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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.03.2023

PRONOUNCED ON : 31.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.S.No.652 of 2019

M/s.Sun TV Network Ltd.,
Rep. By its Authorized Signatory,
Mr.M.Jyothi Basu,
Murasoli Maran Towers,
73, MRC Nagar Main Road,
MRC Nagar, Chennai – 600 028.

... Plaintiff

VS

Kumar Namburi
Proprietor “Movies Cafe”,
No.5M, HRBR Layout, Second Block,
Kalyan Nagar, Bengaluru,
Karnataka – 560 063.

... Defendant

Prayer: Civil Suit is filed under Order IV Rule 1 of the Original Side Rules, 1956, r/w Section 2(1) (c) (xvii) r/w first proviso of Section 7 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015, (Act 4 of 2016 r/w Section 55 and 62 of the copyrights Act and order Vii Rule 1 of CPC praying to,

(a) For permanent injunction restraining the defendant, his men, representatives, agents and anybody on behalf of the defendants from in



anyway exhibiting or exploiting the schedule movies 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 TC, 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, signals, writing, pictures, images and sounds of all kinds of transmission of 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 of geographical area for a perpetual period more particularly in the internet platform in any means and form

(b) To pay damages of a sum of Rs.30,00,000/- to the plaintiff;



(c) To pay cost and;

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

For Plaintiff : Mr.M.Narendran
for M/s.King and Partridge
For Respondent : set ex-parte

J U D G M E N T

The present suit has been filed by the plaintiff seeking injunction restraining the defendant from infringing copyright of the plaintiff with regard to the three films namely, Chalo, Nela Ticket, Pantham and also for damages.

Plaint averments:

2. According to the plaintiff, it is a leading television network engaged in the business of production and distribution of movies. It was claimed by the plaintiff that it entered into an assignment agreement with original producers of the Cinematograph films Chalo, Nela Ticket, Pantham on 06.12.2017, 09.03.2018 and 12.12.2017 respectively under Exs.P2, P9 and P14. Under the said agreement, the plaintiff got assignment of exclusive copyright of the film in respect of satellite television broadcast, direct to home



broadcast, direct satellite service, terrestrial television broadcast and all other rights connected therewith as mentioned in the agreement including exhibition of the above mentioned films by means of wireless diffusion and by wire for communication to the public through television broadcast for the entire world. It was also claimed by the plaintiff that he paid a consideration of Rs.2,16,00,000/-, Rs.12,00,00,000/- and Rs.4,50,00,000/- respectively to the producers of above said films Chalo, Nela Ticket, Pantham as evidenced by supplementary agreements dated 08.06.2018 (Ex.P8), 14.08.2018 (Ex.P13) and 03.08.2018 (Ex.P19). Thus, the plaintiff claimed that he acquired the copyrights of the above said films as described. It was further averred in the plaint that the defendant, who was the owner of “Movies Cafe” had uploaded above said films in the you-tube, internet platform without any right, title and copyright. The defendant by illegally uploading the above said films infringed the copyright of the plaintiff. It was further averred by the plaintiff that after acquiring knowledge about the illegal act of the defendant, it had intimated you-tube about violation of copyright on 13.08.2019. After intimation by the plaintiff, the defendant temporarily removed the above said films from you-tube platform and he may at any time upload the same and continue to infringe the copyrights of the plaintiff. In these circumstances, the plaintiff



was constrained to file the above suit seeking injunction and damages for the loss suffered by it due to the act of infringement.

3. It is seen from the records that the defendant was set ex-parte by this Court on 15.03.2021 and thereafter, ex-parte evidence was recorded. The authorized signatory of the plaintiff company was examined as PW.1 and through him 25 documents were marked as Exs.P1 to P25.

4. The learned counsel for the plaintiff relying on the evidence of PW.1 and exhibits marked on the side of the plaintiff submitted that the plaintiff is the proprietor of the copyrights of the above said films as it got valid assignment from first owner. It was further submitted by the learned counsel that the infringement of copyright by the defendant causes irreparable loss and hardship to the plaintiff, who acquired copyrights of the films by paying valid consideration and consequently the suit is liable to be decreed.

5. Exs.P6, P11 and P17 issued by Central Board of Films Certification would make it clear that the assignor of the plaintiff was the original/first owner of the copyright of the above mentioned films. Exs.P2, P9 and P14 are



the assignment agreements between the plaintiff and the respective original owner/producer of the films. Under Ex.P2, the plaintiff got assignment of the copyright of the film “Chalo” for consideration of Rs.2,16,00,000/-. Under Ex.P9, the plaintiff got assignment of film “Nela ticket” for valid consideration of Rs.12,00,00,000/-. Under Ex.P14, the plaintiff got assignment of copyrights of the film “production No.7” for consideration of Rs.4,50,00,000/-.

6. Exs.P3, P4 and P7 are the communications between the original producer, plaintiff and laboratory, which established receipt of video and audio contents of the film “chalo” by the plaintiff from the laboratory. Exs.P10, P12 are the communications between the plaintiff and laboratory, which confirms the receipt of video and audio content of the film “Nela ticket”. Exs.P15, P16 and P18 are the communications between the plaintiff and laboratory, which confirms the receipt of video and audio content of the movie “Pantham” by the plaintiff.

7. Ex.P8 is a supplementary agreement between the plaintiff and the assignor of the film “chalo”, whereunder, the original owner/assignor



confirmed the receipt of entire sale consideration of Rs.12,16,00,000/-. The handing over of the digital data files, HD etc., of the film to the plaintiff was also confirmed in the said agreement.

8. Ex.P13 is the supplementary agreement between the plaintiff and assignor of the film “Nela ticket”, where under, the payment of Rs.12,00,00,000/- by the plaintiff to the original owner/assignor was confirmed. It also confirms the handing over of the digital data files, HD etc., of the film to the plaintiff.

9. Ex.P19 is the supplementary agreement between the plaintiff and the assignor of the film “production No.7”, whose title was subsequently changed as “Pantham”. The said agreement records the change of the title of the film from “production No.7” to “Pantham”. Under the said agreement, the original owner/assignor acknowledged the receipt of Rs.4,50,00,000/- from the plaintiff and confirmed the delivery of digital files, HD etc., of the film to the plaintiff. Thus, the evidence of PW.1 coupled with the exhibits mentioned above prove that the plaintiff acquired the valid assignment of the copyrights in respect of above mentioned three films.



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10. Exs.P20, P21 and P22 are the screen shots produced by the plaintiff which prove the infringement of the plaintiff's copyright by the defendant. Ex.P23 is the communication by agent of the plaintiff to you-tube regarding the infringement of plaintiff copyrights. Ex.P24 is the notification from you-tube informing the agent of the plaintiff regarding removal of the objectionable content. A perusal of Exs.P20 to P24 prove the infringement of plaintiff's copyright by the defendant. The plaintiff is the assignee of the copyright of the above said films for valid consideration and hence any unauthorized exhibition of above said films or its contents by defendant would certainly result in irreparable loss and hardship to the plaintiff. Therefore, the plaintiff is entitled to decree for permanent injunction as prayed for.

11. As far as the claim for damages are concerned, the evidence of PW.1 is not sufficient to establish the actual loss suffered by the plaintiff. Exhibits marked by the plaintiff are not useful to quantify the alleged loss suffered by the plaintiff. It is also seen from Exs.P23 and 24, the objectionable content loaded in you-tube at the instance of defendant was removed after objection by the plaintiff. In such circumstances, in the absence of any



acceptable evidence available on record, the plaintiff is not entitled to any damages. Therefore, the suit is dismissed in respect of prayer for damages is concerned.

12. 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 damages.

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

31.03.2023

Index : Yes / No
NCC : Yes / No
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**List of witness examined on the side of the plaintiff:-**

P.W.1 Mr.M.Jyothi Basu – Authorized Signatory of the Plaintiff-Company

List of documents marked on the side of the plaintiff:-

Sl. No	EXHIBITS	DATE	DESCRIPTION
1	P1	14.11.2011	Board Resolution
2	P2	06.12.2017	Assignment Agreement between the Producer and Plaintiff
3	P3	06.12.2017	Letter from the Producer to the Lab.
4	P4	18.12.2017	Letter from the lab to the Plaintiff
5	P5	24.01.2018	Amendment Agreement between the Producer and the Plaintiff
6	P6	29.01.2018	Censor Certificate
7	P7	30.01.2018	Receipt of content
8	P8	08.06.2018	Supplementary Agreement between the Producer and the Plaintiff
9	P9	09.03.2018	Assignment Agreement between the Producer and the Plaintiff
10	P10	22.03.2018	Letter from the lab to the Plaintiff
11	P11	22.05.2018	Censor Certificate
12	P12	06.06.2018	Receipt of Content
13	P13	14.08.2018	Supplementary Agreement between the Producer and the Plaintiff
14	P14	12.12.2017	Assignment Agreement between the Producer and the Plaintiff
15	P15	12.12.2017	Letter from the lab to the Plaintiff
16	P16	26.06.2018	Letter from the lab to the Plaintiff
17	P17	02.07.2018	Censor Certificate
18	P18	05.07.2018	Receipt of Content
19	P19	03.08.2018	Supplementary Agreement between the Producer and the Plaintiff



Sl. No	EXHIBITS	DATE	DESCRIPTION
20	P20	13.08.2019	Proof of infringement of Plaintiff's copyright by the Defendant for the film CHALO
21	P21		Proof of infringement of Plaintiff's copyright by the Defendant for the film NELA TICKET
22	P22		Proof of infringement of Plaintiff's copyright by the Defendant for the film PANTHAM
23	P23	13.08.2019	Online notifications by the Plaintiff
24	P24		Proof of removal of the movie from You-Tube
25	P25		Section 65B certificate

List of witness examined on the side of the Defendant:-

-NIL-

List of documents marked on the side of the Defendant:-

-NIL-



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S.SOUNTHAR, J.

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