

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 25 .11.2016

Pronounced on: 09.12.2016

CORAM

THE HON`BLE MR.JUSTICE N.SATHISH KUMAR

CS.No.60 of 1995

S.M.Ashokan .. Plaintiff
amended as per Order dated
13.11.2008 passed in
A.No.2957 of 2003

vs.

1. Raj Television Net Work Ltd.,
amended as per Order dated
06.02.1997 passed in
A.No.350 of 1997 [SJJ]

2. Ravi
3. Rajendran
4. Nadarajan Varatharajan .. Defendants

Civil Suit filed under Order IV Rule 1 of High Court O.S.
Rules 1956 read with Order VII Rule 1 CPC praying for the
following judgment and decree:

- (i)for a declaration that the plaintiff is the absolute and exclusive owner of all the copy rights of Distribution, exhibition and exploitation in the Tamil talkie picture "Bhuvana Oru Kelvikuri" and " Vattathukkul Sathuram", in all dimensions including the right to telecast in all Televisions and all other rights.
- (ii)For a permanent injunction restraining the defendants their agents, servants, assignees, successors representatives and men and every one claiming under them and acting on their behalf from in any way interfering with the plaintiff's copy right, in the tamil talkie pictures "Bhuvana Oru Kelvikkuri" and "Vattathukkul Chaduram", either by telecasting the said pictures either in Raj T.V. Or in any other T.V. Or by exhibiting or exploiting the same in any other manner.
- (iii)Directing the defendants jointly and severally pay the plaintiff Rs.2 lakhs (Rupees two lakhs only) as compensation for the infringement that they have comitted by illegally and wrongfully telecasting "Bhuvana Oru kelvikkuri" on Raj T.V.;
- (iv)Directing the defendants to pay costs of the suit; and grant

such other suitable reliefs.

For plaintiff : Mr. B.Arvind Srevatsa

For Defendants : Mr.M.C. Ramesh

For D4 : *Ex parte*

J U D G M E N T

The suit is filed for declaration and permanent injunction of the suit pictures.

2. The brief facts of the case of the plaintiff are as follows:

The plaintiff is the absolute and exclusive owner of the negative rights, title and interest in respect of the two Tamil talkie pictures, "Bhuvana Oru Kelvikkuri" and "Vattathukkul Saduram", black and white, which have been transferred by the previous owner, M.S.Mani, who is the Proprietor of M.A.M. Film. Based on the written letter dated 16.3.1979 by M.A.M.Film, the A.V.M.Laboratory Service has confirmed the arrangement and transferred the picture and sound negatives in favour of the plaintiff irrevocably.

2.1. While so, N.S.Mani, Proprietor of M.A.M.Films, seems to have entered into an agreement dated 27.4.1985 with one Nadarajan Varatharajan, in respect of video rights of the aforesaid pictures for Indian Union only and also received a sum of Rs.250/- on 27.4.1985 and Rs.4,250/- on 27.5.1985. However, there is no record to show the assignment of video rights.

2.2. It is stated that one S.Rajeswari assigned the entire copyright of the above said pictures in favour of the plaintiff by letter of assignment dated 15.01.2001 and the same was confirmed by A.V.M.Cine Lab on 30.8.2001. Thus, the plaintiff is the absolute owner of the suit pictures. Subsequently, S.Rajeswari died on 12.8.2001.

2.3. According to the plaintiff, the Video Rights means only taking video tapes of the pictures to be put in home exhibition

and nothing else. Copyright is a bundle of rights and only the specific rights will go to the assignee and all other rights will remain with the assignor. The plaintiff is having the exclusive copyright to distribute, exhibit and exploit the aforesaid two pictures in public by screening the same in theaters for public and also for commercial screening and all other rights including satellite Television. It is stated that the plaintiff has already committed distribution of rights in all over Tamil Nadu by executing agreements.

2.4. When things are such, the defendants have screened the picture "Bhuvana Oru Kelvikkuri" in Raj T.V. satellite Television on the evening of 26.12.1994. In view of the said act of the defendants, all the assignee cancelled the agreement and due to the same, the plaintiff has incurred heavy loss. It is stated that there was an offer from Sun TV. To the plaintiff for the picture "Bhuvana Oru kelvikurri" for a sum of Rs.60,000/- but the plaintiff did not agree because this will affect distribution

rights.

2.5. Therefore, the plaintiff sent a telegraphic notice to the first defendant. Having received the telegraphic notice, the first defendant again telecasted the Tamil talkie picture " Bhuvana Oru Kelvikkuri" in Raj TV. In spite of protest from the plaintiff the defendants are continuing to infringe the plaintiff's copy right without any iota of right. The defendants are threatening that they will infringe the copyright of the plaintiff in the other Tamil talkie picture" Vattathukkul Sathuram" Therefore, the plaintiff filed the present suit.

3. The case of the first defendant, in nutshell, is as follows:

The defendant denied the allegations made in the plaint. The plaintiff is not a party to the transactions between the said N.S.Mani and the 4th defendant. The first defendant also denies the allegation that they had illegally telecasted the Tamil talkie picture "Bhuvana Oru Kelvikkuri" through their Television Network and they had not telecasted the said picture on 26.12.1994

or any other subsequent dates. The plaintiff has not chosen to furnish the actual date and time on which the said picture was telecasted. The plaintiff has not sent any notice calling for explanation about the alleged infringement. The suit is filed to make a wrongful gain and to make a unjust enrichment. The claim for damages alleged to have been sustained by the plaintiff is not tenable. The allegations that the defendants have infringed the plaintiff's alleged copyright is false and the same has been made only for the purpose of the case. Further, the allegation that the defendants are threatening to infringe the plaintiff's alleged copyright of the picture "Vattathukkul Sathuram" is also made for the purpose of the case. Hence, the suit is devoid of merits and is liable to be dismissed.

4. The defendants 1 to 3 have also filed additional written statement, wherein, they have stated as follows:

Though the plaintiff's assignor / predecessor-in-interest has acquired the negative rights in the year 1979, the plaintiff's

assignor has not chosen to mention the exact date on which the transfer of rights or assignment of rights have been made in his favour. Further, there is no assignment of copyright at all in the manner known to law. There was no satellite or television rights in existence. The original plaintiff is reported to be dead on 12.7.2001. Therefore, the claim for damages dies with the person, who is dead before the trial and, therefore, the present plaintiff cannot step into the shoes of the original plaintiff for prosecuting the claim for damages. Further, the substitution of the present plaintiff itself is unsustainable as the right to sue does not survive. The alleged letter of assignment shows that the present plaintiff has been authorised to deal with the negatives and nothing more. Therefore, there is no valid assignment at all in favour of the present plaintiff and the present plaintiff cannot rely upon the alleged letter of assignment dated 15.01.2001 to prosecute the present suit. Therefore, the defendants prayed for dismissal of the suit with exemplary costs.

5. On the above pleadings, originally, this Court, on 19.02.2009, has framed the following issues:

- (i) Whether the plaintiff is entitled to have a declaration that he is the absolute and exclusive owner of all the copy rights of distribution, exhibition and exploitation in Tamil Talkie Pictures "Bhuvana Oru Kelvikkuri" and "Vattathukkul Sadharam" in all dimensions and all other rights?
- (ii) Whether the plaintiff is entitled to seek a permanent injunction against the defendants?
- (iii) Whether the defendants are liable to pay a sum of Rupees Two Lakhs as damages to the plaintiff?
- (iv) To what relief the plaintiff is entitled to?

6. On the side of the plaintiff, P.W.1 was examined and Exs.P1 to P15 were marked. On the side of the defendant, D.W.1

was examined and Exs.D1 and D2 were marked. The details of the documents and witnesses are hereunder:

Exhibits produced on the side of the plaintiff:

<i>S.No.</i>	<i>Exhibits</i>	<i>Date</i>	<i>Description of documents</i>
1.	P-1	16/3/1979	Letter from MAM Films to Laboratory
2.	P-2	71179	Letter from Laboratory to Mrs. S.Rajeswari
3.	P-3	27/04/1985	Letter from MAM Films to Nadarajan Varadharajan
	P-4	27/5/1985	Receipt issued by MAM Films
	P-5	2195	Telegram issued by Plaintiff
	P-6	5195	Power of Attorney executed by Mrs.S.Rajeswari in favour of Mr.S.M.Ashokan
	P-7	-	Original C.D
	P-8	-	cassette
	P-9	17/7/2001	Death certificate of Mrs.S.Rajeswari
	P-10	15/1/2001	Letter from Mrs.S.Rajeswari to Laboratory
	P-11	30/8/2001	Letter from Laboratory to Mr.S.M.Asokan
	P-12	9801	Letter from S.M.Asokan to Laboratory
	P-13	26/12/1994	Letter from S.M.Asokan to Laboratory
	P-14	27/5/1995	Letter from S.M.Asokan to Laboratory
	P-15	26/12/1994	Agreement between Mrs.S.Rajeswari and Mr.J.Raji

Exhibits produced on the side of the defendant:

<i>S.No.</i>	<i>Exhibits</i>	<i>Date</i>	<i>Description of documents</i>
1.	D-1	27/5/1985	Agreement between MAM Films and Nadaraja Varadharaja
2.	D-2	23/11/1985	Agreement between Nadaraja Varadharaja and Raj Videovision

Witnesses examined on the side of the plaintiff:

P.W.1. - S.M.Ashokan

Witnesses examined on the side of the defendant

D.W.1 – Raveenderan

7. Heard, Mr.B.Arvind Srevatsa, learned counsel appearing for the plaintiff and Mr.C.Ramesh, learned counsel appearing for the defendants and perused the records.

8. The learned counsel for the plaintiff submitted that the plaintiff is the absolute owner of the films "Bhuvana Oru Kelvikkuri" and Vattathukkul Sadharam" based on the assignment given by erstwhile owner. But the fourth defendant in collusion with other defendants, has infringed the rights of the

plaintiff's copyright. The conduct of the defendants in keeping silent would clearly show that they have infringed the rights of the plaintiff. Further, once the rights of assignment is in favour of the plaintiff, further assignment in the name of the defendants as stated by the defendants in the written statement is not possible. The documents Ex.P1 to P15 filed on the side of the plaintiff clearly established the rights of the plaintiff.

9. It is the submission of the learned counsel for the plaintiff that Ex.D2 is the xerox copy of the lease contract, in which the addresses of the parties are one and the same. This fact clearly established the collusion of the defendants in infringing the rights of the plaintiff. Hence, the learned counsel for the plaintiff prayed for judgment and decree.

10. On the contrary, the learned counsel for the defendants 1 to 3 strenuously argued that the plaintiff himself has admitted in the cross examination that he has no documents whatsoever,

to prove the alleged assignment. The alleged assignment in favour of the plaintiff has not been made as contemplated under Section 19 of the copyright. Further, except, Ex.P1 letter there is no document to show that the plaintiff is having valid assignment. Even Ex.P1, letter was made in the year 1979, whereas the dispute has arisen only in the year 1994. Furthermore, original plaintiff died as early as on 12.07.2001. Ex.P10, so called letter dated 15.01.2001 is created only for the purpose of case that too, during the pendency of the suit. Ex.P11 is the letter dated 30.08.2001 said to have been sent to the original plaintiff, S.Rajeswari, after her demise, clearly established the fact that Ex.P10 was created only for the purpose of the case. Ex.P14 also subsequent to the suit, which cannot be given much importance. Ex.P15, the agreement also cannot be given much importance. Since original document has not been produced and the plaintiff failed to prove that he has a valid copyright, more particularly, the Television and satellite right, it cannot be construed as a valid assignment.

11. It is further contention of the learned counsel for the defendants that the suit itself is abated. Only the present plaintiff was substituted in the place of original plaintiff, S.Rajeswari, and he has no right to prosecute the suit. Hence, he prayed for dismissal of the suit.

12. In support of his contention, the learned counsel relied on the judgments of this Court reported in 2001-3-LW.172 (**Meena Panchu Arunachalam v. M/s.SUN TV**) and 1994-2-LW 158 (**Raj Video Vision vs. M/s SUN TV**).

Issue No:1

13. The suit has been originally filed by S.Rajeswari, rep.by her Power Agent, Mr.S.M. Asokan, for declaration that she is the absolute and exclusive owner of all the copyrights of Distribution, exhibition and exploitation in the Tamil Talkie Picture "Bhuvaneswari Oru Kelvikkuri" and "Vattathukkul

Sadhuram", in all dimensions including the right to telecast in all Televisions and all other rights and for permanent injunction and also for damages. Subsequently, the present plaintiff S.M.Ashokan, then Power Agent of the original plaintiff is substituted as the plaintiff vide order of this Court dated 13.11.2008 in Application No.2957 of 2003 for the same relief.

14. The main contention of the plaintiff is that two Tami Talkie Pictures "Bhuvaneswari Oru Kelvikkuri" and "Vattathukkul Sadhuram" belong to him and negative rights, title, and interest in respect of the above films were assigned to S.Rajeswari, original plaintiff, on 16.3.1979 by the previous owner, N.S.Mani, the Proprietor of M.A.M Films, which is evident from Ex.P1. The above assignment is also confirmed by AVM Cine Lab, by way of letter dated 07.11.1979, Ex.P2.

15. According to the plaintiff, the said S.Rajeswari was the absolute owner of the negative rights. While so, the previous

owner, N.S.Mani, negotiated with the fourth defendant in respect of video rights only for the Indian Union only. The original assignee, S.Rajeswari assigned the entire copyright of the above movies to the present plaintiff by letter of assignment dated 15.01.2001, Ex.P10 and the same was also confirmed by the A.V.M. Cine Lab, vide letter dated 30.8.2001, Ex.P11. Hence, according to the plaintiff, he is the absolute owner of the negative rights. While so, the defendants have screened the picture "Bhuvaneswari Oru Kelvikkuri" in Raj T.V. satellite Television on 26.12.1994. Therefore, the plaintiff has come forward with the present suit for various reliefs.

16. The defendants denied the allegations made in the plaint, particularly, the allegation that they telecasted the picture in the satellite TV. It is the contention of the defendants' counsel that the suit itself is filed for unlawful gain. Ex.P1 is the letter dated 16.8.1979, issued by M/s. MAM Films to A.V.M Laboratory Service, wherein it was stated that they assigned negative rights in favour of S.Rajewari from 1977. In the said letter, the MAM

Films also requested the AVM Laboratory Service to transfer the negatives both picture and sound of the above said pictures in favour of S.Rajeswari. Ex.P2, is the letter dated 07.01.1979 addressed by the AVM Laboratory service to Mrs.Rajeswari confirming that they have transferred both picture and sound negatives of the aforesaid pictures in favour of her. The above letters, which were sent in the year 1979, indicate that the negative rights of the pictures and sound were transferred in the name of S.Rajeswari. Of course, from the above letters, no period, whatsoever, could be ascertained except assigning the negative rights of the pictures as well as sound. Ex.P3 is also another letter written by MAM Films to the fourth defendant giving Video rights of the suit pictures for entire Indian Union Only.

17. Be that as it may. Ex. P5, telegram sent by the present plaintiff, as a Power Agent of the said S.Rajeswari, to the first defendant expressing remonstrant over telecasting the

picture "Bhuvana Oru Kelvikkuri" in Raj TV. Ex.P6 is the Power of Attorney executed by Mrs.S.Rajeswari in favour of the present plaintiff. Ex.P7 is the C.D and Ex. P8 is the cassette recorded by the plaintiff to show that the movie "Bhuvana Oru Kelvikkuri" was telecasted in the Raj T.V.

18. It is to be noted that mere exhibiting CD alone, without establishing the origin of the CD, which has recorded and without getting an expert opinion as to the originality of the CD to disprove the possibility of any insertion or deletion, will not help the plaintiff's case. The plaintiff ought to have taken steps to examine the CD by experts, as the plaintiff himself admitted in the cross examination that he has not taken the video copy of the film. Though he has denied the suggestion that tape was procured by him and film was recorded there, it is the duty of the plaintiff to establish that Electronic record, namely, CD are free from any addition, or deletion. Therefore, Exs.P7 and P8 cannot be given much importance.

19. Now, it has to be analysed that whether the original owner, S.Rajeswari was assigned satellite rights over the film.

20. Except Exs.P1 and P2, letters of assignment of negative rights of the films, no other documents, namely, letter between the said S.Rajeswari and the original producer, namely, N.S.Mani, have been produced. It is to be noted that the present plaintiff is none other than the son of the said N.S.Mani. This fact has been admitted by the plaintiff in his cross examination. Further, Ex.P1, though indicate that negative rights were assigned in the name of S.Rajeswari, no specific period has been mentioned in the said letter. Further, Ex.P1 also silent about the assignment of satellite rights in favour of S.Rajeswari. In this regard, P.W.1 himself admitted in his cross examination that before advent of satellite channels, only the video rights will be assigned.

21. It is well settled that the owner of the copyright can

assign either wholly or partly and either generally or subject to limitations and either for the whole term of the copyright or any part thereof. In the light of the above, when this Court analyse Ex.P3, dated 27.4.1995, addressed by MAM Films to the fourth defendant, it is seen that the original owner, namely, Producer, N.S.Mani, has agreed to transfer the video rights for both pictures in favour of the fourth defendant. This Ex.P3 is not disputed by the plaintiff even in the plaint. Ex.P4 is the receipt for a sum of Rs.4,250/- towards grant of video rights of the above pictures to the fourth defendant.

22. So, a reading of Exs.P3 and P4 would show that same indicate that original owner, Mr.N.S.Mani, has assigned the negative rights in respect of the suit pictures to the fourth defendant. The above retention rights towards the video rights clearly indicate that the plaintiff or his predecessor-in-title was not given the entire rights as stated in the plaint.

23. This apart, P.W.1, in his cross examination, has admitted that video rights and satellite rights are not included in the negative rights. Further, he has also admitted that there is no document to show that M.A.M. Film has assigned the video rights and satellite rights in respect of the picture "Bhuvana Oru Kelvikkuri" .

24. It is pertinent to point out here that P.W.1, who is none other than the son of the original owner / producer of the film, had knowledge about the assignment of rights at the earlier point of time and his positive admission in his evidence that S.Rajeswari had no video rights as well as satellite rights of the pictures cannot be ignored altogether. In fact, the above admission clearly show that only for the purpose of distribution of the films for theatres, the said S.Rajeswari was originally given rights under Exs.P1 and P2. This inference is very much possible in view of the admission of P.W.1, who is none other than son of original owner, N.S.Mani, who signed Ex.P1.

25. Admittedly, the present plaintiff was substituted in the place of the original plaintiff, after her death. It is the contention of the learned counsel for the defendants that only after the suit was abated, the present plaintiff has come on record.

26. Be that as it may. Now the present plaintiff is continuing the suit on the ground that negative rights of the pictures referred to above, were assigned to the present plaintiff. In this regard, plaintiff has marked Ex.P-10, letter from S.Rajeswari, dated 15.01.2001. In this letter, in fact, the said Rajeswari requested the A.V.M. Laboratory Services to transfer the negative rights of both the picture and sound in the name of the present plaintiff. Subsequently, on 30.8.2001, AVM Cine Lab, addressed a letter to S.Rajeswari that they have transferred the above said two negatives in the name of S.M.Ashokan and this letter dated 30.8.2001 is marked as Ex.P11. Before this letter,

the said Rajeswari died, which is evident from Ex.P9, death certificate. She died on 12.7.2001. So, it is clear that this letter came into existence only after her death. Even assuming that this letter has been sent subsequently, by AVM Cine Lab, this Exs.P10 and P.11 would indicate that the negative rights alone were assigned to the present plaintiff herein.

27. Furthermore, the plaintiff himself admitted in the cross examination that the original plaintiff, S.Rajeswari had no video as well as satellite rights of the above films from the very beginning. P.W.1 is none other the son of the producer. So, he is well aware of all these facts. In the event Ex.P10 and Ex.P11 were taken as a valid assignment, only rights acquired by the original assignee alone were transferred to the present plaintiff. Except that, the present plaintiff would not have acquired any satellite rights as well as video rights.

28. It is to be noted that, after the amendment of the Act

23 of 1983 and 38 of 1994, for valid assignment, the assignment of copyright in any work shall identify such work, and shall specify the rights assigned and the duration and territorial extent of such assignment. Further, the period of assignment is not stated, it shall be deemed to be five years from the date of assignment. Similarly, the territorial extent of assignment of the rights is not specified, it shall be presumed to extend within India. Therefore, it is clear that for valid assignment of the copyright, period and territorial area have to be specified. But Exs.P.10 and P11 are totally silent about this aspect. Besides, consideration for assignment of such rights is also totally silent in Exs.P.10 and P.11 whereas Ex.P13 clearly shows that the plaintiff leased out the picture to one Raju for the areas of N.S.C and Madras city for a period of five years and 6 months commencing from 26.12.1994 to 25.06.2000. Ex.P14, letter dated 22.11.1995, addressed to the A.V.M.Laboratory by the plaintiff also shows that the plaintiff has leased out the picture for Old Salem and Dharmapuri District alone.

29. Similarly, the agreement entered into between S.Rajeswari (Lessor) and one Raji (Lessee) is marked as Ex.P15, which indicate that this agreement was made on 26.12.1994 and as per this agreement, S.Rajeswari was holding the absolute lease rights of the Tamil talkie picture titled "Bhuvana Oru Kelvikkuri", in 25 mm-B & W for the area of Madras City, North Arcot, South Arcot, Chinglepet districts including Pondicherry and Chittor areas for a period from 26.12.1994 to 25.6.2000. This document clearly indicates that only 35 mm – B&W rights alone given to lessee. From this, it is very clear that the original owner did not have any rights namely, the video as well as the satellite rights.

30. Furthermore, Ex.D1, the agreement entered into between the Proprietor N.S.Mani of M.A.M.Films and one Natarajah Varatharajah, shows that entire video rights of the films were assigned on 27.5.1985 in the name of the fourth

defendant. Ex.D2, the agreement between the fourth defendant and one South Indian Videos represented by one Ravindran, also shows that entire rights have been assigned to the fourth defendant. However, these Ex.D1 and Ex.D2 are the xerox copy and the originals were not marked. From Ex.D1, D2 and more particularly, and Ex.P3, make clear that fourth defendant alone has assigned the video rights independently.

31. Further, as discussed above, under Ex.P10 and P11 S.Rajeswari, has acquired some negative rights. Further, P.W.1, in his cross examination clearly, has stated that video and satellite rights were not assigned to said Rajeswari. Further, any assignment by the said Rajeswari in favour of the present plaintiff, will not give him a right to acquire satellite right or video right etc., What has been acquired by the original assignee alone could have been transferred to him. Therefore, now the plaintiff cannot seek a declaration of copy rights.

32. If the contention of the plaintiff's counsel that a copyright is a continuous right is taken into consideration, there was no necessity, whatsoever, for the original owner to assign such video rights in favour of the fourth defendant, as early as in the year 1985. P.W.1 is none other than the son of the original producer of the film. Even he himself admitted that S.Rajeswari did not have any video rights as well as satellite rights. Therefore, the contention of the plaintiff's counsel that entire rights attached to the film were acquired by S.Rajeswari is not sustainable.

33. Admittedly, the assignment from the said Rajeswari in favour of the present plaintiff is also not sustainable in law, as area specification and consideration are absent. Even assuming that Ex.P10 and Ex.P11 were given effect from the very beginning, the same itself is not sufficient to claim other rights, such as satellite rights on the basis of the said assignment. At the most, being the legal heir of the original producer, he ought have

filed a separate suit for establishing his right and he cannot claim such right only on the basis of the so called assignment in his name.

34. As already discussed the telecast of the Movie in the TV, has not been established by the plaintiff by producing convincing and cogent materials. Even assuming that they telecasted the Movie in the satellite TV, the plaintiff or his predecessor-in-title, has not acquired such satellite rights. Therefore, based on the subsequent assignment, the plaintiff cannot seek for declaration. Even assuming for the moment that the said S.Rajeswari acquired all rights, in the year 1979 satellite telecasting are not in existence, and the same came into existence only during the year 1994-1995. Therefore, there is no question of assigning the satellite rights in the year 1979, when such rights are not in existence. Therefore, the declaration sought for by the plaintiff is not sustainable in law.

35. In this context, it is useful to refer the judgment relied

on by the learned counsel for the defendants reported in 1994-2-L.W.158 (**RAJ VIDEO VISION v. SUN TV**), wherein this court held as follows:

"15. Thus, looked at from any angle, satellite TV broadcasting rights are independent rights and the same have to be assigned specifically and so far as such rights have not been assigned in favour of the applicant/plaintiff specifically, the plaintiffs cannot claim any copyright in the same or seek any order of injunction on the ground of alleged infringement by the defendant."

The above proposition has been reiterated by this Court in **Mrs.MEENA PANCHU ARUNACHALAM v. SUN TV**, reported in 2001-3-LW 172.

36. The judgments cited supra are squarely applicable to the facts of the present case, as in this case, no such

independent rights have been assigned to the plaintiff specifically.

37. Therefore, it is clear that original negative rights, which were given in the year 1979, did not acquire video rights or satellite rights, and that the plaintiff has not acquired any of the above rights in subsequent assignment said to have been made. Though it is the case of the plaintiff that he has acquired rights under Exs. P10 and P11 letter of assignment, as already discussed, there is no mention with regard to the period of such rights. The above letters were executed in the year 2001, much after the amendment of the Act. Therefore, once the period of assignment is not stated in the assignment letter or agreement, as per Section 19 (5) of the copyright Act, it shall be deemed to be five years from the date of assignment. Therefore, even if any right was acquired by the plaintiff, the same could have expired in the year 2006 itself.

38. From the above discussion and judgments cited supra,

this Court is of the view that the plaintiff has not made out any *prima facie* case. Therefore, the plaintiff is not entitled for declaration of the copyrights of Distribution, exhibition and exploitation in the Tamil talkie picture "Bhuvana Oru Kelvikuri" and " Vattathukkul Sathuram", in all dimensions including the right to telecast in all Televisions and all other rights. At the most he can have his right only which is derived from the original assignment. The issues are answered accordingly.

Issue Nos:2, 3 and 4

39. Since the above issues are held against the plaintiff and that the plaintiff has not established the fact that he has acquired Television and satellite rights, the permanent injunction also cannot be granted against him. Similarly, the plaintiff also failed to establish that the defendants telecasted the Movie in Television and as a result, he suffered huge damages. Mere oral evidence alone is not sufficient to grant the relief sought for by the plaintiff. Hence, these issues are also answered against the

plaintiff.

40. In the result, the suit is dismissed. No costs.

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Internet: Yes

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