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O.S.A (CAD) Nos.45 and 46 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.04.2024**

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

O.S.A (CAD) Nos.45 and 46 of 2024

&

C.M.P.No.9900 of 2024 in O.S.A (CAD) No.45 of 2024

&

C.M.P.No.9912 of 2024 in O.S.A (CAD) No.46 of 2024

O.S.A (CAD) No.45 of 2024

Reliance Entertainment Studio Private Limited
Rep. By its Authorised Signatory Mr.Pradeep Jaiswal
Plot No.B-06, 5th Floor, Valecha Chambers
New Link Road, Andheri (West)
Mumbai – 600 053
E-mail: pradeep.jaiswal@relianceada.com ... Appellant

Vs.

1. M/s.Kurios Finvest LLP
Rep. By is Designated Partner
Mrs.Renuka Kumar
Having office at No.7, College Lane
Chennai – 600 006
E-mail Id: kuriosfinvest@gmail.com

2. M/s.Reliance Creative and Content Solutions LLP
Rep. By its Authorised Signatory Mr.Pushpak Shah
Plot No.B-06, 5th Floor, Valecha Chambers
New Link Road, Andheri (West)
Mumbai – 600 053
E-mail: pushpak.shah@restudios.com .. Respondents

O.S.A (CAD) No.46 of 2024



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M/s.Reliance Creative and Content Solutions LLP
Rep. By its Authorised Signatory Mr.Pushpak Shah
Plot No.B-06, 5th Floor, Valecha Chambers
New Link Road, Andheri (West)
Mumbai – 600 053
E-mail: pushpak.shah@restudios.com

... Appellant

Vs.

1. M/s.Kurios Finvest LLP
Rep. By is Designated Partner
Mrs.Renuka Kumar
Having office at No.7, College Lane
Chennai – 600 006
E-mail Id: kuriosfinvest@gmail.com

2.Reliance Entertainment Studio Private Limited
Rep. By its Authorised Signatory Mr.Pradeep Jaiswal
Plot No.B-06, 5th Floor, Valecha Chambers
New Link Road, Andheri (West)
Mumbai – 600 053
E-mail: pradeep.jaiswal@relianceada.com

Common Prayer: Original Side Appeals filed under Section 13 of Commercial Courts Act, 2015 read with Order XXXIV Rule 1 of Original Side Rules against the order dated 08.04.2024 in A No.945 of 2024 in C.S (Comm.Div.) No.33 of 2024.

For Appellant
in both OSAs

: Mr.Srinath Sridevan
Senior Counsel
Instructed by Mr. Karthik Sundaram
and Ms.Ranjana Jain



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For Respondent : Mr.Anirudh Krishnan
in both OSAs along with Mr.Adarsh Subramanian

COMMON JUDGMENT

(Judgment of the Court was delivered by **M.Sundar, J.**)

This common order will now dispose of the captioned two 'Original Side Appeals' ['OSAs' in plural and 'OSA' in singular for the sake of brevity] and captioned two 'Civil Miscellaneous Petitions' ['CMPs' in plural and 'CMP' in singular for the sake of brevity] thereat.

2. Captioned main OSAs are intra-court appeals and are directed against a common order i.e., 'order dated 08.04.2024 made by Commercial Division of this Court in O.A.Nos.112, 113 of 2024 and A.Nos.944 to 948 of 2024 in C.S (Comm.Div.) No.33 of 2024' [hereinafter 'impugned order' for the sake of convenience and clarity].

3. Both the captioned OSAs are directed against the same impugned order. O.S.A.No.45 of 2024 has been filed by second defendant (D2) in the suit and O.S.A.No.46 of 2024 has been filed by first defendant (D1) in the suit.



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4. Mr.Srinath Sridevan, learned Senior counsel instructed by Mr.Karthik Sundaram, counsel on record for appellant in both the OSAs and Mr.Anirudh Krishnan along with Mr.Adarsh Subramanian for the Caveator [to be noted, sole plaintiff before Commercial Division has lodged caveat] are before this Court.

5. Before we proceed further, we deem it appropriate to record that though the captioned matters are listed in the Admission Board i.e., Motion List, captioned main OSAs were taken up with the consent of learned counsel on both sides as the entire matter turns on a narrow compass.

6. Be that as it may, owing to the nature of the appeals, short facts will suffice.

7. Factual matrix in a nutshell is that one Kurios Finvest LLP (plaintiff) has filed a suit in C.S (Comm. Div.) No.33 of 2024 claiming a sum of Rs.45,95,71,918/- together with 30% per annum interest on the principal sum of Rs.40 Crores; that D1 is a studio content management, brand integration and content re-licensing entity, D2 is in communications, media and entertainment industries and plaintiff is



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engaged in the business of real estate, investments, finance and funding of movies; that the suit is predicated on what according to the plaintiff is financial assistance to the tune of Rs.40 Crores given to defendants in multiple tranches; that both the defendants had not filed written statement on the date on which impugned order was made by Commercial Division; that as regards the impugned order, the same as alluded to supra is a common order i.e., common order in as many as 7 applications. The prayers in the seven applications are i) O.A.No.112 of 2024 has been filed with a prayer to grant an ad-interim injunction restraining the 1st and 2nd respondents from making any future alienations of the rights in the films mentioned in Annexures B and C of the second amendment to the loan agreement dated 12.07.2023 without prior notice to the applicant therein, ii) A.No.944 of 2024 has been filed to direct 1st and 2nd respondents to render the accounts with respect to any alienation/license of the rights in the film mentioned in Annexures B and C of the second amendment to the loan agreement dated 12.07.2023, iii) A.No.945 of 2024 has been filed to direct 1st and 2nd respondents to pay a sum of Rs.23 Crores or such other amount that has been realised till date being the 2nd respondent's share of revenue from alienation or licensing of the rights in the film set out in Annexures B and C of the Second Amendment



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to the Loan Agreement dated 12.07.2023 to the applicant, iv) O.A.No.113 of 2024 has been filed to grant an interim injunction restraining the 3rd respondent, their agents, servants or anybody claiming through or under them from making any payments to the 1st and 2nd respondents pursuant to the release of the film Crakk, v) A.No.946 of 2024 has been filed to direct the 3rd respondent to furnish an affidavit, the statement of accounts in relation to the proceeds received by it pursuant to the release of the film Crakk, vi) A.No.947 of 2024 has been filed to direct the 3rd respondent to pay a sum of Rs.10 Crores or such other amount that has been realised till date pursuant to Annexure D of the Second Amendment to the Loan Agreement dated 12.07.2023 to the Applicant from the proceeds received from the release of the film Crakk, AND vii) A.No.948 of 2024 has been filed to appoint an advocate receiver to supervise the release of the movie Crakk and the monetary proceeds received therefrom; that Commercial Division has directed deposit of 25% of the suit claim to the credit of the suit before 30.04.2024 and further directed deposit of another 25% of suit claim on or before 03.06.2024; that contending that they are aggrieved by this impugned order, D1 and D2 have filed aforementioned OSAs; that the plaintiff is on caveat.



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8. Notwithstanding very many grounds that have been urged/raised in the memoranda of grounds of appeal qua captioned OSAs, learned Senior counsel made one primary submission and that is, there is no dispositive reasoning in the impugned order. In support of this contention, learned Senior counsel drew our attention to fair and decretal orders.

9. As regards the aforementioned point i.e., that there is no dispositive reasoning in the impugned order, there is no disputation or contestation. Be that as it may, as regards written statement, we are informed that D2 has since filed written statement and D1 is yet to file written statement.

10. As the impugned order does not contain dispositive reasoning, we deem it appropriate to set aside the same and remit the matter back to Hon'ble Commercial Division for *de novo* hearing and for making orders afresh.

11. Before we do that we deem it appropriate to record that we



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are informed that there are other applications which have been taken out by the plaintiff [other than these seven applications in which impugned order has been made] more particularly O.A.Nos.176 to 178 of 2024 and A.Nos.1275 and 1276 of 2024.

12. However, from the submissions made at the Bar we find that multilingual cinematograph film titled 'Singam Again' [hereinafter 'said movie' for the sake of convenience] is scheduled to be released on 15.08.2024 and that release of said movie can have the effect of effacing possible security for the plaintiff. Learned Senior counsel, on instructions, submitted that D1 and D2 are neither producers nor co-producers of said movie. We express no opinion on this submission as we are remitting the matter back to the Commercial Division for *de novo* hearing. However, in the interest of balancing the rights of the parties and ensuring that there is a level playing field for hearing out the seven applications (in which impugned order has been made) as well as other applications, we deem it appropriate to say that there will be an interim order directing D1 and D2 to not to enter into any third party agreement qua said Movie without leave of the Commercial Division. This interim order will operate until disposal of aforementioned 7 applications, O.A.Nos.176 to 178 of 2024 and A.Nos.1275, 1276 of 2024, which we



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are informed is now pending. However, it is open to the Commercial Division to modify the impugned order if there is any other arrangement that is arrived at or made as between the parties between now and disposal of 12 applications as well as main suit which will obviously be governed by the Commercial Courts Act, 2015.

13. We also make it clear that aforementioned 12 applications and any other application/s shall be heard out by the Hon'ble Commercial Division untrammelled by this order which has been made only for the limited purpose of disposal of the captioned OSAs, more particularly disposal by remitting the matter back to the Commercial Division and for balancing the rights of the parties.

Captioned OSAs and captioned CMPs are disposed of in the aforesaid manner. There shall be no order as to costs.

(M.S.J.) (K.G.T.J.)
30.04.2024

Index: Yes/No
Neutral Citation: Yes/No
gpa
To
The Sub-Assistant Registrar
Original Side,
High Court, Madras.

M.SUNDAR.J.,



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and
K.GOVINDARAJAN THILAKAVADI, J.,
gpa

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