

# THE ECONOMIC TIMES

More films getting embroiled into legal matters

10 Oct 2009, 0239 hrs IST, Leena Mulchandani, ET Bureau

People may never see the inside of a courtroom in their lifetime but they will all have seen one in a film. The black robes, the judge and his hammer and the oft-repeated dialogue, "Order, order" have long been part of our film lore.

Over the past few years, courtroom drama seems to increasingly spill over from reel to real life, with nearly every film getting embroiled in some legal matter or the other. Not only do such cases hurt prospects of the movie with a delayed release, they also eat into valuable court time across the country.

Even as we go to press, one of the three films releasing this Diwali, Ajay Devgan's All The Best, is facing a suit filed by Karan Ramsay (Om Film Company) in the Bombay High Court, alleging copyright infringement. The suit, which seeks an injunction on the film's release, comes a week before it is scheduled to hit theatres across the world.

"With Indian courts increasingly inclined towards protecting "original works" (intellectual property rights as we know it), there is a greater emphasis on litigation to protect copyright and trademark infringement. Very few cases are legitimate while most seem initiated as a publicity gimmick," says Ameet Naik, managing partner, Naik Naik Co & Advocates, which represents most of the entertainment industry in these matters.

## Releasing this Friday...

For producers, a lot is at stake and any reason which delays the release of a film is business lost. "Most of the legal cases come up just days before the release of a film, most pre-meditated with vested interests at work. For the rest, usually it is seeking some quick money or some quick publicity. For the producers, prints of the film are already on their way to international locations and to stall a film at that stage is giving in not only to piracy but also suffering a huge loss of revenue," says Sandeep Bhargava, CEO, Indian Film Company who has been been dragged into litigation matters over almost all IFC films.

Sometimes, the court is quick to identify the modus operandi of dragging a film to court before a release like in the case of Mirchi Movies' Hari Puttar — A Comedy of Terrors to pressurise the producer. In this case, the Delhi High Court ruled against the complainant and gave the release of the film a green signal.

In fact, Indian courts, says Naik understand the plight of producers and do give judgments in favour of the producers if there is undue delay in filing frivolous suits. "In the Ghajini, and 13B cases, we succeeded in preventing any injunctive order being passed restraining release of the film, primarily on the ground of delay," says Naik who represented the producers. The producer's plight does not always end with the release. "A green signal for a release of the film by court, is 'relief' at the interim stage if a film is in litigation. The suit continues post release and a final judgement may take a long time," says partner & head, M&E, Nishith Desai Associates, Gowree Gokhale.

## To catch a Star...

Apart from copyright issues, there are many cases where celebrities are dragged into matters which do not really concern them. Take the case of Aamir Khan, who was in Bhopal to inaugurate a showroom, in his capacity as brand ambassador for Toyota Innova. A passerby noticing the star, shot a video clip film of the event from outside. While shooting, he found that the Indian flag was flying on the building even after sunset, and filed a case stating 'disrespect to the Indian flag', against the owners of the

car dealership as well as Khan, who had nothing to do with what was going on.

"When the case came up before the magistrate, he issued a non-bailable warrant against Khan as well. However, a writ was filed challenging the proceedings and the entire thing was set aside," says Anand Desai, managing partner, DSK Legal.

Take the case of Akshay Kumar and his pretty wife Twinkle at a recent Fashion Week in Mumbai. Kumar, a brand ambassador for Levi's, asked his wife to unbutton his jeans while on ramp, leading to an infuriated man filing an FIR alleging obscenity against the star couple. While frivolous cases keep our courts busy, a serious issue like piracy also sees cases piling up in courts.

Thousands of piracy cases are pending before courts across the country. Sadly, the issue is pursued only as long as the film is running in the theatres. When the cases finally come up for hearing before the magistrate, the court doesn't know what to do about it as often there is no follow-up on part of the complainants," says Desai.

### **Courting the companies**

For corporates, being dragged to court is no frivolous matter. Out-of-court cash settlements are not an option and they are bound to reply to any legal notice that comes their way. While both Reliance Big Pictures and IFC have so far managed to salvage their cases and release their films as scheduled, UTV Motion Pictures' has not been so lucky with a tentpole film like Jodhaa Akbar facing release trouble in some territories across the country.

With approximately, 300-400 film-related cases currently pending across courts in India, litigation spends for producers have increased by more than 50% over the past few years. To offset some of these spends, producers now turn to insurance. "As a result of the spiralling number of frivolous cases that get filed by parties with vested interests before the release of practically every film, we now obtain an errors and omissions insurance cover for each of our films to protect our interests. However, defending such litigation does take up a large portion of management time and energy," says Nandini Mehta, assistant vice-president (legal), UTV Motion Pictures.

For Big Pictures, it's the same story. "Besides wasting time and energy, most are foisted cases filed under the Copyright Act and are usually dismissed. Film producers are also harassed by certain activists and parochial elements who start agitations though the respective film is duly certified by Central Board of Film Certification," says COO, Big Pictures, Mahesh Ramanathan.

### ***With inputs from Almas Meherally***

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