

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-52/2023-DS-II

Dated: 14.12.2023

To,
All Internet Service Licensee's

**Subject: CS(COMM) 864 of 2023: Star India Private Limited & Anr. vs. Livepic.pk & Ors.
Before Hon'ble Delhi High Court**

Kindly find the enclosed Hon'ble Delhi High Court order dated **05.12.2023** and **1st** additional Affidavit dated **13.12.2023** on the subject matter.

2. Please refer to the **para 34(vii) & para 37** of the said court order in respect para **8** of **1st** affidavit for blocking of **07 websites** as enumerated in **Annexure A** of the affidavit
3. Accordingly, in view of the above, all the Internet Service licensees are hereby instructed to take immediate necessary action for blocking of the said websites, as above, for compliance of the said court order.

JTO (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 for kind information and with request to take action as per **Annexure B**.
- (ii) Priyansh Kohli (priyansh@saikrishnaassociates.com) Saikrishna & Associates Plaintiff Advocate for kind information.
 - (a) Take action as per Annexure B.
- (iii) IT wing of DoT for uploading on DoT websites please.

Above draft put up for approval please
Dir(DS-II) - on leave
DDG(DS) Krishna Narayan
3 TO DS-II
14/12/23

Abhil
14/12/2023



\$~19

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

+ **CS(COMM) 864/2023**

STAR INDIA PRIVATE LIMITED & ANR. Plaintiffs

Through: Mr. Sidharth Chopra, Mr.
Yatinder Garg, Ms. Kshay Maloo and Mr.
Priyansh Kohli, Advs.

versus

LIVECRIC.PK & ORS. Defendants

Through: None

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

% **05.12.2023**

I.A. 24173/2023 (under Section 151 of CPC) in CS(COMM) 864/2023

1. Subject to the plaintiffs' filing legible copies of any dim or illegible documents on which they may seek to place reliance within four weeks from today, exemption is granted for the present.

2. The application is allowed accordingly.

I.A. 24174/2023 (under Section 80 of CPC) in CS(COMM) 864/2023

3. Given the urgent nature of the relief sought in the plaint, exemption is granted for the present from serving notice under Section 80 of the CPC on the official defendants.

4. The application is allowed accordingly.

CS(COMM) 864/2023

Page 1 of 11



I.A. 24175/2023 (under Order XI Rule 1(4) of CPC) in CS(COMM) 864/2023

5. This is an application, under Order XI Rule 1(4) of the Code of Civil Procedure, 1908 (CPC) as amended by the Commercial Courts Act, 2015, seeking permission to file additional documents.

6. For the reasons stated in the application, the plaintiffs are permitted to file additional documents within four weeks from today in accordance with the protocol envisaged by Order XI Rule 1(4) of the CPC.

7. The application is allowed accordingly.

I.A. 24176/2023 (exemption from pre-institution mediation) in CS(COMM) 864/2023

8. Given the urgent nature of the relief sought in the plaint, the plaintiffs are exempted from the requirement of pre-institution mediation as envisaged under Section 12A of the Commercial Courts Act.

9. The application is allowed accordingly.

CS(COMM) 864/2023

10. The plaintiffs have obtained copyrights from Cricket South-Africa (CSA) to telecast cricket matches between India and South Africa, *vide* Agreement dated 20 November 2020, till April 2024. Though the said agreement has not been placed on record, Mr.



Chopra, learned Counsel for the plaintiffs submits that it has certain confidential clauses, the plaintiffs have placed on record a news item which states that the plaintiffs have acquired the media rights of Cricket South-Africa (CSA) till the end of the 2023-2024 Cricket season across Asia, Middle-East and North Africa.

11. The present plaint is concerned more with the India-South Africa Cricket series to start from 10 December 2023 and to continue till 3 January 2024.

12. The plaintiffs have instituted the present suit as a *quia timet* action, apprehending infringement of the exclusive rights of the plaintiffs' to telecast the India-South Africa Cricket matches during the aforesaid 2023 series by Defendants 1 to 4 and Defendant 19, of which Defendant 19 is a John Doe defendant.

13. It is stated that Defendants 1 to 4 are rogue websites who are habitually involved in infringing telecast rights by anonymous websites by broadcasting cricket matches and other such content over which rights vest in other persons.

14. The WHOIS details of Defendants 1 to 4 are masked. As such the plaintiff has impleaded them through their respective domain names livecric.pk, watchmhdtv.com, batball.fun and thesportsevo.in.

15. The plaintiffs assert their broadcasting rights under the Copyrights Act 1957, as the person who has been granted exclusive license to broadcast the cricket matches between India and South



Africa till 2024 by CSA.

16. Mr. Chopra has drawn my attention to earlier orders passed by this Court in similar matters including CS (Comm) 659/2023 (*Viacom18 Media Pvt. Ltd. v. Live.Smarteric.Com*) and CS (Comm) 11/2023 (*Star India Pvt.Ltd. v. LIVE4WAP.click*).

17. It is in these circumstances that the plaintiffs have approached this Court by means of the present suit, seeking a decree of permanent injunction, restraining the defendants 1 to 4 and all others acting on their behalf from communicating, streaming, making available for viewing or downloading, without authorisation, either on the internet or in any other manner whatsoever, the cricket matches which would be played between India and South Africa, the exclusive rights to broadcast which vests in the plaintiff.

18. Additionally, a direction has also been sought to Defendants 5 to 7, who are domain names registrars of the infringing domain names of Defendants 1 to 4, to block the said domain names and also to provide the details of the registrants thereof.

19. Similar directions have also been sought to Defendants 8 to 16 who are the Internet Service Provides (ISPs). The plaintiffs also seek directions to Defendants 17 and 18 who are governmental agencies including the MEITY and DoT, to issue notification calling upon the ISPs to block access to the websites of Defendants 1 to 4 as well as to others websites which may be discovered during the course of these proceedings as likely to telecast matches between India and South



Africa

20. Mr. Chopra has drawn my attention to an order dated 27 September 2023, passed by a Coordinate Bench of this Court in CS(Comm) 688/2023 (*Star India Pvt. Ltd. v. Jiolive.tv*) which, in similar circumstances, directed suspension of access to the allegedly rogue websites, in the case of cricket matches which were yet to commence, with liberty granted to the said websites, in the event of said websites was not intending to telecast any such matches, to move the court in that regard.

21. I must confess that I have my reservations regarding the extent to which such orders of blocking access to alleged rogue websites can be passed. *If there is material to indicate* that a particular website is likely to stream the plaintiff's copyright content without authorisation or licence, the court would well be within its authority in injunctiong the websites by way of a *quia timet* order. For example, this Court had recently dealt with a case in which the producer of a film which was yet to be released, sought an injunction against a website which was unauthorisedly making films available for viewing, seeking a direction for blocking the website itself. In that case, however, the plaintiff had demonstrated that the website specifically advertised the plaintiff's movie, stating that it would be streamed on the website once it was released.

22. In that case, therefore, there was a genuine apprehension that the website would stream the plaintiff's movie and, as the website's WHOIS details were masked, this Court passed an order blocking the



website.

23. Where the plaintiff is approaching the court seeking blocking or suspending access to a website merely on the ground that the said website indulges in breach of copyright by broadcasting content in which copyright vests with others in the past, the Court, in my view, has to balance the interest of dispensing justice with the right of the owner of the website to trade and commerce. Indeed, a Division Bench of this Court has, in para 7 of the report in *Department of Electronics and Information Technology v. Star India Pvt. Ltd.*¹, voiced this concern in the following words:

“7. The reason for restricting the sweep of the ex-parte ad-interim injunction obviously was that an order limiting the right of a person to carry on trade and business had to be justified and such restriction as was reasonable could be imposed by a Court. To wit: 'A' is carrying on three businesses, one of which is illegal. The restraint would obviously be qua the illegal business and not to restrain 'A' from carrying on any business.”

24. Mr. Chopra has drawn my attention to various passages in the plaint in the present case, in which it is specifically averred that as Defendant 1 to 4 are rogue websites who are involved only in broadcasting infringing content in which copyright vests with others. This, however, he submits, is therefore not a case in which the said defendants telecast both infringing and non-infringing content so that an injunction order passed by this Court may jeopardize their right even to telecast non-infringing content.

25. Where there are such specific averments, to the effect that the defendants/alleged rogue websites are transmitting *only* infringing

¹ 2016 SCC OnLine Del 4160
CS(COMM) 864/2023



content, the Court may be justified in passing interlocutory orders blocking access to such websites even before the content of the plaintiff is ready to be streamed. However, in my view, for any such orders to be passed, it is a necessary imperative that the plaintiff must specifically aver *that the concerned websites are rogue websites which transmit/broadcast only infringing content.*

26. In the absence of a categorical assertion by the plaintiff, to the effect that the rogue websites broadcast/transmit only infringing content, in my view, an order blocking access to the websites even before the plaintiff's content is ready to be streamed, may be unconscionable in law. That, in my view, is also the prevailing philosophy behind the judgment the judgment of the learned Single Bench of this Court in *UTV Software Communication Ltd v. 1337X.To*², which is often cited as a benchmark in these cases.

27. As, in the present case, there are specific averments to the effect that Defendants 1 to 4 are rogue websites which only broadcast infringing content, Mr. Chopra has also drawn my attention to the various orders passed by this Court in which, in such circumstances, orders disabling access to the websites have been passed.

28. In the peculiar facts of this case, the plaintiffs would be entitled to similar reliefs.

29. As such, let the plaint be registered as a suit.

² (2019) 78 PTC 375
CS(COMM) 864/2023



30. Issue summons in the suit. Let summons issue to the defendants by all modes.

31. Written statement, if any, accompanied by affidavit of admission and denial of the documents filed by the plaintiff be filed within 30 days with advance copy to learned Counsel for the plaintiff who may file replication thereto, accompanied by affidavit of admission denial of documents filed by the defendants within 30 days thereof.

32. List before the Joint Registrar (Judicial) on 6 February 2024 for completion of pleadings, admission/denial of documents and marking of exhibits, whereafter the matter would be placed before the Court for case management and further hearing.

I.A. 24172/2023 (under Order XXXIX Rules 1 and 2 of CPC)

33. This is an application by the plaintiff under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure 1908 (CPC) seeking *ad interim* protection.

34. In view of the facts stated hereinabove, the following interlocutory directions are passed, to remain in force till the next date of hearing:

- (i) Defendants No. 1 to 4 (and such other mirror/redirect/alphanumeric websites of Defendants 1 to 4 which are discovered during the course of the proceedings and notified on Affidavit by the Plaintiffs to have been infringing the



Plaintiff's exclusive rights and copyrights), their owners, partners, proprietors, officers, servants, employees, and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, shall stand restrained from communicating, hosting, streaming, and/or making available for viewing and downloading, without authorization, on their websites or other platforms, through the internet in any manner whatsoever, the content over which the plaintiffs have exclusive copyright, so as to infringe the Plaintiffs' exclusive rights, copyrights and broadcast reproduction rights.

(ii) Defendant 5 is directed to suspend the domain name registration of Defendant No. 1 in respect of the websites – livecric.pk.

(iii) Defendant 6 is directed to suspend the domain name registration of Defendant Nos. 2 and 3 in respect of the websites – watchmhdtv.com and batball.fun.

(iv) Defendant 7 is directed to suspend the domain name registration of Defendant No.4 in respect of the website – thesportsevo.in

(v) Defendants 5 to 7 are directed to disclose, on affidavit, (a) complete details such as name, address, email address, phone number, IP address, etc. (b) Mode of payment along with payment details used for registration of domain name by the registrant(s) and (c) details of other websites registered by the



Defendant Nos. 1 to 4 using similar details, same credit card, payment gateway etc. (disclosed as per subclause (b) above) with the Defendant Nos. 5 to 7.

(vi) Defendants 8 – 16 are directed to block access to the Defendants 1 – 4's, websites identified by the plaintiffs and enumerated in the serial no.2 in the documents annexed to the plaint.

(vii) To facilitate implementation of the aforesaid directions, Defendants 17 and 18 are directed to issue a notification, calling on internet and telecom service providers registered under the said defendants, to block access to the aforesaid websites identified by the plaintiffs and enumerated in the serial no.2 in the documents annexed to the plaint.

35. Mr. Sidharth Chopra, Learned Counsel for the plaintiffs, also seeks, in order that the plaintiffs are not constrained to approach this Court time and again against new infringing websites which may mushroom during the course of these proceedings, that an order of dynamic injunction be granted, whereby access to the said websites would be blocked on the plaintiffs' filing an affidavit with Defendants 8 to 16, immediately on filing of the said affidavit. He undertakes, in order to maintain transparency in the process, that the plaintiff would also, side-by-side, file the affidavit before this Court.

36. He draws my attention, in this context, to para 93 of the judgment in *UTV Software Communication Ltd.*



37. Accordingly, Defendants 8 to 16 are directed to block access to any similar/alphanumeric/redirect/mirror website of the defendant websites which is communicated, to them, by the plaintiffs, on affidavit, to be indulging in infringing activities similar to those in which Defendants 1 to 4 in the present plaint are indulging.

38. The plaintiffs would also, immediately, file a copy of the said affidavit before this Court.

39. The aforesaid directions shall remain in force till the next date of hearing.

40. The plaintiffs are directed to comply with the provisions of Order XXXIX Rule 3 of the CPC qua the defendants who are unrepresented today within a period of one week from today by all modes possible.

41. List this application before the Court on 7 March 2024.

C. HARI SHANKAR, J

DECEMBER 5, 2023

dsn

Click here to check corrigendum, if any

IN THE HIGH COURT OF DELHI AT NEW DELHI
(ORDINARY ORIGINAL COMMERCIAL JURISDICTION)
CS (COMM) NO. 864 OF 2023

IN THE MATTER OF

Star India Private Limited & Anr.

...Plaintiffs

Versus

Livecric.pk & Ors.

...Defendants

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Place: New Delhi
Date: 13.12.2023


Akshay Maloo | Priyansh Kohli
(D/4515/2018) | (D/2514/2022)
Saikrishna and Associates
Advocates for the Plaintiff
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+91 7987503554
priyansh@saikrishnaassociates.com

IN THE HIGH COURT OF DELHI AT NEW DELHI
(ORDINARY ORIGINAL COMMERCIAL JURISDICTION)
CS (COMM) NO. 864 OF 2023

IN THE MATTER OF

Star India Private Limited & Anr. ...Plaintiffs

Versus

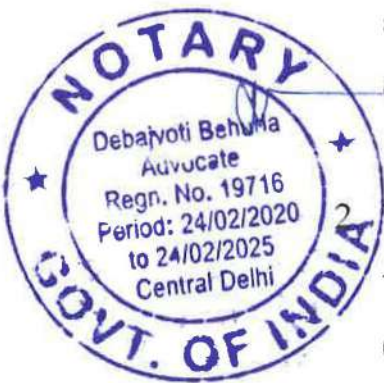
Livecric.pk & Ors. ...Defendants

AFFIDAVIT OF MR. ABHISHEK PRAHARAJ, S/O MR. KISHORE PRAHARAJ, AGED ABOUT 29 YEARS, AUTHORIZED SIGNATORY OF PLAINTIFFS, STAR INDIA PVT. LTD. AND NOVI DIGITAL ENTERATINMENT PVT. LTD. HAVING OFFICE AT STAR HOUSE, URMI ESTATE, 95 GANPATRAO KADAM MARG, LOWER PAREL (W), MUMBAI 400013, PRESENTLY AT NEW DELHI, INDIA, ON BEHALF OF THE PLAINTIFFS

I, the above-named deponent, do hereby solemnly affirm and declare as under:

1. That, I am the Authorized Representative of the Plaintiffs in the present suit and as such I am conversant with the facts and circumstances of the present suit and competent to depose in respect thereof.

That the Plaintiffs in the course of its business have acquired the exclusive Television, Internet Rights and Mobile Rights, ("Exclusive Rights") for India Tour of South Africa 2023-24 ("India Tour of South Africa Series") for the period commencing from 1st May 2020 to 30th April 2024 for a

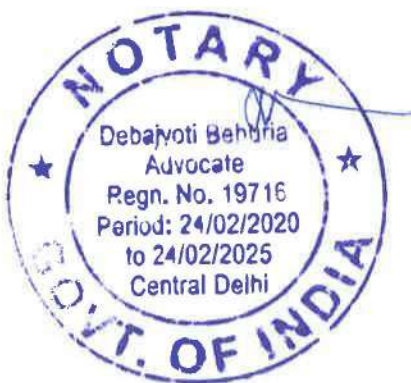


substantial consideration *vide* agreement dated 20th November 2020 from Cricket South Africa (“CSA”). I state that these rights include but are not limited to the live, delayed, highlights, clips and repeat exhibition of India Tour of South Africa Series, over which the Plaintiffs have Exclusive Rights, through various platforms for viewing on various devices such as televisions, computers, laptops, mobile phones, tablets etc.

3. I state that I am aware of the present suit and the order dated 05.12.2023 whereby the Hon’ble Court was pleased to pass an *ex-parte ad-interim* order in terms of the following :

34. In view of the facts stated hereinabove, the following interlocutory directions are passed, to remain in force till the next date of hearing:

- (i) *Defendants No. 1 to 4 (and such other mirror/redirect/alphanumeric websites of Defendants 1 to 4 which are discovered during the course of the proceedings and notified on Affidavit by the Plaintiffs to have been infringing the Plaintiff’s exclusive rights and copyrights), their owners, partners, proprietors, officers, servants, employees, and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, shall stand restrained from communicating, hosting, streaming, and/or making available for*



viewing and downloading, without authorization, on their websites or other platforms, through the internet in any manner whatsoever, the content over which the plaintiffs have exclusive copyright, so as to infringe the Plaintiffs' exclusive rights, copyrights and broadcast reproduction rights.

- (ii) Defendant 5 is directed to suspend the domain name registration of Defendant No. 1 in respect of the websites – *livecric.pk*.
- (iii) Defendant 6 is directed to suspend the domain name registration of Defendant Nos. 2 and 3 in respect of the websites – *watchmhdtv.com* and *batball.fun*.
- (iv) Defendant 7 is directed to suspend the domain name registration of Defendant No.4 in respect of the website – *thesportsevo.in*
- (v) Defendants 5 to 7 are directed to disclose, on affidavit, (a) complete details such as name, address, email address, phone number, IP address, etc. (b) Mode of payment along with payment details used for registration of domain name by the registrant(s) and (c) details of other websites registered by the Defendant Nos. 1 to 4 using similar details, same credit card, payment gateway etc.

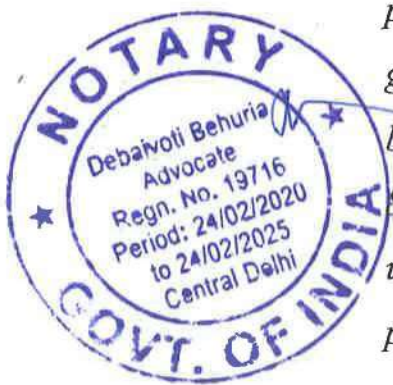


(disclosed as per subclause (b) above) with the Defendant Nos. 5 to 7.

(vi) Defendants 8 – 16 are directed to block access to the Defendants 1 – 4's, websites identified by the plaintiffs and enumerated in the serial no.2 in the documents annexed to the plaint.

(vii) To facilitate implementation of the aforesaid directions, Defendants 17 and 18 are directed to issue a notification, calling on internet and telecom service providers registered under the said defendants, to block access to the aforesaid websites identified by the plaintiffs and enumerated in the serial no.2 in the documents annexed to the plaint.

35. Mr. Sidharth Chopra, Learned Counsel for the plaintiffs, also seeks, in order that the plaintiffs are not constrained to approach this Court time and again against new infringing websites which may mushroom during the course of these proceedings, that an order of dynamic injunction be granted, whereby access to the said websites would be blocked on the plaintiffs' filing an affidavit with Defendants 8 to 16, immediately on filing of the said affidavit. He undertakes, in order to maintain transparency in the process, that the plaintiff would also, side-by-side, file the affidavit before this Court.



4. I state that in order to protect and enforce its Exclusive Rights in the India Tour of South Africa 2023-24, the Plaintiffs engaged the services of an investigation agency, Copyright Integrity Advisory (India) Private Limited (“CII”), to monitor Rogue Websites. I state that the Plaintiffs with the help of the investigator have identified following additional websites at Annexure A, which are illegally streaming the contents of the India Tour of South Africa Series, which are infringing the Plaintiffs’ Exclusive Rights.

5. I state that from the evidence filed along with the present Affidavit, it is evident that the identified websites at Annexure A are hosting and/or streaming and/or providing access and/or making available for viewing the broadcast of the India Tour of South Africa Series. I state that the Plaintiffs are the exclusive right holders for the India Tour of South Africa Series for the worldwide territory and the Plaintiffs have not authorized any of the above-mentioned websites to communicate and or make available for viewing the India Tour of South Africa Series.



6. I state that the Plaintiffs are not aware of the owners of these additional websites as either they are anonymous or have incorrect or incomplete addresses.

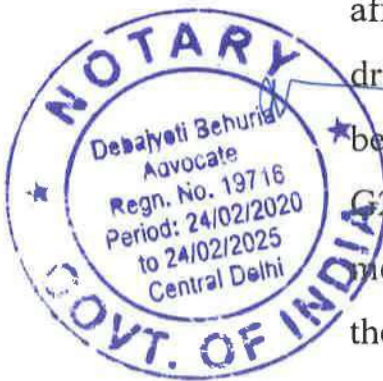
7. I state that in terms of the following directions passed by this Hon’ble Court, *vide* order dated 05.12.2023

(reproduced herein above) is also applicable on the newly identified websites at **Annexure A**.

37. Accordingly, Defendants 8 to 16 are directed to block access to any similar/alphanumeric/redirect/mirror website of the defendant websites which is communicated, to them, by the plaintiffs, on affidavit, to be indulging in infringing activities similar to those in which Defendants 1 to 4 in the present plaint are indulging.

8. Considering the abovementioned, the Department of Telecommunications (Defendant No. 17) and the Ministry of Electronics and Information Technology (Defendant No. 18) are urged to issue a notification to the Internet Service Providers (Defendant Nos. 8 – 16) to block the additional rogue websites domains identified in Annexure A hereto.

9. I state that the evidence filed along with the present affidavit was shared by the investigating agency in google drive link. I downloaded the same onto the computer bearing model no. Intel (R) Core™ i5-2520M CPU @ 2.50 GHz 2.50 GHz, which is regularly used by me in the ordinary course of business and thereafter, shared the same with the Plaintiffs' Counsel.



10. I am advised to state that the conditions of Sections 65B of the Indian Evidence Act, 1872 and Order XI Rule 6(3) of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 are complied with in respect of these documents.

11. In particular, I confirm: -

a) That the said computer system is regularly used to produce computer outputs like emails and information from the World Wide Web (Internet) and store other electronic records. The relevant information from the websites and electronic records as mentioned above was downloaded by me in the course of activity of the Plaintiffs. I have a lawful control over the use of the said computer system by virtue of my capacity in the organization.

b) That the electronic records mentioned above are downloaded from the computer system as part of the ordinary course of activities of the Plaintiffs.

c) That the computer system as used by me has been operating properly and the electronic records and their accuracy and contents have not been altered and tampered with in any manner whatsoever.

d) That the information contained on the computer outputs is an exact replica and has been produced



from the original electronic record and therefore, reproduces the information contained on the electronic records therein.

[Signature]
DEPONENT

[Signature]
D/29/14/2022
I identified the deponent who has signed in my presence.

VERIFICATION
13 DEC 2023
Verified at New Delhi on this the 13 day of December 2023 that the contents of the above said Affidavit are true to the best of knowledge, information and belief and nothing material has been concealed therefrom.

[Signature]
DEPONENT



CERTIFIED THAT THE DEPONENT
Shri/Smt./Kirti...
S/o, W/o, D...
R/o.....
identified
has Sign. 13 DEC 2023 at
New Delhi...
That the Copy... which have
been read & explained to him are true and
Correct to this knowledge.
[Signature]
Notary Public

ANNEXURE-A
LIST OF WEBSITES

S.NO.	Websites
1.	247sport.tv
2.	axlivetoday.live
3.	livesport365.live
4.	mhdtvplay.net
5.	mhdtvpro.com
6.	vivafoot.xyz
7.	watch.playuct1.com

Annexure B

Subject: Action requested to be taken by MEITY and Plaintiff for effective removal of content for viewing by public at large within India as per the said orders of Hon'ble Court.

It is observed that a number of orders of Hon'ble Court are issued for blocking of websites every month. There are around more than 2700 ISPs in India and these ISPs are connected among themselves in a mesh network. DOT is instructing each of the ISPs through emails/through its website for blocking of the websites as ordered by the Hon'ble Courts. Ensuring compliance of the orders by each of the ISPs is a time-consuming and complex task especially in view of multiplicity of orders of Hon'ble Courts, multiplicity of websites to be blocked and multiplicity of ISPs.

2. Allocation of Business Rules inter-alia states thus:-

'Policy matters relating to information technology; Electronics; and Internet (all matters other than licensing of Internet Service Provider).'

3. In view of above and in order to ensure effective removal by content for viewing by public at large, the plaintiff is requested to do a trace route of the web server hosting the said website. In case the web server happens to be in India, the plaintiff may inform the same to Meity who may direct the owner of such web server to stop transmission of content as per IT Act and as directed by the Hon'ble Court so that the content would be blocked from the source itself and the exercise of blocking by 2700 ISPs would not be required.

4. In case such server is located abroad i.e. outside India then access to such URL/website can be blocked through the international internet gateways which are much less in number. This would result in timely and effectively removal of undesirable content for viewing by public at large as is the requirement as per the orders of Hon'ble Court.