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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

INTERIM APPLICATION (L) NO.17865 OF 2024
IN
COMM IPR SUIT (L) NO.17863 OF 2024

Karan Johar

...Applicant /
Plaintiff

Versus

India Pride Advisory Private Ltd. & Ors.

...Defendants

Mr. Zal Andhyarujina, Senior Advocate, Mr. Rashmin Khandekar, Mr. Parag Khandhar, Ms. Pranita Saboo, Ms. Anaheeta Verma, Ms. Pratyusha Dhodda and Mr. Shayan Bisney i/b. DSK Legal for the Plaintiff.

Mr. Ashok Saraogi, with Mr. Anand Mishra, Mr. Sushil Upadhyay, Mr. Amit Dubey, Mr. Siddharth Singh and Ms. Priti Rao for Defendant No.2.

CORAM : R.I. CHAGLA J.

Reserved on : 4TH DECEMBER, 2024.

Pronounced on : 07TH MARCH, 2025.

ORDER :-

1. By this Interim Application the Plaintiff is seeking an interim injunction restraining the Defendants from using the name of the Plaintiff "Karan Johar" together, or in parts and from using the attributes of the personality of the Plaintiff in the title of the cinematographic film "Shaadi Ke Director Karan Aur Johar" / "Shaadi

Ke Director Karan Johar” (“said film”), in the trailers annexed with the Plaint and in any other promotional materials including that which is posted on social media platforms, website of the Defendants, hoardings / advertisements in public places. The said film is Co-produced by Defendant No.1 and Defendant No. 2 and written and directed by Defendant No.3.

2. The above Commercial IPR Suit had been urgently filed and this Interim Application moved for ad-interim relief, as the said film was scheduled to be released in theaters on the next day of the moving of the application for ad-interim relief i.e. 14th June 2024. The Plaintiff had sought the aforementioned relief in the Interim Application as and by way of ad-interim relief. It was mentioned in the Plaint that on 5th June 2024 to the complete shock and surprise, the Plaintiff had come across the trailer of the said film to be released in theaters on 14th June 2024. A cease and desist notice dated 6th June 2024 was issued by the Plaintiff through its advocates to the Defendants inter alia calling upon the Defendants to immediately cease and desist from using the Plaintiff’s name in the said film, in any manner whatsoever, and to immediately cease and desist from releasing the said film until the Defendants change or remove the

title of the said film as set out in the notice.

3. In view of the Defendants failing to reply to the cease and desist notice inspite of the Defendants being served, the present Application was moved for ad-interim relief and by an order dated 13th June 2024, this Court had granted ad-interim relief in terms of prayer clauses (a) and (b) of the Interim Application.

4. The Defendants had taken out an application after the passing of the ad-interim order dated 13th June 2024 being Interim Application (L) No.19862 of 2024 under Order XXXIX Rule 4 of the Code of Civil Procedure 1908 seeking vacation of the ad-interim order.

5. By an order dated 22nd July 2024, this Court recorded the submission of Defendant No.2 that the Defendants are not pressing Interim Application (L) No.19862 of 2024, under Order XXXIX Rule 4 of the CPC as the present Interim Application may itself be heard and disposed off. This Court had further directed that the Defendant No.2's Interim Application under Order XXIX Rule 4 in the above Commercial IPR Suit shall be considered as a reply to the

present Interim Application and the Affidavit in Reply of the Plaintiff to the Interim Application filed by the Defendant No.2 shall be treated as Affidavit-cum-Rejoinder of the Plaintiff to the present Interim Application.

6. The Plaintiff is a well known personality and is entitled to enforce his “personality” and “publicity” rights. The Plaintiff is a highly credited and leading Indian Director, Producer, Writer Filmmaker and Television Personality primarily working in the media and entertainment industry and is the recipient of several awards and accolades. The Plaintiff has been honoured with Padma Shree, the countries 4th Civilian Award by the Government of India in the year 2020.

7. The Plaintiff has directed and / or produced several blockbuster films including Kuch Kuch Hota Hai, Kabhi Khushi Kabhi Gham, Kal Ho Na Ho, Dear Zindagi, Brahmastra, Student of the Year, Rocky or Rani Ki Prem Kahani etc. The Plaintiff has appeared as a judge on reality competition shows viz Jhalak Dikhla Jaa, India’s Got Talent, India’s Next Superstar, Dil Hai Hindustani and Hunarbaaz: Desh Ki Shaan. The Plaintiff is also the host of the popular talk show

“Koffee with Karan” for which he has also won the award for the Best Anchor - Talk / Chat Show. The Plaintiff has established an esteem and reputation for directing and producing cinematic films of romantic genere, boasting larger than life wedding scenes and is highly credited for making films of this genere. Further, the Plaintiff is also well known for directing and producing family oriented films and films based on the concept of marriage suitable for all audiences of all ages. The movies directed by the Plaintiff generally contains scenes where marriages are shown in grandeur and therefore leave a strong impact in the minds of viewers. Therefore audience associates films in or around the grand marriages / weddings scenes and in or around marriage as the main theme of the film with the Plaintiff.

8. The Plaintiff is stated to have garnered immense goodwill and reputation in the media and entertainment industry in India and globally. The Plaintiff’s name has become a brand name and has obtained a brand value and “Karan” “Johar” when used together as done by the Defendants in relation to the said film clearly identifies the Plaintiff.

9. The Plaintiff being a well known public figure is stated to

have undoubtedly obtained a celebrity status and he is identifiable by his name itself by public at large. The Plaintiff claims that his name has become his brand name and he has economic right to commercially exploit the same as per his discretion. While each individual has a right to personality and publicity it is clearly identifiable in case of a well known individual.

10. The Plaintiff submits that the Defendants are infringing upon the Plaintiff's right to personality as well as publicity without due cause. The Defendants have used "Karan Johar" whether together – or otherwise in the manner used in relation to their film only with a view to commercially exploit the Plaintiff's name reputation and goodwill with a view unfairly enrich itself.

11. The Plaintiff has further submitted that the Defendants have used the Plaintiff's name and have attempted to associate it with a film that is sleazy, B-grade, in bad test and one which is laced with innuendos that are directly attributable to the Plaintiff. It is submitted that such use is denigrating the Plaintiff and diminishing his right to exploit his name. The Plaintiff is entitled in law to claim that his name must not be associated with any film without his

consent.

12. Mr. Zal Andhyarujina, the learned Senior Counsel for the Plaintiff has submitted that the personality rights are well recognize in India and persons have right to property on their personality rights to exploit the same commercially. He has relied upon the judgment of the Delhi High Court in *D M Entertainment Private Limited Vs. Baby Gift House*¹ at Paragraph 14, where the Delhi High Court has held to avail the right against the infringement of right to publicity, the Plaintiff must be “identifiable” from the Defendant’s unauthorized use. It is further held that the distinctive aspect of the common law right of publicity is that it recognizes the commercial value of the picture or representation of a prominent person or performer and protects his proprietary interest in the profitability of his public reputation or persona.

13. Mr. Andhyarujina has also relied upon the judgment of the Delhi High Court in *ICC Development (International) Ltd. Vs. Arvee Enterprises & Anr.*² at paragraph 14, where it is held that the right of publicity has evolved from the right to privacy and can inhere

1 CS (OS) No.893 of 2002.

2 (2003 SCC OnLine Del 2.)

in an individual or in any indicia of an individual's personality like his name, personality trait, signature, voice, etc. Further, a crucial component of such right to publicity is to commercially profit from exploitation of the individuals personality attributes.

14. Mr. Andhyarujina, has also referred to the judgment of the Delhi High Court in *Titan Industries Ltd. Vs. M/s. Ramkumar Jewellers*³ where the Delhi High Court has considered 'publicity right' of a celebrity to include the right to control when, where and how their identity is used should vest with the famous personality. The right to control commercial use of a human identity is the right to publicity.

15. Mr. Andhyarujina has also relied upon judgment of Madras High Court in *Shivaji Rao Gaikwad Vs. M/s. Varsha Productions*⁴, at paragraph 21 where it is held that personality rights vests on those persons, who have attained the status of celebrity.

16. Mr. Andhyarujina has further relied upon the judgment

3 (2012 SCC OnLine Del 2382).

4 Application No.735 of 2014 and Civil Suit No.598 of 2018.

of the Delhi High Court in *Anil Kapoor Vs. Simply Life India and Ors.*⁵ at paragraphs 41, 43, 45 and 46, where it is held that any form of misuse or commercial use of a celebrity's name, voice, persona, likeness has also been disapproved by the Supreme Court in the seminal judgment of *R. Rajagopal Vs. State of Tamilnadu*⁶, famously called as the 'Auto Shankar case'.

17. Mr. Andhyarujina has submitted that the right of a celebrity to protect against the misuse of their personality attributes inter alia their name was again upheld by the Delhi High Court in *Jaikishan Kakubai Saraf alias Jacike Shroff Vs. Peppy Store and Ors.*⁷. He has also referred to recent judgment of this Court in *Arijit Singh Vs. Codible Ventures LLP & Ors.*⁸ which has recognized that personality rights also exists in the name of the personality and has in this context referred to paragraphs 16 and 17 of that judgment. He has submitted that there is no doubt that the personality rights and publicity rights have been judicially recognized and are enforceable rights. In the case of a celebrity or a well known individual they are easier to identify and consequently clearer to enforce.

5 (2023 SCC OnLine Del 6914).

6 (1994) 6 SCC 632.

7 (2024 SCC OnLine Del.3664)

8 2024 SCC OnLine Bom 2445.

18. Mr. Andhyarujina has submitted that the Plaintiff is a public figure of a high stature and is well known worldwide. The Plaintiff's name has attained distinctive indicia of its own and the distinctive character of the Plaintiff coupled with the widely gained popularity in the field of media and entertainment, especially the Bollywood industry has become a well known personal name / brand name / mark under the intellectual property laws. He has submitted that the Plaintiff's name has attained / established a brand name and has obtained secondary meaning where the general public is able to associate "Karan Johar" solely with the Plaintiff and nobody else.

19. Mr. Andhyarujina has submitted that the Defendants are violating the personal rights and publicity rights of the Plaintiff and are clearly attempting to ride upon goodwill and reputation of the brand name of the Plaintiff. He has submitted that the use and the play of the words "Karan" "Johar" in the combination and manner done by the Defendants is ex facie without due cause, malicious and even otherwise impermissible.

20. Mr. Andhyarujina has submitted that from the title of the said film it is apparent that the words "Shaadi Ke Director" followed

by the words “Karan Aur Johar” / “Karan Johar” is clearly attributable to the Plaintiff.

21. Mr. Andhyarujina has submitted it is an admitted position of Defendant No.2 that the two protagonists in the said film named “Karan” and “Johar” respectively play the role of characters that are professionally attempting to become film directors in the Bollywood industry. He has submitted that it is abundantly clear that by the conjoint use of “Director”, that is the profession of the Plaintiff and use of “Karan Aur Johar” / “Karan-Johar”, that is name of the Plaintiff along with the plot of the said film that the protagonists come to Mumbai to become film producers in Bollywood industry, a direct and undeniable reference is drawn to the Plaintiff and the public at large will certainly see it as such.

22. Mr. Andhyarujina has submitted that the trailer of the film shows the name of the said film as “Shaadi ke Director Karan-Johar”. The screenshot of the trailer available on Youtube containing the name of the said film is annexed as Exhibit ‘A’ to the Plaint. Further, the screenshot of the trailer available on Instagram containing the name of the said film is annexed as Exhibit ‘B’ to the

Plaint. Further, the pen drive containing the trailers as appearing on Youtube and Instagram are annexed as Exhibit 'C' to the Plaintiff.

23. Mr. Andhyarujina has submitted that website of the Defendants indicates that the name of the said film is "Shaadi Ke Director Karan Aur Johar". The screenshot of the website of the Defendants is annexed at Exhibit D to the Plaintiff. The posters displayed in public by Defendants indicate that the name of the said film is "Shaadi Ke Director Karan Aur Johar" which is at Exhibit 'E' to the Plaintiff.

24. Mr. Andhyarujina has submitted that the defence taken by the Defendant No.2 that the names "Karan" and "Johar" are used as names of two different people and therefore cannot be any confusion that will be treated in the minds of people is misconceived considering the contents of the script of the said film submitted by the Defendants in their Reply annexed as Exhibit 'D' thereto indicates the use of the name "Karan Johar" conjointly. He has submitted that the said script also directly identifies the Plaintiff and Plaintiff's company Dharma Productions Ltd. (well known as Dharma) at various instances. He has submitted that it is well known that the

Plaintiff's production house is commonly called Dharma, when the said film uses "Karan Johar" and reference to "dharma" together, general people will directly associate the said film with the Plaintiff. Further, the said film title uses "Shaadi", "Director", "Karan", "Johar", together, and which is clearly attributable to the Plaintiff as the Plaintiff is well known for making family films.

25. Mr. Andhyarujina has submitted that there are instances that make it evident that the use of the name "Karan" and "Johar" together in the said film will associate the same with the Plaintiff are as under:-

i. The audio-video clip of the interview annexed as Exhibit C to the Rejoinder. In this interview the interviewer expressly asks Defendant No. 2 why he has chosen to name the film as "Shaadi Ke Directors Karan Aur Johar" when it is evident that the title of the said Film makes direct reference to the Plaintiff, a prominent figure in the Bollywood industry.

ii. The initial scene in the clip of the said Film that has been submitted by Respondent No. 2 to show the proposed disclaimer indicated a scene where the shop of the protagonists of the said Film is seen. The name of the shop reflected as "Shadi ke Director Karan Johar Ji". The name Karan Johar are used merely with an underscore which is not evidently visible. The screenshot of this scene is annexed

herewith as "Annexure C".

26. Mr. Andhyarujina has submitted that from the above it is clear that the said film contains direct and indirect references to the Plaintiff. Further, the Defendants are well aware that the such direct and indirect references directly identify the Plaintiff in the minds of the consumers and are attempting to ride upon the goodwill and reputation of the Plaintiff.

27. Mr. Andhyarujina has submitted that the said film was certified with 'A' certification and the plot of the said film indicates that the characters named "Karan" and "Johar" have come to Mumbai to become film directors and are producing and directing a film titled "Bar Girl ka Balatkar". He has submitted that it is pertinent to note that the Plaintiff makes only family films and does not make adult films. Hence, release of such B-Grade film with the Plaintiff's name in the title of the said film as well as direct and indirect use of Plaintiff's personality in the film will prejudice, harm and damage the goodwill and reputation of the Plaintiff, which the Plaintiff has painstakingly built by investing substantial amount of time and money.

28. Mr. Andhyarujina has submitted that as the name of “Karan Johar” associates solely with the Plaintiff and the Plaintiff identifies himself with his name, use of the name of the Defendant together, or in parts, by the Defendants along with his profession, directly identifies to the Plaintiff and such use by Defendants constitutes a violation of the Plaintiff’s personality rights, publicity rights and right to privacy.

29. Mr. Andhyarujina has submitted that the Defendants must be enjoined from using the name / personality of the Plaintiff. The Plaintiff is entitled to obtain an injunction restraining the Defendants from using the name or personality attributes of the Plaintiff. He has submitted that the aforesaid judgments of the Delhi High Court, Bombay High Court and Madras High court have granted injunctions in favour of the Plaintiffs whose personality rights, publicity rights and right to privacy have been violated by the conduct of the Defendants.

30. Mr. Andhyarujina has submitted that the Defendant No.2’s submission that mere addition of “AUR” in between “Karan” and “Johar” is an adequate solution to avoid any possible confusion

that may be caused in the minds of public that the said film is associated with the Plaintiff. He has submitted that this Court will appreciate that mere addition of “and” between the brand name does not lead to avoidance of any confusion as still “Karan” and “Johar” are part of the same sentence and work. He has submitted that if this was accepted anyone can use names of prominent figures such as Sachin Tendulkar and Amitabh Bachchan by adding “and” in between and making it “Sachin Aur Tendulkar”, “Amitabh Aur Bachchan” as well as use brand names such as “Mercedes Benz” or “Maruti Suzuki” by making it “Mercedez And Benz” or “Maruti And Suzuki” and then say it is not violation of any rights of the owners of this intellectual property. He has submitted that by such understanding, the Defendants are destroying the concept of intellectual property rights and brand names. He has submitted that if such mere addition of the “Aur” is permitted, the infringers will be given a free hand to exploit the reputation and goodwill of the prominent brand names and influence the minds of public to draw unauthorized association with such brand names and will be given a free hand to ride upon the goodwill and reputation of such brand names. Such incorrect reading of the law should not be permitted by this Court.

31. Mr. Andhyarujina has submitted that simple google search of “Karan Aur Johar” provides the output of Wikipedia page of Plaintiff and news articles related to the Plaintiff. Hence, addition of “Aur” does not, in any manner, provide a relief where no association can be thereafter brought to the Plaintiff by mere addition of “Aur” and is therefore, not a remedy in the present dispute.

32. Mr. Andhyarujina has submitted that during the arguments in the matter, it was informed by the Defendants that it is financially / commercially not feasible to dub the complete said film and change the names of the characters. However, during the arguments on 19th November, 2024, the Defendants submitted that in the script they are ready and willing to change wherever “Karan Johar” is used together as “Karan Aur Johar”. He has submitted that if changes can be made in the said film where they can dub and add “Aur” in the dialogues, it is possible to change the use of name of the Plaintiff. The intent of the Defendants to purposely use the brand name of the Plaintiff to ride upon the goodwill and reputation of the Plaintiff is therefore evident.

33. Mr. Andhyarujina has placed reliance upon the judgment

of the Delhi High Court in *Hamdard National Foundation & Anr. Vs. Hussain Dalal & Ors.*⁹. The Delhi High court had in the said judgment restrained the Defendants from using the brand name of the Plaintiff “Roohafza” in the film ‘Yeh Jawaani hai Deewani’. He has submitted that it is pertinent to note that such relief was granted to the Plaintiff and content of the film was modified without any change to the CBFC certification, even after the CBFC certificate was obtained by the film. He has submitted that as per the principles laid down in Section 5B of the Cinematographic Act, 1956 and the guidelines laid down in furtherance thereto, it is apparent that CBFC does not examine or evaluate whether the film violates the personal rights inter alia trademarks, personality rights, privacy rights or brand name. Hence, merely because CBFC Certificate has been obtained for the said film, the same does not restrict the Plaintiff’s right to take action against the said film for violation of the Plaintiff’s rights.

34. Mr. Andhyarujina has submitted that the certification of the Central Board of Film Certification is immaterial in determining whether rights of the Plaintiff have been violated.

⁹ (2013 SCC OnLine Del 2289).

35. Mr. Andhyarujina has submitted that during the course of arguments the Defendants have submitted that they are ready and willing to add a disclaimer during the initiation of the said film reading as “*This film has nothing to do with the Producer / Director Shri Karan Johar Ji*”. He has submitted that mere addition of such cosmetic disclaimer is not an adequate remedy.

36. Mr. Andhyarujina has submitted that this Court whilst deciding the issue of breach of personality right or brand name have always considered it in consonance with the concept / theme of the film / work in which it is used. In the strict sense, such use of brand names is permitted only in works of critics where the artist’s freedom of speech is being affected. The intent of the same is to strike a balance between public rights and private rights. He has placed reliance upon the judgment of the Supreme Court in the case of ***Bata India Vs. Prakash Jha Productions***¹⁰, where the Supreme Court observed that the use of brand names therein could have been avoided. However, given the fact that the impugned song was written in the context of the film, the same was allowed subject to a disclaimer.

¹⁰ Special Leave to Appeal (Civil) No.32998 of 2012.

37. Mr. Andhyarujina has submitted that in *Hamdard (Supra)*, the Delhi High Court examined the judgment in *Bata (Supra)* and held that restrictions and conditions in the form of disclaimers can be put in a case by case basis. The Delhi High Court directed the Respondents therein to remove the use of the brand name “Roohafza” in the film “Ye Jawaani Hai Dewani”, even though there was general disclaimer in the beginning of the film.

38. Mr. Andhyarujina has submitted that it is not a case of the Defendants that use of the Plaintiff's name “Karan Johar” is in any manner, way or form crucial to the context of the said film. Thus, restricting the use of the Plaintiff's name in the said film does not affect any freedom of speech or creativity liberty of the Defendants. Hence, allowing the Defendants to use the brand name / personality rights of the Plaintiff in the said film by merely giving a disclaimer is in complete contravention with the intent of IP Laws, personality rights and privacy rights.

39. Mr. Andhyarujina has submitted that the Delhi High Court in *Krishna Kishore Singh Vs. Sarla A Sarogi & Ors.*¹¹ has held

¹¹ 2023 SCC OnLine Del 3997.

that given disclaimer stating that the work is fictional in nature while it is evident that the story is in respect of a celebrity, Late Mr. Sushant Singh, is not sufficient. He has placed reliance upon paragraphs 82, 85 & 86 of the said judgment in this context.

40. Mr. Andhyarujina has submitted that the Plaintiff is not claiming “celebrity rights” but is in fact enforcing his personality and publicity rights. When enforced by a celebrity, they may be loosely referred to as “celebrity rights”. But it is not the Plaintiff’s case that “celebrity rights” of itself are independent and separate from publicity and personality rights.

41. Mr. Andhyarujina has submitted that the Defendants unauthorized use of the Plaintiff’s name and personality attributes in the title of the said film violates the Plaintiff’s personality rights, publicity rights and right to privacy. Further, by using the brand name of the Plaintiff, the Respondents are attempting to ride upon the goodwill and reputation of the Plaintiff to earn unjust profits for itself. He has submitted that the said said film cannot be released as it is where it utilizes the Plaintiff’s name and infringes the Plaintiff’s personality and publicity rights as well as uses the brand name of the

Plaintiff. Accordingly, he has submitted that the Interim Application may be made absolute.

42. Mr Ashok Saraogi, the learned Counsel appearing for the Defendant No.2 has submitted that the Plaintiff had chosen to approach this Court at the last moment by filing the present Suit and purportedly making an urgent application and persuaded this Court to pass an ad-interim Order dated 13th June, 2024 whereby, a stay had been granted in respect of release of the said film. He has submitted that in the Affidavit in Reply-cum-Interim Application for vacating the said Order, it is specifically brought to the notice of this Court that for the production of the said film the Defendants have engaged the services of necessary writer, have registered the said title with their Association known as IMPPA and at the same time, the film by itself has censored and for the purpose of release of the said film, the Defendants have booked various cinema halls and more particularly, as many as 89 cinema halls along with some video cinema halls and all the arrangements have been made for release for the said film. He has submitted that in view of all these arrangements made and the said film having been censored there was no occasion for the Plaintiff to apply for grant of any such injunction from this

Court.

43. Mr. Saraogi has submitted that the Plaintiff had claimed that the papers and proceedings have been served upon the Defendants however, the same were served upon a mobile number which is not even in use of the Defendants and / or it could be said that the Defendants were totally occupied in making arrangements in respect of release of the said film by displaying necessary hoardings outside the said cinema halls and infact, advance booking of the said film had already started. He has submitted that on the basis of the same this Court had been persuaded to believe that the Defendants have already been served and proceeded to grant injunction.

44. Mr. Saraogi has submitted that it is well settled within the knowledge of the Plaintiff that all such cinema halls were booked as the Plaintiff immediately after passing of the Order forwarded necessary intimation to such cinema halls. The Plaintiff with this knowledge waited till the last moment to approach this Court and obtain an exparte order. He has submitted that on this ground, the present ad-interim Order passed by this Court deserves to be vacated and in any case, the Interim Application presented by the Plaintiff

deserves to be dismissed.

45. Mr. Saraogi has submitted that without prejudice to the rights and contentions of the Defendants, during the course of hearing of the matter, the Defendants agreed to change the entire design and pattern of the publicity in respect of the said film. He has submitted that during the course of arguments, an objection has been raised in respect of certain words appearing in the dialogues of the said film and it was also suggested that the Defendants are ready and willing to modify the same and / or mute the same though, the same were already cleared by the Censor Authorities.

46. Mr. Saraogi has submitted that there are certain facts which this Court requires consideration and which are as under:

a) The Plaintiff's actual name is Rahul Johar whereas, his pet name is Karan Johar and is recognized in the film industry by his name as Karan Johar.

b) It is known to each and every person that Karan Johar is one single person whereas, in the present case, there are two persons i.e. Karan and Johar. It is submitted that in view of the said facts, the question of there being any identity between the two persons

i.e. the Plaintiff and the title of the film does not arise.

c) It cannot be said that the Plaintiff is acting as a broker for arranging the marriage.

d) The title of the film by itself mentions "Shadi Ke Director Karan Aur Johar".

Mr. Saraogi has submitted that in view of the said facts, the question of there being any personality rights and / or any other rights of the Plaintiff being affected in any manner whatsoever does not arise.

47. Mr. Saraogi has submitted that during the course of arguments, though various judgments were sought to be referred and relied upon by both the parties, however, the discussions and the facts of the case in respect of the judgments referred and relied upon by the Plaintiff were altogether different and none of the pleadings which were considered by the Court while passing the said Order is the subject matter of the present Plaint as filed before this Court.

48. Mr. Saraogi has submitted that in all the judgments relied upon by the Plaintiff, it has specifically emerged that after release of the film and / or on the basis of the publicity of the film, the Plaintiff therein started receiving messages and / or phone calls

by virtue of which, it was directly noticed by everybody that the film is based upon the Plaintiff and in view thereof, such orders came to be passed.

49. Mr. Saraogi has submitted that in *Shivajirao Gaikwad (Supra)*, the case of the Plaintiff in the Suit that he is a well known artist. Further, it has been specifically mentioned in paragraph 4.2 to 4.6 of the said judgment, that the Defendants have utilized the images caricature of the Plaintiff therein and at the same time, used the words on all posters and title “Main Hoon Rajnikant”. He has submitted that in the present case no such pleadings are there nor any such act have been committed by the present Defendants in any manner whatsoever. He has submitted that reliance has been placed by the Plaintiff on paragraph 20 of the said judgment which indicates the provisions of Section 17 of the Copyright Act and at the same time, also discusses about the personality rights of the Plaintiff therein. He has submitted that in the present case there is no such copyright being claimed by the Plaintiff. In the absence of there being use of photograph or caricature as it is was in the said case, the question of applying the observations made in the said paragraph does not arise. He has submitted that the paragraph 21 of the said

judgment which has also been relied upon by the Plaintiff and where personality rights and the scope of the same have been discussed. The beginning of the same begins with the right of publicity and privacy however, the fact remains that in the present case, neither individually, the name of the Plaintiff has been used nor any of the likeness, caricature or any other aspect of the Plaintiff have been used by the present Plaintiff and in view thereof, the said case cannot be relied upon.

50. Mr. Saraogi has submitted that although in the said judgment the celebrity rights have also been discussed, however, in the latest judgment delivered by Delhi High Court in *Dr. Reddy's Laboratories Ltd. Vs. Eros International Media Ltd. and Anr.*¹², in particular paragraphs 18, 24 and 25, it has been specifically discussed that there is no such celebrity rights of any citizens as all the citizens are equal. He has submitted that in view of the said facts, the said judgment does not support the case of the Plaintiff.

51. Mr. Saraogi has placed reliance upon the judgment of the Delhi High Court in *Krishna Kishore Singh Vs. Sarla A Sarogi &*

¹² CS (Comm) 126 of 2021 dated 23rd March, 2021.

Ors. (Supra) and in particular paragraphs 13, 14, 16 and 17 of the said judgment. He has submitted that this judgment has considered the prior judgments on publicity rights, celebrity rights and personality rights. He has submitted that in the said judgment it has been observed that undoubtedly there are several cases which recognize the common law right of the celebrities to control the commercial use of their image and personality, and in situations where a third party, without consent, has given an impression that a merchandise, product or service has been endorsed or associated with the celebrity. The Courts have granted injunctions as well. However, as can be seen from *D. M. Entertainment (Supra); ICC (Supra) and Titan (Supra)*, these rights rest in the concept that a celebrity, who earns a living on the basis of the monetization of their recognition by the public, must be entitled to the tangible, economic benefit arising from the utilization and assignment of their image or likeness, be it through advertisements, merchandise, etc. He has submitted that in the light of this judgment, the case of the Plaintiff has been demolished. This judgment has been confirmed by the Division bench in an Appeal preferred out of the same.

52. Mr. Saraogi has submitted that judgments of the Delhi

High Court in *Jaykishan Kakoobhai Shroff @ Jackie Shroff (Supra)* and *Anil Kapoor (Supra)* are distinguishable on facts. In *Anil Kapoor (Supra)*, the judgment in clear terms indicates that the same has been passed on the basis of the facts as narrated in the said judgment i.e. appearing at paragraphs 26 to 29. It is submitted that a careful perusal of the said judgment further indicates that act of the Defendants have been defined in paragraph 30 of the said judgment which is required to be read along with the other paragraphs on the facts of the case. He has submitted that however, all the contents of the said judgment on the basis of which the same came to be delivered, are not applicable in the present case in any manner whatsoever and accordingly, the same do not come to the support of the Plaintiff.

53. Mr. Saraogi has submitted that the judgment of the Delhi High Court in *Amitabh Bachchan Vs. Rajat Nagi*¹³ relied upon by the Plaintiff is a judgment which is pertaining to violation of the publicity rights of the Plaintiff as a celebrity, whereas the subsequent judgment of the Delhi High Court in *Dr. Reddy's (Supra)* in clear terms says that there is no such celebrity rights available to any such

13 CS(COMM) 819/2022 dated 25th November, 2022.

citizen as all the citizens are equal. The said judgment refers to ***Titan Industries Ltd. (Supra)***. In that case, the Defendants have utilized the photographs of Amitabh Bachchan who was under contract with Titan Industries Ltd. by putting necessary hoardings and displaying as if, the said Amitabh Bachchan is the brand ambassador in respect of their products. In the present case neither the facts are equivalent or identical to the same or at the same time, there are no such pleadings in respect thereof.

54. Mr. Saraogi has also distinguished the judgment relied upon by the Plaintiff in the case of ***Arun Jetley Vs. Network Solutions Pvt. Ltd.***¹⁴ on the ground that the case before the Delhi High court was in respect of an email address of the late Arun Jetley who was a well known public figure and was also a well known Advocate and Minister as well. This Court upon considering that the use of the name directly in the email address, would create doubts in the mind of the public at large as to suggest as if, the said email address is of the said Arun Jetley. He has submitted that in the present case, there are no pleadings nor any such allegations have been made and the facts of the present case are altogether different from this case.

¹⁴ 2011 SCC OnLine Del 2660.

55. Mr. Saraogi has submitted that in the case of *Krishna Kishore Singh Vs. Sarla A Sarogi & Ors. (Supra)*, it has been categorically mentioned that once the film is censored, the question of challenging the release of the film does not arise as under any circumstances, the censor certificate is required to be challenged. He has submitted that this judgment is good law as it is not overruled by any Court of law.

56. Mr. Saraogi has relied upon *Khushwant Singh & Anr. Vs. Maneka Gandhi*¹⁵, which has been delivered by the Division Bench of this Court. He has also relied upon the judgment in the case of *Dr. Reddy's Laboratories Ltd. (Supra)*, and more particularly paragraphs 18, 24 and 25 of the said judgment.

57. Mr. Saraogi has relied upon two judgments delivered by the Rajasthan High Court in the case of *Sanjay Leela Bhansali & Ors. Vs. State of Rajasthan & Ors.*¹⁶ and the judgment of the Bombay High Court in *Hiten Dhirajlal Mehta Vs. Bhansali Production & Ors.*¹⁷ in support of his submission that once the film is censored the question

15 2001 SCC OnLine BEL 1030.

16 SB Criminal Misc. (Pet.) No.737 of 2017 dated 6th February, 2018.

17 Public Interest Litigation (L) No.4336 of 2022 dated 23rd February, 2022.

of challenge to the release of film does not arise and in any circumstances, the censorship certificate is required to be challenged.

58. Mr. Saraogi has submitted that no case has been made out by the Plaintiff for grant of interim relief and the judgments relied upon by the Plaintiff do not support his case. Accordingly, the continuation of ad-interim Order ought not to be granted in the circumstances and the present Interim Application deserves to be dismissed with costs.

59. Having considered the submissions, the Plaintiff is claiming violation of personality and / or publicity rights which in my prima facie view, the Plaintiff possesses as he is a highly credited and leading Indian director, producer, writer, filmmaker and television personality primarily working in the media and entertainment industry and is the recipient of several awards and accolades. The Plaintiff has been honoured with Padma Shree the Countries 4th civilian award by the Government of India in the year 2020. The Plaintiff has directed and / or produced several blockbuster films and has in my prima facie view garnered immense goodwill and reputation in the media and entertainment industry in India and

globally.

60. The Defendants by using the name “Karan” “Johar” in relation to the said film would in my prima facie view commercially exploit the brand name obtained by the Plaintiff and which the Plaintiff alone has economic rights to commercially exploit as per his discretion.

61. It is a well settled position in law that persons have a right to property on their personality rights to exploit the same commercially. Various Courts in India have time and again upheld the right to publicity and personality right of persons. The judgments relied upon on behalf of the Plaintiff namely *D.M. Entertainment Pvt. Ltd. (Supra)*; *ICC Development (International) Ltd. (Supra)*; *Titan Industries Ltd. (Supra)*; *Shivaji Rao Gaikwad (Supra)*; *Anil Kapoor (Supra)*; *Jaikishan Kakubai Saraf alias Jackie Shroff (Supra)* and *Arijit Singh (Supra)* have all recognized publicity and personality rights of persons. The celebrities are entitled to protection of the facts of their personality such as inter alia their name against unauthorized commercial exploitation by third parties. In the case of a celebrity or a well known individual the personality rights and publicity rights are

easier to identify and consequently clearer to enforce.

62. The Defendants have used in their title of the said film the words, “Shadi Ke Director” followed by “Karan Aur Johar” / “Karan Johar”. The plot of the said film is about two protagonists namely “Karan” and “Johar”, who play the role of characters that professionally attempt to become film directors in Bollywood industry. By conjointly using “Director”, which is the profession, along with the name of the Plaintiff and the aforementioned plot of the film, there is a direct and undeniable reference drawn to the Plaintiff.

63. The defense taken by the Respondent No.2 that the names “Karan” and “Johar” are names of two different people and therefore cannot create confusion in the minds of the people is not acceptable in view of the script of the said film where the name “Karan” “Johar” has been used conjointly. The script also refers to the Plaintiff’s company Dharma Productions Ltd. (well known as Dharma). A few instances of the highlighted copy of the transcribed script which has been annexed by the Defendants are reproduced below:-

Pg. number in the transcribed script	Dialogue
Pg. 9 (Pg. 49 of the Original script submitted in Hindi)	“Papa humari shaadi ki video Karan Johar ji hi banayegi
Pg.9 (Pg. 49 of the Original script submitted in Hindi)	“Karan Johar Ji, Done done done done done done done”
Pg.12 (Pg. 51 of the Original script submitted in Hindi)	“aapko pata hai hamari to sabhi saheliyon ne bol diya vo aapni shaadi mein agar lengi to karan johar ko hi bulaegi”
Pg. 45 (Pg. 65 of the Original script submitted in Hindi)	“Namste ji, karan johar” “Sir karan johar” “Mai nahi sir ye karan johar”.

Pg. number on the transcribed script	Dialogue
Pg. 30 (Pg. 59 of the Original script submitted in Hindi) approximately at 00.30.26	“Ye Chopra’s ka office hai Karan Johar ka nahi”
Pg.36 (Pg. 61 of the Original script submitted in Hindi) approximately at 00.37.25	“Pandit Ji Ladki Nahi Devi Ma hum dharmic film bana rahe hai”
Pg.45 (Pg. 65 of the Original script submitted in Hindi) at approximately 00.46.08	“aapko pata hai hamari to sabhi saheliyon ne bol diya vo aapni shaadi mein agar lengi to karan johar ko hi bulaegi”

64. From the extracts of the scripts, it is apparent that the

Plaintiff's name has been used conjointly as well as there is a reference to the production house of the Plaintiff company "Dharma" which would inevitably result in general people directly associating the said film with the Plaintiff. Further, the Plaintiff is well known for making family films including wedding films.

65. There are other instances such as audio video clip of the interview annexed at Exhibit 'C' to the Rejoinder and initial scene clip of the said film submitted by Respondent No.2 to show that there has been use of the name "Karan" and "Johar" together in the said film and which bears association to the Plaintiff. This would go to show that the Respondents are well aware that such direct and indirect references to the Plaintiff would be noticed by the general public when they view the said film. Thus a clear attempt has been made to ride upon the goodwill and reputation of the Plaintiff.

66. I do not find any merit in the attempt made on part of the Defendants / Respondents to distinguish the judgments relied upon by the Plaintiff namely, *Shivajirao Gaikwad (Supra)*; *Arun Jeitley (Supra)*; *Titan Industries Ltd. (Supra)* and *Jaikishan Kakubai Saraf alias Jacike Shroff (Supra)*, on the basis that the Plaintiffs

therein were directly identified by the unauthorized use either by the multiple facts of their personality or direct reference to their name without addition of “AUR” in between. I find from a complete reading of the aforementioned judgments that the Courts have considered that use of name of the personality also amounts to unauthorized use of the personality or person. The Plaintiff is directly identified by the Respondents in the said film. Further, the general public would also connect such direct and / or indirect references to the Plaintiff. In *Shivajirao Gaikwad (Supra)* and *Arun Jeitley (Supra)*, proprietary interest in the name is capable of being protected without any reference to other attributes or the personality.

67. I further do not find merit in the submission on behalf of the Defendant / Respondent No.2 that mere addition of “AUR” in between “Karan” and “Johar” is an adequate solution to avoid any possible confusion that may be caused in the minds of public that the said film is associated with the Plaintiff. By such understanding, the Respondents are destroying the concepts of intellectual property rights and brand name.

68. The Plaintiff has been able to show that by a simple

google search of “Karan Aur Johar” provides the output of Wikipedia page of Plaintiff and news articles related to the Plaintiff. Hence, addition of “AUR” does not in any manner provide a relief where no association can be thereafter brought to the Plaintiff and cannot be a remedy in the present dispute.

69. An offer was made on behalf of the Defendant No.2 during the arguments that they are ready and willing to change wherever “Karan Johar” is used together as “Karan Aur Johar”. This does not provide a remedy to the present dispute. It would be more appropriate for the Defendants / Respondents to change the use of the name of the Plaintiff and their intent to retain the brand name of the Plaintiff prima facie establishes their intent to ride upon goodwill and reputation of the Plaintiff.

70. The Defendant No.2 has in my prima facie view incorrectly submitted the non-applicability of the cases cited and relied upon by the Plaintiff by attempting to distinguish the facts in those case. It is well settled in the cases relied upon by the Plaintiff that the Plaintiff's name was acknowledged as a personality right of the person which required protection. This has been held in the

recent decision of this Court in *Arijit Singh (Supra)*. In the present case, as the Plaintiff's name "Karan Johar" is a peculiar name coupled with his popularity as well as being a well known producer and director in the Bollywood industry, the Plaintiff's name has attained distinctive indicia. Accordingly, the Plaintiff has personality rights which required protection and has a right to sue the Defendants from misuse of the Plaintiff's name.

71. The Censorship Certificate dated 1st April, 2024 issued by the Central Board of Film Certification ("CBFC") granting certification to the said film and censorship certificates dated 23rd April, 2024 and 7th May, 2024 issued by the CBFC allegedly certifying two trailers of the said film relied upon by the Defendants are immaterial in determining whether the rights of the Plaintiff have been violated. I find much merit in the submission of the Plaintiff that, the CBFC in granting certification is governed by the principles laid down in Section 5B of the Cinematographic Act, 1956 and the guidelines laid down in furtherance thereof and which do not contemplate an examination or evaluation as to whether the film violates the personal rights, publicity rights, privacy rights or brand name. Merely because CBFC certificate has been obtained for the said

film, the same does not restrict the Plaintiff's right to take action against the said film for violation of the Plaintiff's rights. The reliance by the Respondent No.2, on ***Sanjay Leela Bhansali (Supra)*** and ***Hiten Dhirajlal Mehta (Supra)*** is entirely misplaced. These cases were in respect of whether public decency and morality was being affected by exhibition of the film and / or whether the films were affecting any community or was unfit for public exhibition. These cases were not concerned with the evaluation as to whether the film violates personal rights and privacy rights or brand name of the Plaintiff. It is pertinent to note that in the judgment of the Delhi High Court in ***Hamdard National Foundation & Anr. (Supra)***, the Respondents were restrained from using the brand name of the Plaintiff, "Roohafza" in the film "Yeh Jawaani Hai Deewani". This relief was granted to the Plaintiff and the content of the film was modified without any challenge to the CBFC certification, even after the CBFC certificate was obtained by the film.

72. The Defendant / Respondent No.2 during the course of arguments has submitted that they are ready and willing to add a disclaimer at the initiation of the said film reading as "*This film has nothing to do with the Producer / Director Shri Karan Johar Ji*". I

find that such disclaimer does not protect the personality right and brand name of the Plaintiff and hence is not an adequate remedy.

73. In the judgments relied upon by the Plaintiff viz. *Hamdard National Foundation & Anr. (Supra)* and *Bata India (Supra)* it was held that restrictions and conditions in the form of disclaimers can be put on a case by case basis. In the present case the use of the Plaintiff's name "Karan Johar" is not in any manner, way or form crucial to the context of the said film. Thus, restricting the use of the Plaintiff's name in the said film would not affect freedom of speech or creative liberty of the Respondents. I am of the view that by allowing the Respondents to use the brand name / personality rights of the Plaintiff in the said film by merely giving a disclaimer would be in complete contravention of IP Laws, personality rights and privacy rights.

74. In *Krishna Kishore Singh (Supra)*, a judgment of the Delhi High Court which has been relied upon by both sides, the disclaimer in that film stating that the work is fictional in nature while it was evident that the story is in respect of a celebrity was held not to be sufficient.

75. The Defendant / Respondent No.2's reliance upon the Orders of the Single Judge and Division Bench of the Delhi High Court in *Krishna Kishore Singh (Supra)* in support of the argument that an injunction may not be granted restraining the release of the film and there exists no "celebrity rights" under the law, is in my view misplaced. The facts therein are completely distinguishable from the present case. Thus these Orders are not applicable. Further, there was the issue of *locus standi* of the Plaintiff to claim relief on behalf of his late son i.e. posthumous rights in that case. The Plaintiff therein was thus unable to make out a prima facie case as to the celebrity / publicity rights having been inherited and inured to him exclusively.

76. It pertinent to note that in the present case, the Plaintiff is not claiming "celebrity rights" but is infact enforcing "personality and publicity rights". It is the Plaintiff's case that "Celebrity Rights" itself are not independent and separate from publicity and personality rights. The judgment of the Delhi High Court *Dr. Reddy's Laboratories Ltd. (Supra)* relied upon by the Defendant / Respondent No.2 in support of the submission that there is nothing such as "celebrity rights" would not be applicable in the present case.

Further, the said decision is distinguishable on facts as in that case, the film showed a Company 'DRL' whose area of business / trade is completely different from the Plaintiff's business and DRL is not used in the title of the film, whereas, in the present case the characters "Karan" and "Johar" are attempting to become Bollywood film directors and the title of the said film itself uses "director" along with "Karan" and "Johar".

77. The Defendants / Respondents in the present case by unauthorizedly using the Plaintiff's name and personality attributes in the title of the said film prima facie violates the Plaintiff's personality rights, publicity rights and right to privacy. Further, the Plaintiff has been able to establish that by using his brand name the Respondents are attempting to ride upon the goodwill and reputation of the Plaintiff to earn unjust profits for itself. In the light of these circumstances, the relief sought for by the Plaintiff requires to be granted.

78. A strong prima facie case has been made out by the Plaintiff that the Respondents have infringed the Plaintiff's personality and publicity rights as well as use of the brand name of the Plaintiff. The balance of convenience is in favour of the Plaintiff

and that irreparable injury would cause to the Plaintiff in the event interim relief is not granted by this Court.

79. In view thereof, the Interim Application is made absolute in terms of prayer Clauses (a), (b), (c) and (d). There shall be no order as to costs.

80. In view of this Order, the Interim Application (L) No.19862 of 2024 which has been filed by the Defendant / Respondent does not survive and in any event has not been pressed and is accordingly disposed of.

[R.I. CHAGLA J.]