will also erode the value of the film.

24. Accordingly, the following directions are issued:-

- a. Defendants No. 1 to 23 and all others acting for and/or on their behalf are restrained from in any manner hosting, streaming, retransmitting, exhibiting, making available for viewing and downloading, providing access to and/or communicating to the public, displaying, uploading, modifying, publishing, updating and/or sharing (including to its subscribers and users) on their websites through the internet or any other platform, the film 'Ram

- Setu' and contents related thereto, so as to infringe the Plaintiff's exclusive rights and copyrights therein, till the next date of hearing.
- b. Defendants No. 24 to 30, its directors, partners, proprietors, officers and all others acting for and on their behalf, who are the Domain Name Registrants shall suspend/block the domain names registrations of Defendants No. 1 to 23, as mentioned in the table at para 22 above, including the websites with modified domain names.
 - c. Defendants No. 24 to 30 shall provide complete details such as name, address, email address, IP address and phone numbers of Defendants No. 1 to 23.
 - d. Defendants No. 31 to 39, their directors, partners, proprietors, officers, affiliates, servants, employees and all others in capacity of principal or anyone claiming through it, shall block access to the various websites identified by the Plaintiff and as aforementioned and Defendants No. 40 and 41, i.e. Department of Telecommunications and Ministry of Electronics and Information Technology, respectively, shall issue necessary notifications calling upon various ISPs to block access to the websites of Defendants No. 1 to 23.
25. Plaintiff is given the liberty to file an appropriate application to array other rogue websites, as and when the same are discovered in future.
26. Plaintiff shall comply with the provisions of Order 39 Rule 3 CPC within a period of one week from today.

27. Copy of this order be given to learned counsel for the Plaintiff *dasti* under the signatures of the Court Master.

JYOTI SINGH, J

OCTOBER 18, 2022/shivam

BEFORE THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI
ORDINARY ORIGINAL CIVIL JURISDICTION

CS (COMM) NO.726 OF 2022

IN THE MATTER OF:

Cape of Good Films LLP

..... Plaintiff

Versus

Hitmovies4u.live and Ors.

... Defendants

**AFFIDAVIT ON BEHALF OF THE DEFENDANT NO. 23 IN
COMPLIANCE WITH THE ORDER DATED 20.02.2023 OF
THE HON'BLE COURT IN THE ABOVE CAPTIONED MATTER**

I, Ashish Jacob S/O Subada Jacob Aged About 27 Years Qtr No G/2, JP Hospital Campus, Tulsi Nagar, Bhopal, Madhya Pradesh -462003, Presently At New Delhi, do hereby solemnly affirm and declare as under:-

1. That I, run and operate a news web portal under the URL/Web address TheAryaNews.com, which is arrayed as Defendant No. 23 is the present suit, and am solely responsible for the publication of any content therein.

2. That I state that my website is a news portal and runs with the object of spreading information and knowledge to the common people about the current and latest news, trends etc. and is not indulged in streaming of movies, web series etc., in any manner.



3. That I state and acknowledge that I had in past listed a few website names, some of which are also defendants in the present suit, on a webpage on my website, which were possibly indulged in piracy of the movie/film which is the subject matter of the present suit.

4. That I state that, this was not with any intention to infringe upon the right of the plaintiff but was an innocent mistake on my part due to ignorance of proper law, and I didn't mean to harm the plaintiff in any manner.

5. That I hereby acknowledge my mistake and state that I have already taken steps to rectify and amend my mistakes. I tender my apology to the plaintiff and state that I would abstain from any such act in future.

6. That I state that I have never indulged in any direct act of film piracy and will never in any way, directly or indirectly, would either indulge myself in an act of piracy or support any other entity indulging in said act of piracy.

7. That, I state that upon realizing my mistake, I forthwith removed such material which possibly infringed the legal right of the plaintiff herein.

8. That, I declare and undertake that all offending material which in any way infringes the right of Plaintiff herein or, as a matter of fact, any other filmmaker, producer-distributor etc. has been removed from my website.



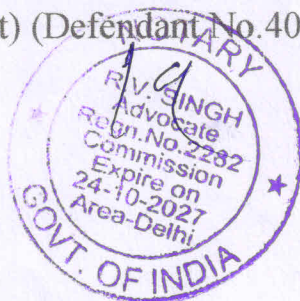
9. That, I further declare and undertake that I would refrain and restrain myself from the publication of any such material which in any form or way infringes upon the right of Plaintiff in the future.

10. That I state that I have submitted before the Hon'ble Court on 20.02.2023, that I have removed all the offending material from my website i.e. TheAryaNews.com.

11. That I state that upon my statement the Hon'ble Court had ordered me to file the present affidavit within one week of the passing of the order, but due to some unavoidable circumstances and situations with me, I could not comply with the order within a week and for such delay for which I wish to tender my apology.

12. That I state that the delay in filing the affidavit is not with malafide intention or with any intention to dishonour the majesty or disobey the order of this Hon'ble Court.

13. That I pray this Hon'ble Court that my apology and declaration be accepted and further pray that my website i.e. TheAryaNews.Com be restored and unblocked by the GoogleLLC (Defendant No.30) and the Internet Service Providers (ISPS) (Defendant No. 31-39), The Department Of Telecommunication (Dot) (Defendant No.40) And The Ministry Of Electronics



and Information Technology (Meity) (Defnedant No.41).

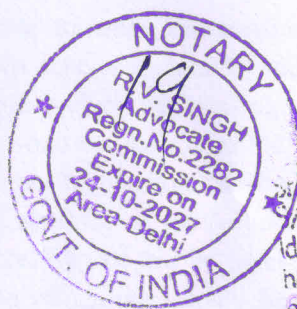
Anish
Deponent

Verification:

Verified at New Delhi on this the 06th day of March 2023 that the contents of the above Affidavit are true to the best of knowledge, information and belief and nothing material has been concealed therefrom.

Anish
Deponent

who has signed in my presence
I hereby the deponent's name



DECLARED THAT THE DEPENDENT
No. *19*
Smt/Km. *Sanchi Km Rd*
Identified by *Smt*
has solemnly affirmed before me at Delhi
at St Nos *19*
on *MAR 2023* that the contents of this affidavit which have been
read over & explained to him/her are true & correct
to his/me knowledge
[Signature]
Notary Public, Delhi

6 MAR 2023