

**ZEE VIOLATES PERSONALITY RIGHTS OF EDITOR-IN-CHIEF OF INDIATV****1. INTRODUCTION**

The High Court of Delhi (the “**Court**”) revisited and reaffirmed the principles associated with *personality rights* (“**PR**”) in the judgement passed in *Rajat Sharma and Another v. Ashok Venkatramani and another*<sup>1</sup>.

The case and its findings are discussed elaborately as follows.

**2. BACKGROUND OF THE CASE**

The defendants, Zee Media Corporation (“**Zee**”) had launched a new anchor-free news channel to disseminate news. To promote this channel, Zee launched an advertisement campaign which was published across media platforms including the Hindustan Times (the “**Advertisement**”).

Through this Advertisement, Zee intentionally and condescendingly called out certain news reporters, who are famous media personalities and made certain sardonic comments about them.

One such personality was Mr. Rajat Sharma, Chairman and Editor-in-Chief of IndiaTV (“**Sharma**”). The Advertisement carried a line which stated that “*India Mein Rajat Ki Adalat Ab Band*” (the “**Statement**”) which practically meant that due to the new anchor-less news channel being launched by Zee, high-profile news reporters like Sharma are no longer required.

Sharma was affronted by the use of the said Statement in the Advertisement and thus, challenged the same in the above suit on the basis of it being disparaging and misleading, as well as it being violative of his PR.

**3. FINDINGS OF THE HIGH COURT**

The Court observed that the use of the Statement in the Advertisement was actually disparaging and also violated the PR of Sharma. In its judgement, the Court relied upon the landmark cases of *Titan Industries vs M/S Ramkumar Jewellers*<sup>2</sup> (“**Titan Industries**”) and *Shivaji Rao Gaekwad vs M/s Varsha Productions*<sup>3</sup>

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<sup>1</sup> CS(COMM) 15/2019

<sup>2</sup> 2012 (50) PTC 486 (Del) – In this case, the defendant, a UP based jeweller was copying the commercials of the plaintiff featuring Mr. Amitabh Bachchan and Mrs. Jaya Bachchan used in relation to their jewellery brand *Tanishq*. The Delhi High Court held the defendants liable for copyright infringement. Also, considering the defendants had also misappropriated the content featuring Mr. Amitabh Bachchan and Mrs. Jaya Bachchan, without their consent, the Delhi High Court also held them liable for infringement of their PR.

(“**Shivaji Rao case**”) and re-affirmed the principles associated with PR, particularly in relation to *validity and identifiability* of PR as stated below:

- (a) the plaintiff owns an enforceable and valid right in the *identity or persona* of a human being; and
- (b) the celebrity must be *identifiable* from the defendant’s unauthorized use.

It should be noted that the infringement of right of publicity requires no proof of falsity, confusion, or deception, especially when the celebrity is identifiable. The right of publicity extends beyond the traditional limits of false advertising laws.<sup>4</sup>

Thus, the Court held that Sharma had an unassailable right in his public persona and identity as a famous television show host and also the use of the Statement in the Advertisement amounted to false advertising.

On the basis of the abovementioned reasoning, the Court held that Zee’s advertisement campaign was *prima facie* unlawful and that the balance of convenience lied in favour of Sharma.

#### 4. **INDUSLAW VIEW**

Due to the reach and popularity coupled with commercial value attached to the persona of celebrities, the courts have stepped in to protect them.

The rights recognised to protect these personalities are identified as PR under common law. PR under common law has been recognised and enforced through the *right to privacy* and *right to publicity*.

Certain features, such as names, mannerisms, caricatures, pictures, voices and signatures, demonstrating one’s personality can also be protected under the *trademark* and *copyright laws*.

While the right to publicity refers to the right to keep one’s image and likeness from being commercially exploited without permission or contractual compensation, *per contra* the right to privacy means the right to be left alone and to not have one’s personality represented publicly without permission.

When it comes to the right of publicity, it has been categorically stated that, “*when the identity of a famous personality is used in advertising without their permission, the complaint is not that no one should commercialize their identity but that 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 human identity is the right to publicity.*”<sup>5</sup>

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<sup>3</sup> 2015 (62) PTC 351 – The famous actor Rajnikanth sought permanent injunction against the release of the film ‘Main Hoon Rajnikanth’. He claimed that the movie had used his likeness and also imitated mannerisms associated with him without obtaining his consent. Moreover, as per him the movie contained certain immoral content and he did not want to be associated with such movies. Owing to his submissions, the Madras High Court noted that the release of the film could tarnish his image and also took cognizance of the infringement of his PR and granted permanent injunction.

<sup>4</sup> *Supra n. 2*

<sup>5</sup> *Ibid.*

In this case, the PR were very significantly violated, particularly since the Advertisement used Sharma's name and his show 'Aap Ki Adalat' in a misleading and disparaging manner.

Owing to the significance of PR, celebrities have become vigilant and are now actively enforcing their PR to prevent the unauthorised use of their images or likeness by third parties either to prevent any third-party association with themselves or to prevent use of their name or personality features in an unsavoury manner. This case belongs to the latter category; and is similar to the Shivaji Rao case<sup>6</sup>.

Basis the judgment in *Shivaji Rao case* as well as *Titan Industries*, the Court reaffirmed that Sharma's right of publicity is a significant aspect of his PR, and that Zee's campaign showed Sharma and his now eponymous show 'Aap Ki Adalat' in a rather mocking manner.

Thus, the Court found Zee to be clearly violating Sharma's PR.

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<sup>6</sup>Supra n. 3