



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION L. NO. 33036 OF 2025

IN

COMMERCIAL IP L. NO. 32984 OF 2025

WITH

COMMERCIAL IP L. NO. 32984 OF 2025

WITH

LEAVE PETITION L. NO. 33041 OF 2025

IN

COMMERCIAL IP L. NO. 32984 OF 2025

Everest Entertainment LLP

A Limited Liability Partnership Firm
incorporated under the Limited Liability
Partnership Act, 2008 and having its
registered office at: 7, Ratnadeep, 1st Floor,
29 Juhu Tara Road, Santacruz West,
Mumbai 400 049.

)...Plaintiff

Versus

1. Mahesh Vaman Manjrekar
Sole Proprietor of Ashwami Films,
An adult Indian inhabitant having his
address at: 2nd Floor, Dharnidhar
Vaastu Vaibhav, Senapati Bapat Marg,
Next to Dhruv Automobile, Matunga (West)
Mumbai 400 016.
Email: vibgyor.manja@gmail.com
2. Great Maratha
An Association of Persons
of Krizolh Filmz LLP and
Satyasai Productions Private Limited
having its address at: Unit No. 7,
Laxmi Commercial Centre, Jay Prakash
Road Number 1, Goregaon (East),
Mumbai-400 063.

3. Krizolh Filmz LLP
A Limited Liability Partnership Firm incorporated under the Limited Liability Partnership Act, 2008 and having its address at: 302-303, Shamrock Building, Main Avenue Road, Santacruz (West), Mumbai 400 054.
Email: rahul@sughandfilms.com
 4. Satyasai Productions Private Limited
A company incorporated under the Companies Act, 2013 and having its registered address at: 3, S.C. Tirupati Udyog, I.B. Patel Road, Goregaon (East), Mumbai - 400 063.
Email: joshi.ketaki5@gmail.com
 5. Rahul Sughand
An adult Indian inhabitant having his address at: 302-303, Shamrock Building, Main Avenue Road, Santacruz (West), Mumbai - 400 054.
Email: rahulsughand@gmail.com
 6. Rahul Puranik
An adult inhabitant of the USA having his address at: 604, Dalmore Drive, Duluth, GA 30097, USA.
Email: puranik72@gmail.com
 7. Zee Entertainment Enterprises Limited
a company incorporated under the provisions of the Companies Act, 1956 and having its registered address at: 18th Floor, Marathon Futurex, Tower A, N.M. Joshi Marg, Lower Parel, Mumbai 400 013.
Email: sucheta.burman@zee.com;
kinat.sisodia@zee.com;
akshay.mahadik@zee.com;
shareservice@zee.com
-)... Defendants

Mr. Ravindra Suryawanshi, Ms. Tanvi Nandgaonkar, Mr. Archis Bhatt and Mr. Amogh Prasad Khadye i/by Bar and Brief Attorney, Advocates for Plaintiffs.

Mr. Harshand Bhadbhade a/w Gouresh Mogre, Dileep Satale, Shagufa Patel, Vedastu Rane, Atreya Tambe, Saaniya Sait, Advocates for Defendant No. 1 and 4.

Mr. Mandar Soman, Advocate for Defendant Nos. 2,3,5 & 6

Mr. Kunal Mehta a/w Kunal Parekh, Nirali Atha i/by Dua Associates, Advocates for Defendant No. 7 (Zee Entertainment Enterprises Ltd.)

CORAM: AMIT S. JAMSANDEKAR, J.

DATE: OCTOBER 24, 2025

(Vacation Court)

ORAL JUDGMENT ON : OCTOBER 24, 2025

1. When the above-listed Suit and the Interim Application filed by the Plaintiff were called out today, Mr. Suryawanshi, the Learned Counsel appearing for the Plaintiff, Mr. Bhadbhade, the Learned Counsel appearing for the 1st Defendant, Mr. Soman, the Learned Counsel appearing for Defendant Nos. 2, 3, 5 and 6 and Mr. Mehta, the Learned Counsel appearing for the 7th Defendant, on instruction submitted that their respective clients do not have any objections if this Bench hears the matter. They further submitted that their respective

clients have instructed them to give an undertaking to the Court that no objection shall be raised by them at any time or in any proceedings. Accordingly, the statements made on behalf of the Plaintiff and the Defendants are accepted as an undertaking to this Court.

2. The Suit was filed on 10.10.2025, and the 1st Application was made by the Plaintiff seeking ad-interim reliefs on 16.10.2025, when the Court taking Intellectual Property (I.P.) assignment recused to hear and therefore, the Interim Application of the Plaintiff was heard by another Bench of this Court on 17.10.2025. On the statement of the Learned Senior Counsel appearing for Defendant Nos. 2, 3 and 5, directed the Defendants to provide screening of the film produced by the Defendants, without its background music to the Plaintiff. Accordingly, the Defendant provided the Plaintiff with a screening of their film on 20.10.2025. After the screening, by a praecipe dated 23.10.2025, the Plaintiff sought urgent listing of the matter before the Vacation Court on 24.10.2025. Based on the statements made in the praecipe a circulation was granted to the Plaintiff, and the Interim Application was kept today for hearing of the Plaintiff's urgent ad-interim reliefs.

3. Mr. Suryawanshi, the Learned Counsel appearing for the Plaintiff, submitted that after the screening of the Defendant's film, the Plaintiff has learnt about more substantial similarities between the Plaintiff's film and the Defendant's film. Therefore, the Plaintiff wishes to amend the plaint to bring on record, *inter alia*, the similarities noticed by the Plaintiff in the Defendant's film. He submitted that a copy of the draft amendments was served on all the Defendants today at 09.00 am. He submitted that the Plaintiff be allowed to carry out amendments to the plaint and the matter be kept for ad-interim reliefs on 27.10.2025. This request of the Plaintiff was vehemently opposed by all the Defendants. It was submitted on behalf of all the Defendants that the draft amendments of the Plaintiff be allowed today itself, without prejudice to the rights and contentions of the Defendants. Further, it was submitted on behalf of the Defendants that if the Plaintiff is seeking time on the ground that the Plaintiff would carry out amendments to the Plaint and thereafter, the Plaintiff shall make an application for an ad-interim, in that case, the Interim Application be listed after reopening. In response, Mr. Suryawanshi submitted that today the Senior Counsels appearing on behalf of the Plaintiff are not available and therefore, the matter be kept on 27.10.2025. This request of Mr. Suryawanshi was also opposed by the

Defendants, and it was submitted that if the matter is moved based on urgency, then the Plaintiff should be ready to make an application for ad-interim reliefs. They further submitted that this is a matter in which the Defendants should be allowed to file a detailed reply, as the suit was filed and the application for ad-interim relief was made after a gross and inordinate delay. However, because the Plaintiff has sought circulation on the ground of urgency, the Defendants are ready and willing to defend the Plaintiff's application for an ad-interim relief today itself.

4. Mr. Suryawanshi submitted that in that case, the draft amendments should be allowed forthwith and the Plaintiff should be heard for ad-interim reliefs today itself.
5. Accordingly, the draft amendments tendered on behalf of the Plaintiff are taken on record and marked 'X' for the purpose of identification. The draft amendments are allowed, without prejudice to the rights and contentions of the Defendants. The amendments are to be carried out forthwith. Reverification of the plaint is dispensed with. The Defendants waive service of the amended plaint. However, it is submitted by the Defendants that they are not waiving the service of the writ of summons.

6. Accordingly, the application of the Plaintiff for ad-interim relief was heard.
7. The Plaintiff has filed the present suit on the basis of causes of action on infringement of copyright and the passing off. The Plaintiff has stated in the plaint that the plaintiff is the sole and exclusive copyright owner of the film title "**Mi Shivaji Raje Bhosale Bolttoy**" (the said film). The Plaintiff asserts copyright in the script and the promotional materials used for the film. Further, the claim for goodwill and reputation is made in the film, and the cause of action of passing off is framed by the Plaintiff accordingly.
8. It is the case of the Plaintiff that the Defendants have produced a film titled "**Punha Shivaji Raje Bhosale**" (the impugned film). The Plaintiff has alleged that the Defendants have infringed the Plaintiff's copyright in the film. By producing the impugned film, the Defendants have infringed the plaintiff's script and promotional material, etc. of the film.
9. It is stated that the said film has acquired tremendous goodwill, and its title has attained a secondary meaning, significance and connotation which is solely associated

with the Plaintiff. The public and the trade, in particular, recognise the said film as originating from the Plaintiff. The Plaintiff is also claiming rights over the title of the said film. The Plaintiff has alleged that the impugned film is a copy of the Plaintiff's film, and it is represented that the same is a sequel to the said film. According to the Plaintiff, the Defendants are associating their film with the Plaintiff's film and engaging in acts of passing off. The plaintiff stated that there is a likelihood of confusion and deception in the market due to the substantial similarity of the impugned film and the title of the Defendant's film. It is further stated that the Defendants have also used a substantially similar promotional material, which adds to the likelihood of confusion or deception.

10. The Plaintiff claims copyright in the film, title, script, promotional material and the goodwill of the film by virtue of the Film Production and Distribution Agreement dated 26.06.2008 and the Addendum No.1 dated 28.08.2013. By these Agreements, the 1st Defendant has assigned all intellectual property rights to the Plaintiff. The Agreement defines the term 'Intellectual Property' in Clause 2.1.9 and the word 'Rights' in Clause 2.1.17 of the Agreement. It is the case of the Plaintiff that the Plaintiff has paid the agreed

consideration to the 1st Defendant to acquire copyright and other rights as defined in the Agreement. By virtue of the agreements, the sole and exclusive rights are assigned by the 1st Defendant to the Plaintiff, and therefore, the Plaintiff is exclusively entitled to exploit the same.

11. However, the Plaintiff has not made any claim against the 1st Defendant for breach of his contractual obligations under the agreement and the addendum, as more particularly stated by the Plaintiff in Paragraph 3.6 of the plaint. Para 3.6 of the plaint reads as follows:

*“3.6 Under the Original Agreement, a specific and binding confidentiality clause, viz. clause 19.3 of the Original Agreement, explicitly obligated both parties thereto, i.e. the Plaintiff and Defendant No. 1, to keep strictly confidential the script, artistic content, characterization, and treatment of the said film, and not to disclose any such information without prior written consent. By virtue of the Original Agreement, Defendant No. 1 was privy to all information pertaining to the said film, including the novel concept and its unique expression, i.e., the specific characterisation and the novel artistic representation of Chhatrapati Shivaji Maharaj appearing in contemporary times and inspiring a common man's self-realization, social awakening and reclamation of the Marathi pride and cultural identity. The creative elements of the said film (which are copyrighted and proprietary) were required for making any derivative work, and therefore, the Plaintiff had acquired all the rights of the said film from Defendant No. 1, so that only the Plaintiff should be able to use these elements and is able to produce any derivative work of the said film. **While the present Suit pertains to the causes of action for infringement of copyright and passing off and the reliefs as particularly prayed herein, the Plaintiff reserves its rights to institute appropriate proceedings against Defendant No.1***

for breach of his contractual obligations under the Amended Agreement, as it may be advised.”
[emphasis supplied]

12. Mr Surywanshi, the Learned Counsel appearing for the Plaintiff, submitted that the Defendants are releasing the impugned film on 31.10.2025. The Defendants, by producing the impugned film, have infringed Plaintiff's copyright in the script and promotional material, and it is a substantial reproduction or adaptation of the Plaintiff's film. The Plaintiff has also claimed copyright in the film itself by virtue of the amendments to the plaint. The claims made by the Plaintiff are narrated in the plaint in para 2 (i & ii) which reads as follows:

"2. *GIST OF THE SUIT:*

As more particularly stated hereafter, by way of the present Suit, the Plaintiff is seeking reliefs from this Hon'ble Court inter alia restraining the Defendants from:

i) infringing the Plaintiff's exclusive copyright in the cinematograph film titled "Me Shivajiraje Bhosale Boltoy!" including its script and promotional material, by producing, releasing, distributing, exhibiting, communicating to the public, using or otherwise exploiting the impugned film bearing the impugned title "Punha Shivajiraje Bhosale" or any other film which constitutes a reproduction, substantial reproduction or adaptation of the Plaintiff's film including its script and/or its promotional material;

ii) using the title "Punha Shivajiraje Bhosale" in respect of the impugned film and passing off the impugned film as being associated with or connected to the Plaintiff's well-known film bearing the title "Me Shivajiraje Bhosale Boltoy!" or using any other title which is

identical with or deceptively similar to the Plaintiff's title "Me Shivajiraje Bhosale Boltoy!" or using any promotional material similar to the Plaintiff's promotional material or by otherwise misrepresenting any association or connection with the Plaintiff or its said film;"

By way of amendment in paragraphs 3.34 and 3.35 of the plaint, the plaintiff has stated that:

3.34. Upon viewing the impugned film in its entirety, the Plaintiff has reached the unmistakable conclusion that the impugned film is a blatant and slavish copy of the Plaintiff's said film and amounts to a flagrant infringement of the Plaintiff's copyright therein. The Defendants have not only copied the core theme and plot but also specific characters, scenes, dialogues, and the overall narrative structure / format of the said film.

3.35. By virtue of the similarities detailed in the Detailed Chart, it is clear beyond all reasonable doubt that the substance, foundation, characters, and sequence of events, when compared, lead to the inevitable conclusion that the impugned film is a substantial reproduction and/or an unauthorised derivative work of the said film. It is submitted that the Defendants have, in effect, created a sequel or a franchise work of the said film, which is in the teeth of the Plaintiff's sole and exclusive rights in the said film, thereby buttressing the Plaintiff's case for copyright infringement and passing off.

13. Mr. Suryawanshi submitted that by virtue of the Agreement dated 26.06.2008 and the addendum dated 28.08.2013, all the rights in the said film are exclusively owned by the Plaintiff and any substantial reproduction thereof by the Defendants amounts to infringement of the Plaintiff's copyright. Further, the goodwill and

reputation earned by the Plaintiff in the said film are also owned by the Plaintiff, and the impugned film titled "***Punha Shivajiraje Bhosale***" constitutes a passing off of the Plaintiff's film. He relied upon the documents annexed to the plaint to establish that the film has acquired goodwill and reputation. He submitted that the impugned film clearly makes an association with the Plaintiff's film and is causing confusion and deception amongst the public. The confusion and deception caused by the impugned film are calculated, as the Defendants have used the title of the impugned film, "***Punha Shivajiraje Bhosale***" and the promotional material of the impugned film is also substantially similar. Mr Suryawanshi, to support this claim, relied upon various newspapers and reviews, etc., which are annexed to the plaint as well as are referred to in the amended portion of the plaint. He submitted that the storyline, plot, sequence of events, characters, scenes, dialogues and the overall narrative structure, format of the impugned film is substantially similar to the said film of the Plaintiff. He submitted that it is not a mere coincidence, but a calculated move on behalf of the Defendants to illegally earn profit on the basis of the goodwill and reputation of the Plaintiff in the said film and by infringing the Plaintiff's copyright. Mr. Suryawanshi submitted that after the screening of the impugned film

was provided by the Defendants to the Plaintiff, the Plaintiff could identify the similarities in the impugned film, which, according to the Plaintiff, is a substantial copy of the Plaintiff's copyrighted material. The similarities identified after the screening of the impugned film are detailed by the Plaintiff in Exhibit-O3 (the amended Exhibit). Mr. Surywanshi submitted that there are approximately 32 similarities between the Plaintiff's film and the Defendants' film. He submitted that, as detailed in Exhibit-O3 the sequence of events, crux of the story, the storyline, the names of the characters, the dialogues, the plots and the name of the impugned film are copied by the Defendants from the Plaintiff's film. According to the Plaintiff, this is a substantial reproduction of the Plaintiff's copyrighted work and therefore constitutes infringement of the same. Mr. Surywanshi further submitted that the title of the impugned film is also written in an identical font, which adds to the confusion and deception. He further submitted that the promotional material and teasers clearly make out a case of copyright infringement. He submitted that an average consumer, after having watched the impugned film and viewing the promotional material published by the Defendants, will undoubtedly believe and get an unmistakable impression that the Defendants' film is a derivative or franchisee work of the

Plaintiff's original work, being the said film. Therefore, the Plaintiff is entitled to ad-interim reliefs as applied.

14. On the other hand, the Learned Counsels' appearing on behalf of the Defendants submitted that the application for ad-interim reliefs of the Plaintiff ought to be rejected solely on the ground of delay, which is gross and inordinate. They submitted that the Defendants have spent a substantial amount of money, effort, and skill in producing the impugned film, which is scheduled for theatrical release on 31.10.2025. It is submitted on behalf of the 7th Defendant that the 7th Defendant has spent more than 1,25,00,000/- only on the promotion of the impugned film. It is submitted that the Defendants have created multiple rights in the film as per the industry practice. They submitted that, admittedly, the Plaintiff had knowledge of the impugned film since April 2025 and therefore, filing the present suit on 10.10.2025 is merely to cause hardship, irreparable harm, injury and damages to the Defendants at this stage. The Defendants submit that the Plaintiff ought to have made this application well in advance so that the Defendants could file their reply and the matter could have been heard on the merits.

15. In any case, the Defendants submitted that the allegations of copyright infringement by the Plaintiff are

false. The Defendants made their position clear well in advance by replying to the Plaintiff's notices. In their reply to the notices, Defendants have made it clear that there is no copyright infringement, as alleged, or at all. In any case, Mr. Bhadbhade, the Learned Counsel appearing for the 1st Defendant, submitted that the similarities alleged by the Plaintiff in Exhibit-O3 itself show that there cannot be any claim of copyright in respect of the similarities alleged by the Plaintiff. It is further submitted that the impugned film's story, plot, sequence of events, characters, names of the characters, dialogues, musical work, sound recording, etc., are totally different from those of the said film. As far as the title of the impugned film is concerned, the Defendants submitted that the Plaintiff cannot claim any rights in the name of "**Chhatrapati Shivaji Maharaj**" or the name "**Shivaji Raje Bhosale**" with any prefixes or suffixes or written in any style or manner. It is submitted that there cannot be any claim in the Marathi Font which is sought to be claimed by the Plaintiff. It is submitted that "**Chhatrapati Shivaji Maharaj**" is worshipped in India and, therefore, claiming such exclusive right in his name ought not to be allowed. Further, it is submitted on behalf of the Defendants that the allegation that the Defendants have copied the Plaintiff's film is also false because the Defendants have produced a new

cinematograph film which has an original storyline, plot, sequence of events, characters, songs, dialogues, musical works, sound recordings, etc. There is no facsimile copy of the Plaintiff's film. Therefore, there cannot be any claim of copyright infringement in the film. The Defendants once again reiterated their submissions that all these aspects can be addressed once the Defendants file their reply, and that opportunity ought to be given to the Defendants. It is submitted that the Plaintiff has approached the Hon'ble Court intentionally at this belated stage to put pressure on the Defendants. It is submitted that there is no explanation at all in the plaint as to why the Plaintiff did not make an application for ad-interim reliefs since April 2025. It is submitted that the balance of convenience heavily lies in favour of the Defendants, and if any ad-interim relief is granted to the Plaintiff, then it would undoubtedly result in irreparable harm, injury and damages to the Defendants. Therefore, it is submitted that the Hon'ble Court ought not to exercise its discretion to grant ad-interim relief to the Plaintiff.

16. I have heard the Learned Counsels appearing for the parties and have perused the papers and proceedings of the suit as well as the Interim Application. I have had the

opportunity to watch the Plaintiff's film and other videos placed on record by the Plaintiff.

17. The Plaintiff in Para 3.19 of the plaint has admitted that the Plaintiff came to know about the production of the impugned film in late April 2025. The first notice was sent by the Plaintiff's Advocate on 30.04.2025, by which the Plaintiff asserted its right against the Defendants. Thereafter, Plaintiff waited nearly two months before sending a reminder notice to the Defendants, which was sent on behalf of the Plaintiff on 25.06.2025. Thereafter, a public notice was published by the Plaintiff in the trade magazine 'Complete Cinema' on 05.07.2025.

18. On 08.07.2025, a reply was given to the Plaintiff's notice on behalf of Defendant Nos. 2, 3 and 5 in which the Defendants categorically denied all the allegations made by the Plaintiffs.

19. In paragraphs 5.1, 5.2 and 5.3 of the reply, the Defendants have stated, which reads as follows :

"5.1 Your Client's claim in the Notice is based on the grounds that the Film's title is Punha Shivajiraje Bhosale and that implies it is a derivative in the form of a sequel or a franchise to Your Client's Film Mee Shivajiraje Bhosale Boltoy. In this context, it is stated that it is a well settled principle that there exists no claim to any copyright in the title of a work because a

title by itself is in the nature of a name of a work and is not complete by itself without the work. It is further stated that Shivajiraje Bhosale is one of the tallest figures of Indian history in general and the history of Maharashtra kingdoms in particular. There can be no claim to any copyright to the name of a historical figure. Therefore, Your Client has no ground to claim that the Film is passing off Your Client's Film.

5.2 Your Client's claim in the notice is that the Film is a derivative work based on Your Client's Film and will amount to an infringement of copyright and other rights of Your Client's Film. In this context, it is stated that the story of Your Client's Film was premised on the dilemma of a common man of Mumbai feeling that his Maharashtrian identity was being eroded and how the spirit of Shivaji Maharaj (that is known to and interacts with only the protagonist of Your Client's Film) guided him to rediscover his Maharashtrian pride and claim his identity. On the other hand the story of the Film is premised on the pain, suffering and suicide of farmer's in Maharashtra and how the soul of Shivaji Maharaj arranges to return/come back again in living form on the planet earth and picks up the cudgels to fight the menace of corruption that is depicted as the root cause of farmer's woes and apathy leading them to the drastic step of committing suicide. Thus, there is no similarity between the ideation, conceptualization, development, story, screenplay, dialogue, characters, etc. of Your Client's Film and the Film. It is further stated that a crucial aspect of a sequel and/or franchise is the use of or continuation of the plotline and/or portrayal of characters and/or musical work and/or featuring the principal artistes of the preceding work so as to establish an identity or a continuity or a link to the preceding work, whereas the Film's plotline, characters, musical work and/or the principal artistes have no similarity or

resemblance at all to that of Your Client's Film. Therefore. Your Client has no ground to claim that the Film is a sequel to or a franchise of Your Client's Film or is otherwise infringing the copyright and/or other rights of Your Client's Film and/or that the Film is passing off to Your Client's Film.

5.3 The Marathi word Punha translating to the English language words such as coming back, again, return, etc. that is prefixing Shivajiraje Bhosale in the Film's title is to merely and aptly describe the return of or coming again of Shivaji in a living form to the planet earth to take up the cause of plight and sufferings of the farmers and reestablish Swaraj in its true form and essence. The Film's title is to correctly communicate to the public the theme of the Film. Therefore, Your Client has no ground to claim that the Film is a passing off to Your Client's Film."

20. Further to justify the statements, the Defendants have also stated in the reply that the trailer of the impugned film was published on 06.07.2025 and provided a web link to the Plaintiff. A similar reply was given by the 1st Defendant on 14.07.2025 and he categorically denied the allegations made by the Plaintiff.

21. In Para 3, 4 and 5, the 1st Defendant has stated that which reads as follows:

"3. My client reiterates that he has acted strictly in compliance with the agreements referred to in your notice and there has been no violation, breach, or omission from my client's side. My client states that the crux of the Caution Notice is that your client has presumptively concluded

that our Film is a derivative work, being either a sequel or part of a franchise of the cinematograph film titled Mee Shivajiraje Bhosale Boltay, produced by your client (hereinafter referred to as 'Your Client's Film'), solely on the basis of its title, Punha Shivajiraje Bhosale, thereby alleging it amounts to an act of passing off which is denied by my clients

4. Your Client claims that the Film is a derivative of Your Client's earlier film and that it infringes upon the copyright and other associated rights. However, it must be clarified that Your Client's film revolved around the struggles of a common man in Mumbai who felt disconnected from his Maharashtrian roots, and how the spirit of Chatrapati Shivaji Maharaj visible only to him helped him reclaim his pride and identity. In contrast, my client's Film focuses on the soul of Chatrapati Shivaji Maharaj is reborn to fight the deep-rooted corruption believed to be the main cause of these issues. My client states that these are two entirely different themes concepts, and storylines. My client states that my client's film fo not resemble or relate to those in Your Client's film. Therefore, the claim that my client's Film is a sequel, a franchise, or an infringement in any form is entirely unfounded.

5. My client is under no legal obligation to entertain your baseless claims or demands and the issuance of such notices amounts to harassment and misuse of legal process."

22. Thereafter, the Plaintiff sent a rejoinder notice to the Defendants on 01.08.2025. There is nothing on record to show that the Plaintiff took any steps after sending the rejoinder notice on 01.08.2025. There is complete

silence on the part of the Plaintiff. Thereafter, the plaint was lodged on 10.10.2025. The order of screening was passed on 16.10.2025, and the Defendants have complied with it; there is no dispute about the same. After the screening of the film on 20.10.2025, a praecipe was filed on 23.10.2025, and circulation was sought for 24.02.2025, which was granted.

23. With these timelines, I find that there has been gross and inordinate delay on the part of the Plaintiff in approaching the Court to seek any equitable relief. There is no explanation whatsoever in the pleadings of the Plaintiff about the delay since April 2025, which is admitted knowledge of the alleged infringement of the Plaintiff's copyrighted work and the alleged acts of passing off of the Defendants. I accept the submissions of the Defendants that the Plaintiff ought to have made an application to seek the equitable relief of an injunction well in advance. If the Plaintiff was sure about the Plaintiff's claim, then there was no reason for the Plaintiff not to make the application seeking injunctive relief. I accept the Defendants' submissions that the Plaintiff intentionally waited from April 2025 onward, and in any case, after the Defendants' replies in July 2025. The Plaintiff had enough time to make an application for injunctive relief at least since July 2025

because the Defendants made their position very clear in their replies in July 2025. The Plaintiff did nothing except send a rejoinder notice in August 2025. The gross and inordinate delay on the part of the Plaintiff is apparent, as I find nothing on record to show that the Plaintiff took any steps. Mr Surywanshi, the Learned Counsel appearing for the Plaintiff, submitted that the delay is not on the part of the Plaintiff, but has occurred due to the delay in drafting the plaint and thereafter filing the same. I reject this oral submission because there is nothing on record to support it. In any case, the delay in drafting the plaint or collecting the document cannot be an explanation. Therefore, I reject the same.

24. The Courts have consistently taken a view that if the Plaintiff does not take prompt steps to approach the Court, the Court will not be inclined to grant ad-interim relief, particularly when this is about to be the release of a film in a couple of days. I have the benefit of at least two of these judgments of Justice G.S. Patel. The first is in ***Anil Kapoor Films Co. Private Limited Vs. Make My Day Entertainment and another*** reported in **2017 SCC online Bom. 8119**, in which Justice Patel has held that :

“3. I find, in fact, there is not. This is yet another instance where despite at least two

months' prior knowledge, possibly more, a party chooses - in this case, I suspect on legal advice - to wait until the very last minute to approach the Court; this time, on the penultimate day of the term, just before the Court closes for the summer vacation. Typically, this is a time when the court's dockets are more pressed than usual, and today's docket is especially crowded with a fixed matter listed for completion and a separate list notified to start at 5:00 pm. The Plaintiff could have moved at any time earlier.

and the second is ***Dashrath B. Rathod and others Vs. Fox Star Studios India Pvt. Ltd.***, reported in [2018 (1) Mh. L. J. 474], in which Justice Patel has held that :

“3. At this stage when the matter is mentioned for circulation, I am not, of course, addressing the merits of the claim. I only address the question of urgency. The basis of the copyright infringement claim is the trailer of the defendants film. The plaint itself acknowledges that the trailer was released over six weeks ago, if not more, on 6th February, 2017 with an even then confirmed theatrical release date of 24th March, 2017. This is so stated in paragraph 16 of the plaint, which then claims that the 1st plaintiff's attention was drawn to this trailer on 24th February, 2017. That of course will be tested. It is not in dispute that on 28th February, 2017 the plaintiffs' Advocate sent a notice to the defendants. The 1st defendant replied as early as 2nd March, 2017 and then provided a more detailed response on 10th March, 2017.

4. None of this explains why the plaintiffs have waited till 21st March, 2017 to move the suit. In fact, this filing is not even complete. No Notice of Motion is lodged with the registry. Mr. Jagtiani who appears on notice says copies of the plaint, the draft Notice of Motion and of an unaffirmed affidavit in support were served at 7 pm last evening.

5. The effect of granting such a circulation application would be that I would have to set aside all other work, including part-heard and specially fixed matters, only to accommodate the plaintiffs who have chosen to come this late, though they could well have moved earlier. This practice of parties claiming copyright infringement coming to Court at the eleventh hour and expecting Courts to drop all other work to listen to and decide their applications on a priority basis must be discouraged. In a given case, where the plaintiff had no prior knowledge an exception will of course always be made. But where it is shown, and especially where it is admitted, that the plaintiff knew several weeks in advance of the release of the film, I see no reason to grant priority. That would be an unconscionable indulgence.”

25. Thus, I find that the delay on the part of the Plaintiff is calculative. Nothing prevented the Plaintiff from making an application well in advance, which would have given the Defendants the opportunity to put forward their case in the form of pleadings and documentary evidence to meet the allegations of the Plaintiff in the plaint. Today, the Defendants are deprived of that opportunity. The Court is hearing the matter during Vacation. All this is only because the Plaintiff chose not to take any action since April 2025. If not April 2025, then surely the Plaintiff had the opportunity to at least file a suit in August 2025, after the Defendants’ replies in July 2025.

26. *Prima facie*, I find that this silence on the part of the Plaintiff is a calculated move to put the Court and the Defendants under pressure. The Plaintiff was well aware of the dates of Diwali Vacation, and there is no explanation as to why the plaint was lodged only on 10.10.2025.

27. Applications for ad-interim relief are heard on an extreme-urgency basis, with preference given to the Applicant over other litigants who await their turn for a hearing of their respective Applications. The Plaintiff chose to wait for more than five months. This delay has not been explained anywhere in the pleadings. If the threat of harm, injury and damages was so imminent, then the Plaintiff ought to have taken adequate steps in advance. The litigant who adopts a relaxed approach does not deserve any equity. On the other hand, the Defendants have to meet with the interim Application of the Plaintiff on the day the Plaintiff decides to approach the Court, at the Plaintiff's convenience. This is an additional factor that ought to be considered while deciding on the Defendants' objection about the delay. The last-hour application seeking ad interim relief ought to be discouraged and rejected, especially when the delay has no explanation. Therefore, I have no hesitation in saying that the Plaintiff's application for ad-interim

reliefs suffers from gross and inordinate delay. This should be the only ground to reject the ad-interim application of the Plaintiff.

28. However, the Plaintiff also argued the matter on the merits, and the Defendants were therefore compelled to deal with the Plaintiff's submissions, without their reply on record. Consequently, I am dealing with the Plaintiff's application on the merits as well.
29. The Plaintiff has claimed copyright in the film, storyline, script, dialogues, sequence of events, characters, names of the characters, plots, title of the film etc.
30. Before I deal with the copyright claims of the Plaintiff in the film and the underlying works contained and embodied in the film, it would be appropriate to mention the settled principles of copyright law so that the same can be applied to the facts and circumstances of the present case.
31. The copyright law protects 'original' work. The 'work' which is protected is defined in section 2 (y) of Copyright Act, 1957. The copyright subsists in the literary, musical, dramatic, artistic, sound recording and cinematograph film. The exclusivity is granted to the

owner of the works. The Act provides a remedy if the work is substantially reproduced. The substantial reproduction of the work amounts to infringement of the copyright of the owner of the work. Over the years, judicial pronouncements on the subject have laid down the principles of copyright law, which are now well settled and include the following:

- i. *There can be no copyright in an idea, principle, subject-matter, themes, plots or historical or legendary facts and violation of the copyright in such cases is confined to the form, manner and arrangement and expression of the idea by the author of the copyrighted work.*
- ii. *Where the same idea is developed in a different manner, it is evident that, given a common source, similarities are bound to occur. In such a case, the courts should determine whether or not the similarities are in fundamental or substantial aspects of the mode of expression adopted in the copyrighted work. If the defendant's work is nothing but a literal imitation of the copyrighted work with some variations here and there, it would amount to a violation of the copyright. In other words, to be actionable, the copy must be a substantial and material one which at once leads to the conclusion that the defendant is guilty of an act of piracy.*
- iii. *The surest and safest test to determine whether or not there has been a violation of copyright is to see if the reader, spectator or the viewer, after having read or seen both the works, is clearly of the opinion and gets an unmistakable impression that the subsequent work appears to be a copy of the original.*
- iv. *Where the theme is the same but is presented and treated differently so that the subsequent work becomes an entirely new work, no question of violation of copyright arises.*
- v. *Where, however, apart from the similarities appearing in the two works, there are also material*

and broad dissimilarities which negate the intention to copy the original, and the coincidences appearing in the two works are clearly incidental; no infringement of the copyright comes into existence.

- vi. *As a violation of copyright amounts to an act of piracy, it must be proved by clear and cogent evidence after applying the various tests laid down by the case-law.*

32. By applying the above principles of copyright law, I have examined the Plaintiff's claim of copyright.

33. The first copyright claim of the Plaintiff is in the film title "**Mee Shivajiraje Bhosale Boltoy**". 'Cinematograph film' is a separate 'work' of copyright as defined in section 2 (f) of the Copyright Act, 1957. There is no dispute about the fact that the 1st Defendant has assigned the copyright in the film to the Plaintiff. The question is whether the Defendants have infringed the Plaintiff's copyright in the film as contemplated by the Copyright Act, 1957. There is no allegation in the plaint that the Defendants have made a facsimile copy of the film "**Mee Shivajiraje Bhosale Boltoy**". What is required to constitute an infringement of a cinematograph film under the Copyright Act, 1957, is that the Defendant should make a facsimile copy of the cinematograph film. In the present case, the Defendants have produced their own cinematograph film. This issue, whether a newly made cinematograph film, which is not

a facsimile copy of the earlier film, constitutes infringement of copyright in the film or not, has been addressed by this Court in **Star India Pvt. Ltd. Vs. Leo Burnett (India) Pvt. Ltd. (2003) 2 Bom LR 655**. This Court has held that :

"19. As pointed earlier contrasting sections 14(d) and (e) on the one hand and sections 14(a), (b) and (c) on the other, where the latter, case the owner of the copyright has exclusive right to reproduce the work excluded insofar as the former case (cinematograph film/sound recording). The work in any material form. This is absent and exclusive right in the former is to copy the recording of a particular film/sound recording. It is, therefore, clear that production by another person of even the same cinematographic film does not constitute infringement of a copyright in a cinematograph film. It is only when actual copy is made of a film by a process of duplication e. by using mechanical contrivance that it falls under section 14(d) (1). The expression to make a copy of the film would mean to make a physical copy of

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the film itself and not another film which merely resembles the film. The making of another film is not included under section 14(d) (i) and such other film, even though it resembles completely the copyrighted film, does not fall within the expression 'to make a copy of the film'. Therefore, if the film has been filmed or shot separately by a person and it resembles the earlier film, the subsequent film is not a copy of the first film and, therefore, does not amount to infringement of whole of the copyright of the first film. The position in case of literary, dramatic or artistic work seems to be different. A narrow copyright protection is accorded to a literary, dramatic or artistic

work. The reason perhaps could be that they have to be original to satisfy the test of copyright ability, whereas the requirement of originality is absent for claiming copying cinematograph films/sound recordings.

21.It was thus held that unless there has been a copying of the whole or part of the plaintiffs' film itself, in the sense of a copying of the particular recording of that film, there cannot be any infringement of the copyright. The re-shoot of the film cannot be said to be the copy of the film for the purposes of infringement.

23. Therefore, considering the terminology used in the Act the facts on record and the cases discussed it is clear that the defendants made their own film independently. The film of the defendants, therefore, is not a copy and therefore, would not amount to an infringement of the Plaintiffs' copyright in its film considering the language of section 14(d) of our Copyright Act."

34. Therefore, clearly, there is no infringement of copyright in the film, and I therefore reject the claim of the Plaintiff of the infringement of copyright in the cinematograph film.

35. The subsequent claim of copyright infringement is in respect of the script of the said film. The Plaintiff has not produced the script of the Plaintiff in which the Plaintiff claims copyright. The script is a 'literary work' as defined by Section 22 (o) of the Copyright Act, 1957. To constitute infringement of a literary work, it is a settled

law that there has to be a substantial reproduction of the literary work. In the present case, the infringement of the literary work in the script is alleged on the basis of the Defendants' promotional videos for the impugned film. Thereafter, further allegations are made by the Plaintiff by amending the plaint and annexing a chart of similarities, which is now Exhibit-O3 to the plaint. I find that the script of the film and the dialogue embodied in the Plaintiff's film, compared with the promotional videos/teaser of the Defendants, are not a substantial reproduction of the Plaintiff's literary work. The newly added Exhibit-O3 in the plaint does not compare the script in the Exhibit-O3; it merely alleges the similarities between the two films. The chart, Exhibit O3, prepared by the Plaintiff after the screening of the impugned film on 20th October 2025, does not compare the rival scripts. Even after comparing Exhibit O3, the chart, I find no substantial reproduction of the Plaintiff's literary work, namely the script of the said film. Therefore, I find that the allegations of copyright infringement in the script, based on the promotional videos/trailer of the impugned film, are *prima facie* unsustainable and baseless.

36. The Plaintiff makes further allegations of the infringement of dialogues, which, according to the Plaintiff, are used by the Defendants in the impugned

film. The Plaintiff's submission is that the Defendants have copied the dialogues from the Plaintiff's film. The Plaintiff claims copyright in the dialogue "**Yaaj Sathi Kela Hota Attahas**". The allegation is that the Defendants in the impugned film have used the identical dialogue "**Yaah Sathi kela Hota Attahas Maharaj Tumhi**". Another dialogue in which the Plaintiff has asserted rights is "**Marathi Mansala Kana Nahi**"; the allegation is that the dialogue "**Shetkaryala Kana Nahi**" is used by the Defendants in the impugned film. Further, the dialogues in which the Plaintiff claims copyright are "**Delhiche hi takt raakhito Maharashtra mazza**", "**Nathalacchya maathi hanu kathhi**", "**Garv balag Marathi aslyacha**", "**Laaj vatli pahije**", "**paise khanyacha bhasmya rog zala ahe**", "**Bhikarya peksha vait awastha aahe Marathi Mansachi**".

37. By no stretch of imagination, even if these identical dialogues are used in the impugned film by the Defendants, no claim of copyright can be made by the Plaintiff. The requirement of a claim of copyright is that the copyrighted work has to be original. The dialogues in which the Plaintiff's claim copyright are regular and common words and expressions which are used by every

Marathi-speaking person and are part of a variety of Marathi literature, theatre and films. The dialogues in which the Plaintiff claims copyright are not the original works of the Plaintiff. In any case, after comparing the said film and the promotional videos/ trailer of the Defendants, and also the chart of similarities being Exhibit-O3, I find that there is no substantial reproduction or infringement of the Plaintiff's dialogues. The dialogues and expressions used by the Defendants in the impugned film are common and natural Marathi-language expressions. Therefore, *prima facie*, the Plaintiff's claim of infringement of dialogues is unsustainable. If the Plaintiff's claim is accepted, the Plaintiff shall have exclusive rights to these dialogues for a period of the author's life plus 60 years. Thus, these words and dialogues will have to be practically deleted from Marathi literature for the benefit of the Plaintiff. Therefore, I reject the claim of the Plaintiff.

38. The Plaintiff has also claimed rights in the promotional material. For comparison, the Plaintiff has annexed posters of the film and that of the impugned film. It is the case of the Plaintiff that the posters and font used by the Defendants in the posters and promotional material of the impugned film is an infringement of the copyright of the Plaintiff. I find that "***Chhatrapati Shivaji***

Maharaj" is depicted in both posters. That is how the persona of "**Chhatrapati Shivaji Maharaj**" is depicted in all the posters and photos. That is the commonly known persona of "**Chhatrapati Shivaji Maharaj**". The rights in the font of the title of the film claimed by the Plaintiff are a standard Marathi font, and the Plaintiff can claim no exclusivity. It is not the original work of the Plaintiff. In any case, the impugned poster is not a substantial copy of the Plaintiff's poster. Therefore, I reject the claim of the Plaintiff.

39. The Plaintiff has also made a claim in respect of the storyline, sequence of events, characters, names, plots, etc. It is the case of the Plaintiff based on similarities narrated in the plaint and in Exhibit-O3, that the impugned film is produced by the Defendants by using the same storyline, plot, characters, names, sequence of events, etc. After watching the said film and comparing the chart of similarities between Exhibit-O3 and the plaint, I find that there is no substantial reproduction of any underlying works of the said film in the impugned film. Therefore, *prima facie*, I find no infringement of any of such rights of the Plaintiff.

40. The convoluted plaint appears to make a copyright claim in the title of the film, "**Mee Shivajiraje Bhosale**

Boltoy". However, the Learned Counsel appearing for the Plaintiff submitted that the Plaintiff is not making any claim of copyright in the title of the film but is claiming goodwill in the same. Therefore, I am not dealing with the copyright claim in the film's title.

41. The Plaintiff has claimed goodwill and reputation in the film and its title. The allegation is that the Defendants are riding on the goodwill and reputation of the Plaintiff's in the film and the title of the film. Due to the deceptive similarities of the title and due to the use of the script, sequence of events, characters, plots dialogues, names, posters etc., there exists a likelihood of confusion and/or any likelihood of association of the impugned film with the said film. It is submitted on behalf of the plaintiff that the impugned film is represented to be a sequel of the film due to the similarities and the title. I have already held that the sequence of storyline, events, script, dialogues, characters, names, plots, etc. of the impugned film, as narrated in Exhibit-O3, is not substantially similar to the said film. I have also held that the font used by the Defendants for the title of the impugned film is a standard Marathi font in which the Plaintiff cannot claim goodwill or exclusivity. Further, I find it difficult to accept that the Plaintiff can claim goodwill in the name

"Mee Shivajiraje Bhosale Boltoy" or any title containing the name **"Shivajiraje Bhosale"** or **"Chhatrapati Shivajiraje Bhosale"** or **"Chhatrapati Shivaji Maharaj"**. I do not have any hesitation in saying that the Plaintiff cannot claim any goodwill or exclusivity in these names or titles. As rightly pointed out by the Learned Counsel appearing for the Defendants that, the Plaintiff's is not the first film which is produced in the film industry by using the name **"Chhatrapati Shivaji Maharaj"** or **"Shivajiraje Bhosale"**, etc. In any case, the name of **"Chhatrapati Shivaji Maharaj"** in any form cannot be the subject matter of exclusivity. Therefore, I reject the Plaintiff's claim of exclusivity in the film's title. If the Plaintiff cannot claim exclusivity in the title, then there is no question of preventing the Defendants from using any title containing the name **"Shivajiraje Bhosale"** or **"Chhatrapati Shivaji Maharaj"** or **"Chhatrapati Shivaji"** with any prefix or suffix. Further, on the basis of material on record, I find that the sequence of storyline, events, script, dialogues, characters, names, plots, etc. of the impugned film is not deceptively similar and there is no likelihood of confusion and deception. Therefore, *prima facie*, I find that the Plaintiff's claim based on the cause of action of passing has not been established.

42. After comparing the material available on record and applying the settled principles of copyright law, I find that the form, manner, and arrangement of expression of the subject matter by the Defendants are entirely different. The dialogues, the storyline, the thought process behind the plots and the plots, sequence of events, characters, etc., are totally different from that of the Plaintiff. On the basis of the allegations made by the Plaintiff in the plaint and in Exhibit O-3, I find that there are no similarities which are fundamentally or substantially similar to the Plaintiff's works. Certainly, the Defendants' work is not a literal imitation. The alleged copy is not a substantial and material one. From the record, it appears that the film produced by the Defendants is an entirely new work.

43. In the facts and circumstances of the case, there is no substantial reproduction of any of the copyright of the Plaintiff. Therefore, *prima facie*, there is no infringement of any of the copyrights of the Plaintiff. The claim of passing off is not established. I find it very difficult to accept that the audience of Marathi films will be confused or deceived, or that there is any likelihood of the same while watching the impugned film. I also find it difficult to accept that the audience of a Marathi film would associate the impugned film with the Plaintiff's

film before they decide to watch the impugned film, or they would consider the impugned film as a sequel to the Plaintiff's film. The well-informed and tasteful audience of Marathi films, *prima facie*, is not going to be confused or deceived by any of the factors alleged by the Plaintiff, including the title of the impugned film. The classical trinity of the action of passing off, i.e. the goodwill and reputation, the likelihood of confusion or deception and the likelihood of damages, is, *prima facie*, not satisfied by the Plaintiff in the present action.

44. In view thereof, *Prima facie*, the plaintiff has failed to make out any case of copyright infringement or passing off. There is gross and inordinate delay in seeking equitable relief. There is no explanation for the delay. The balance of convenience heavily tilts in favour of the Defendants and against the Plaintiff.
45. **Therefore, ad-interim relief is refused.** The Interim Application be listed for final hearing in the week commencing 17.11.2025. The Respondents shall file their respective replies within a period of two weeks from today. Rejoinder, if any, within a period of one week from today.
46. **'Costs in the cause'**. The costs shall be determined at the final hearing of the Interim Application.

47. This order will be digitally signed by the Private Secretary/
Personal Assistant of this Court. All concerned will act on
production by fax or email of a digitally signed copy of this
order.

[AMIT SATYAVAN JAMSANDEKAR, J.]

Digitally signed
by
DATTAPRASAD
GHANSHYAM
PARAB
Date:
2025.10.29
19:40:32 +0530