HIGH COURT OF JUDICATURE AT BOMBAY

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS COMMERCIAL DIVISION

NOTICE OF MOTION (L) NO. 143 OF 2018

IN

COMIPL NO. 74 OF 2018

Novex Communication Private Limited ... Plaintiff

Versus

Percept Live Private Limited … Defendant

Mr. Ravi Kadam, Senior Advocate alongwith Mr. Rashmin Khandekar, Mr. Hetal Thakore and Mr. Kunal Parekh instructed by Dua Associates for the Plaintiff.
Mr. Chirag Mody alongwith Mr. Parag Khandhar and Ms. Ankita Agrawal instructed by DSK Legal for the Defendant.

CORAM : S.J. KATHAWALLA, J.
DATED : 5th FEBRUARY, 2018

P.C.:

1. The Plaintiff had served a notice dated 31st December, 2017 on the Plaintiff to the Defendant alleging that they have breached the copyright by playing songs in their festival, namely, Ola Sunburn Festival 2017. In response thereto, the Defendant by its letter dated 24th January, 2018, inter-alia stated in Paragraph Nos.5 and 6 as under :-

> *"5. The Artist has already supplied the Songs list played in the Event. The song, viz. "Kajrare Kajrare" from the Movie "Bunty Aur Bubli" for which the Royalty is claimed by your client is not mentioned in the said songs list.*
>
> *6. We had not received any such intimation from the said artist or any other artist."*

2. The Plaintiff has produced before this Court an Affidavit of Vivek Vijay Khadse

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who attended the said programme and recorded the two songs, namely, "Kajrare Kajrare" from the movie "Bunty Aur Bubli" and "Malhaari" from the movie "Bajirao Mastani" which were played at the said event. The Learned Advocate appearing for the Defendant now states that those songs were played by mistake. In view thereof, I am prima facie satisfied that the Defendant has used the sound recordings/musical compositions of the songs assigned and authorized to the Plaintiff without the non-exclusive public performance rights in sound recordings from the Plaintiff and have infringed the copyright in the work owned and protected by the Plaintiff. In view thereof temporary injunction in terms of prayer clause (a) of the Notice of Motion is granted until further orders.

3. The Defendant shall file their Affidavit-in-reply within a period of one week from today. Rejoinder, if any, shall be filed with a period of one week thereafter.

4. All contentions of the parties are kept open.

(S.J.KATHAWALLA, J.)

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