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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL APPELLATE DIVISION

COMMERCIAL APPEAL LODING NO. 49 OF 2017
IN
NOTICE OF MOTION LODING NO. 2999 OF 2016
IN
COMMERCIAL SUIT NO. 385 OF 2017

Mr. Kritik Kumar Pandey

.. Appellant

Versus

Mr. Jai Hemant Shroff and ors.

.. Respondents

Mr. Rajiv Narula a/w Sunita Kabade for appellant.

Mr. Ravi Kadam, Sr. Advocate a/w Mr. Rohan Kadam a/w Mr. Kiran Padalkar a/w Miss. Kanan Chanda i/by India Law Alliance for respondent nos.2 and 3.

Mr. Akshay Patil i/by Mr. R. M. Azim for respondent nos.1 and 4.

CORAM: NARESH H. PATIL &
SMT. BHARATI H. DANGRE, JJ.

JULY 19, 2017.

P.C.

1. The appellant - original plaintiff challenges order passed by the learned Single Judge, dated 3/7/2017, in Notice of Motion (L) No. 2999 of 2016 in Suit No. 209 of 2017 (Commercial Suit No. 385 of 2017), rejecting interim relief.

2. Learned counsel appearing for the appellant submits that on 6/5/2015, as per the film industry practice, the plaintiff registered the synopsis of the story, containing story line and the plot, of “M J Return”. On 14/9/2015, the plaintiff also registered the said title “M J Return” with the Western India Film & TV Producer's Association and FMC. On 7/7/2015, e-mail was forwarded by the plaintiff to the defendant no.1's Manager - Isha Goraksha in respect of the synopsis of “ M J Return”. On 5/7/2016, an article was published in Mumbai Mirror stating that the defendant no.1 in the capacity of male lead would be acting in the Hindi feature film “Munna Michael”. The plaintiff, therefore, filed a complaint with Versova Police Station, Andheri on 10/7/2016 against the defendant nos.1 and 2.

3. Learned counsel appearing for the plaintiff submitted that according to the material collected by the plaintiff, the story of a Hindi film, which is to be released on Friday, named “Munna Michael” is identical with the story registered by the appellant – plaintiff with the association and the synopsis which was forwarded to the defendant no.1. In the facts, there is violation of the Copy Rights Act, 1957. The counsel,

therefore, prayed for appropriate interim orders.

4. Shri Ravi Kadam, learned Senior Counsel appearing for respondent nos.2 and 3 placed reliance on the judgment of the Supreme Court in the case of **R. G. Anand vs. M/s. Delus Films and ors. [(1978) 4 SCC 118]** to elaborate on the issue of copy right violations. The counsel submitted that there can be no copy in an idea. The copy must be a substantial and material one which at once leads to the conclusion that the defendant is guilty of an act of violation. According to the counsel, the plaintiff had failed to make out any case for grant of ad-interim relief at this stage. The counsel submitted that the trailer of the film was released on 6/6/2017. International rights of the distribution have been settled and the domestic distribution (in digital form) is also circulated. Though the order was passed on 3/7/2017 by the learned Single Judge, at a belated stage, the appeal was filed and circulated.

5. We have perused the record placed before us, the impugned order passed by the learned Single Judge and the judgment cited (Supra). We do not find any satisfactory explanation as to why appeal was filed and circulated at a belated stage when the learned Single Judge passed order on

3/7/2017. Apart from the said fact, we heard the parties on merits. Prima facie, we do not find that the appellant has made out a case to substantiate his plea at this stage that the idea, subject matter, themes of the appellant are substantially and materially copied by the defendants. Even otherwise, the steps for distribution of film nationally and internationally have been taken. The film is to be released day after tomorrow. Taking into consideration all these circumstances and the facts, we are not inclined to interfere in the appeal.

6. The appeal is accordingly dismissed.

(SMT. BHARATI H. DANGRE,J.)

(NARESH H. PATIL,J.)