

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-59/2023-DS-II

Dated: 15.01.2024

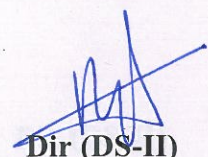
To,

All Internet Service Licensee's

Subject: C.S. (COMM.) 921 of 2023 titled Zee Entertainment Enterprises Limited vs. All Rounder & Anr. Before Hon'ble Delhi High Court

Kindly find the enclosed Hon'ble Delhi High Court order dated 12.01.2024 on the subject matter.

2. Please refer to the **para 19(e)** of the said court order in respect of blocking of **8 websites** enumerated in said **para 19(a)**.
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.



Dir (DS-II)

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**.
- (ii) **Manas Raghuvanshi** (manas@saikrishnaassociates.com) Plaintiff Advocate for kind information.
 - a) Take action as per Annexure.
- (iii) IT wing of DoT for uploading on DoT websites please.



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 921/2023, I.A. 25768/2023, I.A. 25769/2023, I.A.
25770/2023, I.A. 25771/2023 & I.A. 25772/2023

ZEE ENTERTAINMENT ENTERPRISES LIMITED Plaintiff

Through: Mr. Sidharth Chopra, Mr. Yatinder
Garg, Mr. Manas Raghuvanshi and
Mr. Vivek Kumar, Advs.

versus

ALL ROUNDER TV AND ORS Defendants

Through: Mr. Debarshi Dutta, Mr. Mrinal Ojha,
Mr. Anand Raja and Mr. Samyak
Bilala, Advs. for D-7.
Ms. Aishwarya Kane, Adv. for D-9.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
12.01.2024

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I.A. 25769/2023 (for additional documents)

1. The present application has been filed on behalf of the plaintiff under Order XI Rule 1(4) of the Code of Civil Procedure, 1908 as applicable to commercial suits under the Commercial Courts Act, 2015 seeking to place on record additional documents.
2. The plaintiff, if they wish to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act, 2015 and the DHC (Original Side) Rules, 2018.
3. Accordingly, the present application is disposed of.



I.A. 25770/2023 (for clearer copies)

1. Exemption is granted, subject to all just exceptions.
2. Applicant shall file legible, clear, and original copies of the documents on which the applicant may seek to place reliance within four weeks from today or before the next date of hearing, whichever is earlier.
3. Accordingly, the present application is disposed of.

I.A. 25771/2023 (exemption from issuing notice)

1. This is an application seeking exemption from serving notice under Section 80 CPC to defendant Nos.19, 20, 11 and 14.
2. Exemption is granted.
3. Application stands disposed of.

I.A. 25772/2023 (exemption from filing court/process fees)

1. This application has been filed under Section 149 and 151 of the Code of Civil Procedure, 1908 seeking exemption from filing court/process fee.
2. The plaintiff is directed to file court/process fees, if not already filed, within the next one week.

CS(COMM) 921/2023

1. Let the plaint be registered as a suit.
2. Upon filing of process fee, issue summons to the defendants through all permissible modes. Summons shall state that the written statement(s) be filed by the defendants within 30 days from the date of receipt of summons. Along with the written statement(s), the defendants shall also file affidavit(s) of admission/denial of the documents of the plaintiff, without which the



written statement shall not be taken on record. Liberty is given to the plaintiff to file a replication within 30 days of the receipt of the written statement(s). Along with the replication, if any, filed by the plaintiff, affidavit(s) of admission/denial of documents filed by the defendants, be filed by the plaintiff, without which the replication(s) shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

3. List before the Joint Registrar for marking of exhibits on 19th March, 2024.
4. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

I.A. 25768/2023 (under Order XXXIX Rule 1 & 2 CPC)

1. This application has been filed as part of the suit filed by the plaintiff seeking permanent injunction restraining infringement of its copyright and broadcast reproduction rights, under the Copyright Act, 1957 (“*the Act*”) on account of unlawful activities by defendant Nos. 1 to 4 in facilitating/enabling/authorising access to the public of the plaintiff’s exclusive copyright in content, *inter alia* including films, general entertainment, content, original web-series (“*plaintiff’s content*”).
2. It is alleged that defendant Nos.1 to 4 are third party android based mobile applications that communicate, make available to, and provide access to the content of the plaintiff without any authorisation from various rights owners, including the plaintiff. The downloading and distribution of these mobile Apps (“*infringing apps*”) occurs through a site/URL (“*infringing websites*”) with a .apk format. “.apk” in the industry stands for “Android



Package Kit” / “Android Application Package”.

3. Counsel for the plaintiff has drawn attention to the process which is involved in accessing this infringing content. A URL with .apk application can be accessed through the browser on a mobile phone and its user interface allows the download of an app, which in this case is the infringing app. Once the infringing app is downloaded on the mobile phone, a user can access the plaintiff’s content through the said infringing apps, made available by the said infringing app. Infringing apps are generally not indexed with the popular authorised App stores operated by players like Google or Apple on their respective operating systems.

4. Therefore, a user can potentially, by circumventing the subscription through an authorised app on say Google Play Store/Apple Store, can access an .apk site, download the infringing app, access the content on the infringing app, possibly without payment of any subscriptions.

5. The content on these infringing apps could potentially not only having infringing content of various platforms but could also have non-infringing content. Considering the nature in which the access is made available in this surreptitious manner and by circumventing regular payment gateways and platforms, usually these infringing apps predominantly carry infringing content.

6. Counsel for the plaintiff has drawn attention to the decision of this Court in *UTV Software Communication v. 1337X.TO & Ors.*, 2019 SCC OnLine Del 8002 where a Single Judge of this Court has deliberated in detail relating to the issues involved around infringing websites, in that such infringing websites could contain infringing content, as well as content which was not showed. The Court has formulated certain illustrative guidelines for



the Courts to assess while determining whether such an infringing website would be considered as promoting or offering pirated content. For the ease of reference, an extract from the decision is as under:

“59. In the opinion of this Court, some of the factors to be considered for determining whether the website complained of is a FIOI/Rogue Website are:—

- a. whether the primary purpose of the website is to commit or facilitate copyright infringement;*
- b. the flagrancy of the infringement, or the flagrancy of the facilitation of the infringement;*
- c. Whether the detail of the registrant is masked and no personal or traceable detail is available either of the Registrant or of the user.*
- d. Whether there is silence or inaction by such website after receipt of take down notices pertaining to copyright infringement.*
- e. Whether the online location makes available or contains directories, indexes or categories of the means to infringe, or facilitate an infringement of, copyright;*
- f. Whether the owner or operator of the online location demonstrates a disregard for copyright generally;*
- g. Whether access to the online location has been disabled by orders from any court of another country or territory on the ground of or related to copyright infringement;*
- h. whether the website contains guides or instructions to circumvent measures, or any order of any court, that disables access to the website on the ground of or related to copyright infringement; and i. the volume of traffic at or frequency of access to the website;*
- j. Any other relevant matter.*



60. *This Court clarifies that the aforementioned factors are illustrative and not exhaustive and do not apply to intermediaries as they are governed by IT Act, having statutory immunity and function in a wholly different manner”.*

7. In the opinion of this Court, the said guidelines would *mutatis mutandis* be relevant for consideration of cases of infringing apps as well. The proliferation of Apps post 2019 when this decision in ***UTV Software Communication*** (*supra*) was delivered is a common knowledge. Apps on the mobile phone provide the most common portal for access to content by a user. Counsel for the plaintiff submits that most of these guidelines, if not all, stands satisfied as regards the case of the plaintiff. Keeping this in mind, the documents and pleadings of the plaintiff have been perused.

8. Counsel for the plaintiff has made this Court traverse through the following aspects, each supported by documentation filed by them:

- (i) Screenshots showing streaming/making available of plaintiff's content on the infringing apps of defendant Nos.1 to 4.
- (ii) The homepage of the URLs which contain the .apk website.
- (iii) The procedure for downloading the infringing apps.
- (iv) Homepage of the infringing apps.
- (v) Screenshots displaying contents of all the infringing apps.
- (vi) Screenshots displaying the plaintiff's non-live content on the infringing apps.
- (vii) Screenshots displaying the plaintiff's live content on the infringing apps.
- (viii) The user interface domain (“UID”) which links to the infringing apps.



(ix) URL of the websites with .apk extensions which provide the portal through which the infringing app can be accessed.

9. It is evident from these documents which have been perused by the Court that *prima facie* the plaintiff's content on its various channels and OTT platforms *inter alia* Zee5, ZeeTV, Zee Anmol, Zee ETC, Zee Tunnel, Zee Café (in all about 52 channels across 11 languages, which are claimed to have viewership of about 620 million odd viewers) has been hosted/carried on these infringing apps. The illustrative list of content to which the plaintiff claims its copyright and which is being made available through the infringing apps is tabulated under:

S. No.	Name of the Content (Original Content/Film/TV Shows)
1.	Ghoomer
2.	Gadar 2
3.	Kisi Ka Bhai Kisi Ki Jaan
4.	Bang Baang
5.	Gadar: Ek Prem Katha
6.	The Kashmir Files
7.	Taj S01
8.	Taj S02 – Part I
9.	Taj S02 – Part II
10.	Jeet Ki Zid
11.	Ragini MMS Return
12.	Biccho ka Kheal
13.	Paurushpur
14.	Kyunki Saas Maa Bahu Beti Hoti Hai
15.	Duranga
16.	Pitchers
17.	Haddi
18.	Tarla
19.	Sirf Ek Banda Kaafi Hai
20.	Ayothi
21.	Prejapati
22.	Mrs Undercover
23.	Pranaya Vilasam
24.	Mitran Da Naa Chalda (fka Uchiyan Ne Gallan Tere Yaar Diyar)
25.	Ghistry
26.	Vedikettu



27.	Oru Kodai Murder Mystery
28.	U Turn
29.	Pakalum Panthiraavum
30.	Viduthalai – Part I
31.	Vyavastha
32.	Shabash Feluda
33.	Fireflies: Parth aur Jugnu
34.	Ghar Banduk Biryani
35.	Gunehgaar
36.	Kusum Manohar Lele
37.	KBC – Koi Baat Chale
38.	Siya
39.	Tamilarasam
40.	Vimanam
41.	Archier Gallery
42.	Tarla
43.	Kathar Basha Endra Muthuramalingam (fka Arya 34)
44.	Maya Bazaar – For Sale
45.	Maurh
46.	I Am Greta
47.	The Dissident
48.	The Kingmaker
49.	Armed With Faith
50.	Abar Proloy
51.	The Kashmir Files Unreported
52.	Shoborer Ushnotomo Din E
53.	Biye Bibhrat (fka Bibaho)
54.	Ye Shaadi Nahi Ho Sakti
55.	Ladies Sangeet

56.	YJ
57.	DD Returns
58.	Hostel Hudugaru Bekagiddare
59.	Angshuman MBA
60.	I Killed Bapu
61.	Prema Vimaram
62.	Duranga S2
63.	Nikhonj – The Search Begins
64.	Bad Boy
65.	Chhotolok
66.	Aatmapamphlet
67.	Ghoomer

10. The claim of the plaintiff to this content is of an exclusive right under Section 14(d) of the Act and a concomitant right of broadcast reproduction



under Section 37 of the Act. The right to sue for infringement arises under Section 51 of the Act.

11. The logos of the Defendant nos. 1 to 4, which are available on the user interface of the .apk sites for reference are provided as under:



12. Counsel for the plaintiff further points out that copyright infringement notices under the Digital Millennium Copy Right Act (“DMCA”) have been duly addressed and issued to each of the four defendants, and are placed on record. None of the defendants have responded to the same. Besides an infringement report made available pursuant to an internal investigation made has also been placed on record.

13. In light of these facts and circumstances, the plaintiff in relation to the guidelines of *UTV Software Communication (supra)* claims as under:

- (i) It is evident from the overall content available on the infringing apps, of which screenshots have been place on record, that the primary purpose is to commit or facilitate copy right infringement.
- (ii) The flagrancy of the infringement and the facilitation thereof, is evident from the messages on the some of these .apk sites which detail a procedure to download the app, circumventing the known sources.
- (iii) As noted above, there has been silence and inaction by infringing apps/websites after the legal notices were sent.
- (iv) The infringing websites along with the infringing apps clearly make



available indexes to the content to which the plaintiff claims copyright.

- (v) The access to the owners/operators of domain names which are used in the infringing websites have been masked as evident from the WHOIS registrant details.
- (vi) It is pointed out that one of the defendants viz. defendant No.2 has been a subject matter of another civil suit before this Court, namely, CS (COMM.) 214/2022 titled as “*Star India Pvt. Ltd. & Anr. v. Ashar Nisar & Ors.*” and an injunction order has been passed dated 06th April, 2022.

14. Defendant Nos. 5 to 9 have been arrayed, who are Domain Name Registrars (DNRs) for the infringing websites and the infringing apps as well. Counsel are present in Court for defendant Nos.7 and 9.

15. Defendant Nos.10 to 18 are various Internet Service Providers (“ISPs”) available domestically in India who provide access to the internet in India. They control the access to the internet and are in a position to ensure that access to these infringing websites/infringing apps is not available.

16. Defendant No. 19 is the Department of Telecommunication (DOT), while defendant No. 20 is Ministry of Electronics and Information Technology (MEITY), which represent the Government are the overall regulators of the internet environment in the country. They have been called upon for the purpose of ensuring that the ISPs are in compliance with any directions which may be passed by this Court.

17. Defendant No. 21 has been arrayed as “Ashok Kumar” which is a generic name (as John Doe) to include all those who in the future may be discovered as using the plaintiff’s infringing content.



18. In light of these circumstances, the Court is of the view that plaintiff has made out a *prima facie* case for grant of an *ex-parte ad interim* injunction as also a dynamic injunction. Balance of convenience lies in favour of the plaintiff as irreparable loss would be caused if the same is not granted.

19. Accordingly, till the next date of hearing the following directions are issued:-

- a) Defendant Nos.1 to 4 are restrained including their owners, partners, proprietors, officers, servants, affiliates, employees, and all others in capacity of principal or agent acting for and on its behalf, or anyone claiming through, by or under it, from in any manner communicating to the public, hosting, storing, reproducing, streaming, broadcasting, re-broadcasting, causing to be seen or heard by public on payment of charge and/or making available for viewing including plaintiff's content through their websites or apps, including those listed as under:

S. NO.	WEBSITES
1.	https://allrounder.online/
2.	https://www.rtstvapp.download/
3.	https://noxtv.xyz/
4.	https://madstream.live

S. NO.	WEBSITES
1.	https://is9dx8po0ye6bv9allrounder.bluestar.live
2.	https://rts.pakistan.org.wooloo.net
3.	https://api-bd-streamz.site
4.	http://hunterzxd.club

- b) Defendant Nos.5 to 9 are directed to de-active/lock the abovementioned domains/sub-domains of the infringing websites and apps. In the event, the said defendants have any reservation,



they shall address a written/email communication to the plaintiff stating the reasons for the same. The plaintiff is at liberty to approach this Court for any relief as they may seek pursuant to the same.

- c) Defendant Nos.5 to 9 are directed to disclose complete details (*inter alia* name, address, email, phone number and IP address) of defendant Nos.1-4, and mode of payment along with payment details used for registrations of the said domain names. The said disclosure shall be made by an affidavit and be filed before this Court within a period of four weeks.
- d) Defendant Nos.10 to 18 (ISPs) are directed to block access to these infringing websites/apps tabulated above, within 48 hours of receipt of this order.
- e) Defendant Nos.19 and 20 (DoT and MEITY) shall take steps to ensure that compliance is done by the said ISPs of directions issued above, through appropriate communications and notices sent to the said ISPs, including other ISPs as well which are registered with them.
- f) It is further directed that if defendant Nos.1 to 4 are found to be hosting on any website/app, directly or indirectly infringing the plaintiff's rights, the plaintiff will be at liberty to communicate in writing/email to the DNRs, ISPs, DoT, MEITY. The said defendants shall ensure that the directions given above shall be extended to those websites/apps as well. If any of these defendants have a reservation they will be at liberty to address a written communication/email to the plaintiff stating the reasons for the



same. The plaintiff is at liberty to approach this Court for any relief as they may seek pursuant to the same. Plaintiff shall also file within 24 hours of sending any such communication for future infringement by defendant Nos.1-4, an affidavit before this Court giving the list of those websites/apps of which that they have communicated to the said defendants, as well as the supporting documentation in relation to the same.

20. Compliance with Order XXXIX Rule 3, CPC be done within a week.
21. List before this Court on 13th May, 2024.
22. Order be uploaded on the website of this Court.

ANISH DAYAL, J

JANUARY 12, 2024/MK

Annexure

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.