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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

RESERVED ON : 14.06.2023

PRONOUNCED ON : 19.06.2023

**CORAM:**

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.S(Comm.Div)No.81 of 2023

M/s.Sun TV Network Limited,  
Rep by its Authorized Signatory,  
Mr.M.Jothi Basu,  
Murasoli Maran Towers,  
73, MRC Nagar Main Road,  
MRC Nagar, Chennai – 28.

... Applicant/Plaintiff

VS

1.Hero Talkies  
By its Authorized Signatory,  
197, Lakshmi Towers,  
1<sup>st</sup> Main Road, Nehru Nagar,  
Perungudi, Chennai – 600 096.

2.Tentkotta  
by its Authorized Signatory,  
Mr.P.T.Sathya,  
603, 4<sup>th</sup> Ave, Suite 400,  
Kirkland WA 98033

... Defendants/Respondents



Prayer: Civil Suit is filed under Order IV Rule 1 of CPC, praying to,

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(a) for Permanent injunction restraining the defendants, their men, representatives, agents and anybody on behalf of the defendants from in anyway exhibiting or exploiting the Tamil Film “Kodi” starring Dhanush, Trisha, Anupama Paameswaran and others in any manner or form through satellite Television broadcast direct to home broadcast, direct satellite service, internet video streaming through all forms, I.P TV, broadband, telephone, telephony, cell phone radio (all dimensions) VCD, DVD, video on demand, movie on demand, video, High definition (HD), laser disc, blue ray, U-matic, inflight, airborne, railborne, terrestrial television broadcast (all dimensions) through cable/via cable TV, local delivery system, MMDS, paper view, seaborne, all modes of public/private transportation, public service broadcasting, private communication/broadcast, wire, wireless, 2D and 3D formats/dimensions of the film or any other formats/dimensions which may be in existence now or invented in future or through any other forms, means and modes and any forms of communication like signs, electro magnetic waves through space or through cables intended to be received by the general public either directly or indirectly through the medium of relay stations and



all its grammatical variations and cognate expressions shall be construed accordingly or any other systems without restriction or geographical area and including all channels of Doordarshan for a perpetual period more particularly in the internet;

(b) to pay damages of a sum of Rs.30,00,000/- jointly and severally for illegally upholding the tamil movie “Kodi” in you-tube using pirated CDS and making the same available for subscribed users as free downstream videos

(c) Pass such other order or orders as this Court may deem fit in the circumstances of the case.

For Plaintiff : M/s.R.Palaniandavan

### **J U D G M E N T**

The plaintiff herein filed a suit seeking permanent injunction restraining the defendants from exhibiting or exploiting the Tamil Film “Kodi” or communicating it in any form to the general public and also for damages for illegally uploading the film in “you tube” using the pirated version of the film.



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2. It is the case of the plaintiff that it is a leading television network in South India. The plaintiff during the course of its business entered into assignment agreement to take assignment of Copyright of the films for terrestrial television broadcast and satellite broadcast rights etc. The film “Kodi” was originally produced by M/s.Grass Root Film Company. The said company by assignment deed dated 05.11.2015 has assigned the satellite rights in favour of Escape Artist Motion Pictures. Subsequently, the said assignee entered into a tripartite agreement with its assignor M/s.Grass Root Film Company and the hero of the film Dhanush, whereunder, the satellite rights and other exploitation rights except the theatrical rights, dubbing and remaking rights with respect to the said Tamil film “Kodi” was assigned in favour of hero of the film said Dhanush.

3. It was also averred by the plaintiff that subsequently, said Dhanush by way of assignment deed dated 24.10.2016 had assigned the copyright of the film “Kodi”, in favour of the plaintiff for a sale consideration of Rs.5,00,00,000/-. As per the terms of the agreement, the plaintiff paid a sum of Rs.50,00,000/- as advance and agreed to pay the balance amount of



Subsequently, the plaintiff entered into a supplementary agreement with said Dhanush on 25.10.2016, whereunder the assignor of the plaintiff acknowledged the receipt of the balance sale consideration of Rs.4,50,00,000/-. The lab letter, censor certificate and the contents of the movie were handed over to the plaintiff as per the assignment agreement dated 24.10.2016. Therefore, it is the case of the plaintiff that it has got right to exploit the movie as per the terms of the assignment deed and supplementary agreement. It was claimed by the plaintiff that the defendants who had no right with respect to the movie “Kodi” uploaded the said movie in “You Tube” platform and the same is readily available to the subscribers for free download. It was further averred that the plaintiff is the exclusive copyright holder of the above said movie. The negative and the digital format of the said movie was handed over to the plaintiff by the lab on written instruction of the original copyright holder. While that being so, the defendants without having any rights have uploaded the said movie in “You tube” by using pirated CD and thereby infringed the copyrights of the plaintiff. Therefore, the plaintiff was constrained to file the above suit.



4. The above suit was originally filed before the Original Side of this Court and numbered as C.S. No.984 of 2016. Subsequently, on the question of pecuniary jurisdiction the suit was transferred to the City Civil Court Chennai and re-numbered as O.S. No.7708 of 2019.

5. It is seen from the records when the suit was pending before the City Civil Court Chennai, the first defendant was set ex-parte on 02.09.2021 and the second defendant was set ex-parte on 21.12.2022 as they failed to appear before the Court, inspite of service of summons. Thereafter, as per the order passed by this Court in A.No.859 of 2023, the suit was again transferred to the file of this Court and numbered as C.S(Commercial Division).No.81 of 2023.

6. Since the defendants are already set ex-parte, after recording of ex-parte evidence, the matter was posted for final disposal.

7. Heard the arguments of the learned counsel for the plaintiff. Perused the pleadings and exhibits.



8. At the time of trial, the authorized signatory of the plaintiff was examined as PW.1 and eleven documents were marked on behalf of the plaintiff as Exs.P1 to P11.

9. The learned counsel for the plaintiff by taking this Court to the oral evidence of PW.1 and the exhibits marked on behalf of the plaintiff submitted that the plaintiff got the assignment of the copyright of the film and therefore, it has got exploitation rights over the film “Kodi”. The learned counsel by taking this Court to Ex.P11 screenshots of the suit film uploaded in online platform submitted that the defendants committed infringement of copyright by illegally uploading the film without any right over the same. Therefore, the learned counsel prayed for decree as prayed for in the plaint.

10. Perusal of Ex.P10 would suggest in the certificate issued by Central Board of Film Certification name of M/s.Grass Root Film Company was mentioned as producer of the film. Ex.P2 is the assignment agreement entered between the said producer M/s.Grass Root Film Company and Escape Artist Motion Pictures, whereunder, the copyright of the film was assigned in favour of Escape Artist Motion Pictures. The assignee Escape Artist Motion Pictures entered into tripartite agreement with assignor



M/s.Grass Root Film Company and the hero of the film one Dhanush under

Ex.P3. Whereunder, Escape Artist Motion Pictures relinquished its satellite rights and other exploitation rights in favour of M/s.Grass Root Film Company and it in turn assigned the same in favour of actor Dhanush. Subsequently, the plaintiff got the assignment of satellite right and other exploitation rights in the film from Dhanush under Ex.P4. A Perusal of Ex.P4 would suggest that said Dhanush assigned Satellite television broadcast rights, direct to home broadcast, direct satellite service, terrestrial television broadcast and all other rights connected therewith more fully described in Clause 6 of the agreement in favour of the plaintiff for a consideration of Rs.5,00,00,000/-. On the date of agreement, the plaintiff paid a sum of Rs.50,00,000/- as advance and agreed to pay the balance consideration of Rs.4,50,00,000/- one day prior to the date of theatrical release of the said film. Exs.P7 and P8 are no objection letters issued by M/s.Grass Root Film Company and above said Dhanush to the laboratory. Ex.P5 is a supplementary agreement entered between the plaintiff and said Dhanush, whereunder, the plaintiff's assignor Dhanush acknowledged the receipt of entire consideration of Rs.5,00,00,000/- from the plaintiff in pursuance of the assignment agreement dated 24.10.2016.



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11. A perusal of Exs.P2 to P5 would make it clear that the plaintiff got assignment of the copyright over the film “Kodi” validly and consequently the plaintiff is entitled to maintain the present suit complaining infringement of the copyright. Ex.P11 is the screenshots of the suit film uploaded in online platforms filed with proper certificate under Section 65-B of Evidence Act. A perusal of the same would suggest that the defendants 1 and 2 uploaded the film in online platforms. As mentioned earlier, when the plaintiff got assignment of the copyright of the film under Exs.P4 and P5 for valid consideration, the defendants are not entitled to upload the film illegally in online platforms without leave and licence from the plaintiff. The oral evidence of PW.1 coupled with Exs.P2 to P5 and P11 proved the rights of the plaintiff to maintain a suit for injunction against illegal uploading of the film by the defendants. Hence, the plaintiff is entitled to permanent injunction as prayed for.

12. As far as the second prayer in the suit regarding damages, the plaintiff failed to lead any evidence to ascertain the alleged damage caused to it by uploading of the film by the defendants. In the



absence of any acceptable legal evidence to assess the damage caused to the plaintiff, it is not entitled to decree for damages as claimed in the plaint.

Therefore, the suit is dismissed in respect of the second prayer for damages.

13. In nutshell.

(i) The suit is partly decreed by granting a decree for permanent injunction as prayed for.

(ii) The suit is dismissed in respect of the prayer for damages;

(iii) In the facts and circumstances of the case, there will be no order as to costs.

19.06.2023

Index : Yes / No  
NCC : Yes / No  
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**S.SOUNTHAR, J.**

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Pre-Delivery Order made in  
C.S(Comm.Div)No.81 of 2023

**19.06.2023**



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