

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO.723 OF 2014

Zee Entertainment Enterprises Limited	...Applicant
vs.	
Miss Komal Jadhav alias Komal Sandeep Kamble	...Respondent

Mr. Ankit Lohia with Sumit Raghani i/b. M/s. Agrud Partners for the Applicant.
Mr. Machhindra A. Patil for the Respondents.

CORAM : R. M. SAVANT, J.

DATE : 23RD FEBRUARY, 2015.

PC. :-

The revisionary jurisdiction of this Court is invoked against the order dated 21st March, 2014. By the said order the learned 6th Joint Civil Judge, Junior Division, Vashi, has ruled that the said Court has the jurisdiction to try and entertain the Suit. The Suit in question being Regular Civil Suit No.41 of 2014 is filed by the Respondent against the Applicant herein for the alleged breach of her copy right in respect of a literary work. It is alleged against the Defendant that the script of the Plaintiff is being used by the Defendant for production of a serial which is being presently telecast on one of the channels. Hence, a declaration is sought in the Suit as regards the alleged violation of the Plaintiff's copy right, in view of the said relief sought in the Suit the Defendant i.e.

the Applicant herein raised an issue as regards the jurisdiction of the Trial Court that is the learned Civil Judge, Junior Judge, to try and entertain the Suit. This was on the touch stone of section 62 of the Copy Right Act, 1957. In view of the objection raised by the Defendant, the Trial Court framed the following two issues:-

“(1) whether the suit is barred by the Provision of the Copy Right Act?

(2) Whether this Court is having jurisdiction to try and entertain present suit?”

2] In so far as issue No.1 is concerned, the Trial Court answered the same in the negative and in so far as issue No.2 is concerned, the Trial Court answered the same affirmatively. The gist of the reasoning of the Trial Court as can be seen from its impugned order is based on the distinction between a registered copy right and an unregistered copy right. The Trial Court has held that in view of the fact that the literary work of the Plaintiff in respect of which she claims the alleged breach is an unregistered work and, therefore, the jurisdiction of the Trial Court is not barred. The Trial Court sought to place reliance on section 54 to 61 of the said Act. Since the adjudication of the issue of jurisdiction revolves around only the provisions of the said Act, this Court with the assistance of the learned counsel for the parties went through the said provisions. On perusal of the said provisions, this Court did not find any distinction made between an unregistered or a

registered copy right in the said provisions. In so far as the jurisdiction conferred on the Court is concerned, in terms of section 62 any proceeding arising out of the infringement of the copy right in any work or the infringement of any other right conferred by the said Act shall be instituted in the District Court having jurisdiction. The fact that section 64 provides for a registration of a copy right would not impinge upon the jurisdiction of the District Court to entertain the Suit and for a party alleging infringement of the copy right to institute the proceedings in the District Court.

3] In my view, therefore, the Trial Court has committed an error of jurisdiction in coming to a conclusion that it has the jurisdiction to try and entertain the Suit. However, in so far as the answer to the issue No.1 is concerned, this Court does not deem it appropriate to interfere with the said decision. It is only in so far as the answer to the issue No.2 is concerned, that the finding of the Trial Court, that it has the jurisdiction to entertain the Suit is not sustainable. Hence, in so far as issue No.2 is concerned, it would have to be held that the Suit as filed before the learned Joint Civil Judge, Junior Division, Vashi, is not maintainable. The plaint would, accordingly, have to be returned to the Plaintiff to be filed and presented before the appropriate Court. The Civil Revision Application is allowed to the aforesaid extent and to accordingly stand disposed of.

4] The Plaintiff prior to the presentation of the plaint before the appropriate forum, to give notice to the Defendants of such filing.

(R. M. SAVANT, J.)

wadhwa