

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.03.2017

PRONOUNCED ON : 03.04.2017

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

C.S.No.63 of 2011

A.Somasekhara Rao : Plaintiff

Vs.

1. Javvadi Narendra Babu
2. Y.Sambasiva Rao
3. Drona Vajjula Venkata Mahalakshmi
4. Eenadu Television Network
Unit of Ushodaya Enterprises Pvt.Ltd.,
5. Vijaya Colour Laboratory : Defendants

For Plaintiff : Mr.C.Ramesh

Defendant
Nos.1,2,3 & 5 : Set exparte

For Defendant : Mr.T.Srikrishna Bhagavat
No.4 for M/s.P.Subba Reddy

JUDGMENT

The suit has been laid for a declaration that the plaintiff is the absolute owner of the limited copyright namely, sole and exclusive rights of entire World Satellite Television Broadcasting Rights including India without any geographical restriction, VCD, DVD,

internet, Web TV, Pay TV, Doordarshan, IPTV, DVBT Broadband, Telephony rights, Mobile Phone rights, Wire, Wireless, Overseas, Portal Video on Demand or any other right that may come in future and any form of communication in the five telugu Pictures described in the Schedule to the plaint for the perpetual period and for permanent injunction restriaining the defendants, their men, agents, officers, etc., from telecasting either as a whole picture, its songs and clippings including promos, interfering or infringing the plaintiff's copyright namely the sole and exclusive rights of entire World Satellite Television Broadcasting Rights including India without any geographical restriction, VCD, DVD, internet, Web TV, Pay TV, Doordarshan, IPTV, DVBT Broadband, Telephony rights, Mobile Phone rights, Wire, Wireless, Overseas, Portal Video on Demand or any other right that may come in future and any form of communication in the five Telugu Pictures described in the Schedule to the plaint for perpetual period.

2. The averments contained in the plaint are briefly stated as follows:

The plaintiff is carrying on business in exhibition, exploitation and distribution of the motion pictures, commercial and non commercial in all gauges. The defendants 1 and 2 are carrying on

business as distributors of motion pictures in all dimensions and the 3rd defendant is carrying on business as producer of motion pictures in Telugu languages and the 4th defendant is a private satellite communication network and the 5th defendant is laboratory, where the negatives of motion pictures are kept and prints are processed. One D.L.Narayana was the producer of Telugu motion pictures and he produced the following pictures:

- i. Devadasu, starring A.N.R., Savithri
- ii. Chiranjeevulu, starring NTR., Jamuna
- iii. Kanyasulkam, starring NTR., Savithri
- iv. Dorikithe Dongalu, starring NTR., Jamuna
- v. Stree Sahasam, starring A.N.R., Bhanumathi., etc.

D.L.Narayana died in the year 1974 leaving behind his only son Krishna Murthy as his legal heir who inherited all the pictures produced by his father. Krishna murthy died on 22.05.1998 leaving behind his wife Drona Vajjula Venkata Mahalakshmi, the 3rd Defendant herein as his only legal heir entitled to succeed his estate. By an agreement dated 14.08.2008, the 3rd defendant assigned the World Satellite Broadcasting rights including World Negative Rights of all the 10 Telugu pictures including the five pictures described in the plaint schedule and the rights were granted in favour of the 2nd

defendant for a period of 99 years and for valuable consideration. The second defendant by an agreement dated 26.06.2009 assigned the World Satellite Broadcasting Rights including the World Negative Rights of the said 10 pictures including the pictures described in the plaint schedule in favour of the first defendant for a period of 99 years and for valuable consideration. The first defendant by an agreement dated 05.08.2010 assigned to the plaintiff, the world satellite broadcasting rights, video on demand and movies on demand, DTH, Broadband and telephone rights, IPTV, DVD and VCD etc in the 5 pictures described in the plaint scheduled including World Negative Rights in respect of the same, for a perpetual period of 98 years and for valuable consideration. Prior to the assignment in favour of the plaintiff, the first defendant caused a public notice in the local editions at Hyderabad about the rights held by him through his Advocate and by letter dated 25.06.2009, the Advocate of the first defendant has certified that he has not received any objection from any person for such advertisement. The first defendant by notice dated 28.07.2009 to the 4th defendant and 12 others brought to their notice about the publication made by him and also calling upon the 4th defendant and others not to deal with the rights. The 5th Defendant Laboratory by letter dated 16.08.2010 confirmed that the rights were transferred in favour of the plaintiff for perpetual period as regards the 5 pictures

described in the plaint schedule and a further publication was issued by the first defendant as well as the plaintiff and by letter dated 08.10.2010 the plaintiff's advocate has stated that no objection had been received from any person for such advertisement. The fourth defendant proposed to telecast the picture Kanyasulkam in their channel ETV on 30.11.2010 and the plaintiff issued a notice to the 4th defendant on 30.11.2010 about the rights acquired by him and also calling upon the fourth defendant to refrain from telecasting the rights. However, the 4th defendant had illegally telecasted the said picture on 30.11.2010 and the fourth defendant sent a reply dated 03.12.2010 claiming to have acquired the rights and also called upon the plaintiff to furnish the copy of the assignment deed. The plaintiff sent a re-joinder on 14.12.2010 calling upon the fourth defendant to furnish the documents under which they had acquired the rights but no response had been received from the 4th defendant as regards the same. The claim made by the 4th defendant is illegal, improper and in infringement the plaintiff's limited copy right. The plaintiff has acquired the limited copyright for valuable consideration in respect of the 5 pictures described in the plaint schedule and the claim of the 4th defendant with reference to the same is illegal, improper and hence the plaintiff has been constrained to lay the suit for the reliefs of declaration and permanent injunction.

3. The averments contained in the written statement filed by the 4th defendant are briefly stated as follows:

The suit is not maintainable either in law or on facts. Except those facts that are specifically admitted in the written statement, the plaintiff is to strictly prove the averments made by him in the plaint. Ushodaya Enterprises Private Limited (TV Division) is a private limited Company, incorporated under the Companies Act 1956 and ETV in the name of the Satellite Television Channels is owned and operated by Ushodaya Enterprises Private Limited (TV Division). Since Ushodaya Enterprises Private limited (TV Division) operated 12 satellite channels, all the 12 channels were collectively known as ETV Network and neither ETV nor ETV Network are legal entities and the description of the fourth defendant is wrong. One Ushakiron movies, a Proprietary business concern of Sri Ramoji Rao (HUF) acquired 5 feature films namely Kanyasulkam, Devadasu, Chiranjeevulu, Dorikite Dongalu and Allahuddin Adbhutha Deepam, all black and white Telugu pictures, vide the agreement dated 18.01.1995 from M/s.Pavithra Films (Annexure I). Smt.G.Kanaka Durgamba acquired the rights in the said film under a deed of dissolution dated 01-07-1984 and as per the deed of dissolution Smt.G.Kanaka Durgamba party No.5 and

G.Sujatha, Party No.8 together constituted "C" party to the dissolution deed who acquired rights in the films Vichitra Kutumbam, Kanyasulkam, Chiranjeevulu, Dorikite Dongalu, Devadas and Dongallor Dora etc. As per clause 5 of the said dissolution deed, the Managing Partner of the dissolved firm was to address all necessary letters to the laboratories showing rights of the parties therein in the respective films. M/s.Pavithra films have acquired the rights for all the above films for a valid consideration from one Smt.Kanakadurgamba by virtue of an agreement dated 17.01.1995. In or about 2007, Ushodaya Enterprises Private Limited (TV Division) acquired all the copyright rights in all the cinematography films held by Ushakiron movies, the Proprietary business concern of Sri Ramoji Rao (HUF) and even since then, Ushodaya Enterprises Private Limited (TV Division) has been exercising rights over the films in their own right. As per the agreement dated 18.01.1995, the Assignors of this fourth defendant has assigned the copyright for broadcasting the film through satellite, cable, wire, wireless or any other system other than through Doordarshan's Terrestrial primary channel without restriction of geographical area for a perpetual period. The respondent has telecasted the said movies on various dates already as detailed in the written statement and the fourth defendant has not claimed any copy right of the film "Stree Sahasam" as mentioned in the plaint. The

rejoinder dated 14.12.2010 stated in the plaint was never received by the fourth defendant. The defendant has received a registered cover through RPAD on 23.12.2010, in which, was enclosed a letter dated 12.12.2010 issued by the plaintiff withdrawing the legal notice dated 03.12.2010. The suit laid by the plaintiff is vexatious and frivolous and there is no cause of action for the plaintiff. The plaintiff having known that the 4th defendant had acquired the rights for telecasting the movies legally, has misrepresented the facts and approached the Court with unclean hands and hence, the suit is liable to be dismissed.

4. On the basis of the above pleadings, the following issues are framed for determination.

" 1. Whether the plaintiff is entitled to the relief of Declaration and Injunction as prayed for in the suit?

2. Whether the fourth defendant has acquired valid copyright in respect of S.Nos.1 to 4 of the suit pictures?

3. Whether the plaintiff has given up his claim over the suit properties as

claimed by the fourth defendant?

4. Relief and cost."

5. In support of the plaintiff's case, PW1 has been examined and Exs.P1 to 26 were marked. On the side of the fourth defendant, no oral and documentary evidence has been marked.

6. Issue No.1

The suit has been laid for a declaration that the plaintiff is the absolute owner of the limited copyright namely, sole and exclusive rights of entire World Satellite Television Broadcasting Rights including India without any geographical restriction, VCD, DVD, internet, Web TV, Pay TV, Doordarshan, IPTV, DVBT Broadband, Telephony rights, Mobile Phone rights, Wire, Wireless, Overseas, Portal Video on Demand or any other right that may come in future and any form of communication in the five telugu Pictures described in the Schedule to the plaint for the perpetual period and for permanent injunction restraining the defendants, their men, agents, officers, etc., from telecasting either as a whole picture, its songs and clippings including promos, interfering or infringing the plaintiff's copyright namely the sole and exclusive rights of entire World Satellite Television Broadcasting Rights including India without any geographical restriction, VCD, DVD, internet, Web TV, Pay TV,

Doordarshan, IPTV, DVBT Broadband, Telephony rights, Mobile Phone rights, Wire, Wireless, Overseas, Portal Video on Demand or any other right that may come in future and any form of communication in the five Telugu Pictures described in the Schedule to the plaint for perpetual period.

7. The suit pertains to the copyright and the incidental World Satellite Broadcasting rights and other rights in respect of the five telugu pictures described in the plaint schedule.

8. According to the plaintiff, one D.L.Narayana was the producer of the five telugu pictures described in the plaint schedule. The plaintiff claims rights in respect of the plaint schedule telugu films under the agreement dated 05.08.2010 entered into between the first defendant and the plaintiff, which has been marked as Ex.P5. According to the plaintiff, the first defendant had assigned the various rights of the five telugu pictures described in the plaint schedule in his favour for a valuable consideration. It is the case of the plaintiff that the third defendant is the daughter-in-law of D.L.Narayana and she had assigned the World Satellite broadcasting rights and other rights in respect of the five telugu pictures described in the plaint schedule in favour of the second defendant under the agreement

dated 14.08.2008, the copy of which has been marked as Ex.P1. The further case of the plaintiff is that the second defendant by an agreement dated 26.06.2009 had assigned the World Satellite Broadcasting rights and the other rights in respect of the five telugu pictures described in the plaint schedule in favour of the first defendant, the copy of which, has been marked as Ex.P3. It is, thus, found that the plaintiff has ultimately traced his rights in respect of the plaint schedule films only through the third defendant.

9. As adverted to supra, according to the plaintiff, the third defendant is the daughter-in-law of D.L.Narayana, who is stated to be the producer of the five telugu pictures described in the plaint schedule. The fourth defendant is contesting the case of the plaintiff as regards the four telugu pictures described in the plaint schedule, excepting the film Stree Sahasam, Starring A.N.R., Bhanumathi. However, the fourth defendant has contended that the plaintiff is to strictly adduce proof of the same also. Inasmuch as the plaintiff has traced his rights to the plaint schedule films through the third defendant by way of Ex.P1, P3 and P5, it is for the plaintiff to establish that the third defendant had the legal competency or right to assign the rights of five telugu pictures described in the plaint schedule under Exs.P1 and in turn, the second defendant had the

legal right to convey the same under Ex.P3 in favour of the first defendant and in turn, the first defendant has the legal competency to convey the same in favour of the plaintiff under Ex.P5.

10. The fourth defendant has also disputed the claim of the plaintiff that D.L.Narayana was the producer of the five telugu pictures described in the plaint scheduled and in the light of the same, it is for the plaintiff to establish by adducing acceptable evidence that D.L.Narayana indeed was the producer of the five telugu pictures described in the plaint schedule. As regards the above claim of the plaintiff, it is noted that the plaintiff is relying upon Exs.P21 to P25, which are stated to be the original of duplicate copy of the censor certificate relating to the 5 films described in the plaint schedule. However, as seen from the above said Exhibits and also seen from the admission of the plaintiff examined as PW1, even assuming for the sake of arguments that Exs.P21 to P25 could be accepted as the certificate of the Central Board of Film Certification as regards the 5 telugu pictures described in the plaint schedule, it is seen that under Exs.P22 and P25, the producer of the films mentioned therein, has been stated to be only Vinodha pictures and not D.L.Narayana. In this connection, cross examination was made to PW1 suggesting that the producer of the films mentioned in Exs.P22

and P25 is only Vinodha pictures and not D.L.Narayana, however, the plaintiff has denied the same and asserted that D.L.Narayana is the owner of the Vinodha pictures. However, as rightly contended by the counsel appearing for the fourth defendant, there is no material forthcoming on the part of the plaintiff to establish that D.L.Narayana is the owner of the Vinodha pictures. It is also found that there is no plea in the plaint that D.L.Narayana is the owner of Vinoda pictures as such. Therefore, it could be seen that even if Exs.P21 to P25 could be accepted, albeit the same, it has to be held that the plaintiff has failed to establish that D.L.Narayana is the producer of the two films mentioned in Ex.P22 and P25 and therefore, the case of the plaintiff that all the 5 Telugu pictures described in the plaint schedule had been produced by D.L.Narayana is found to be not established as such.

11. According to the plaintiff, D.L.Narayana is the producer of 5 Telugu pictures described in the plaint schedule. It is the case of the plaintiff that he died in the year 1974 leaving behind his only son Krishnamurthy as his only legal heir and thus, according to the plaintiff, Krishnamurthy inherited all the pictures produced by his father and further, according to the plaintiff, Krishnamurthy had died on 22.05.1998 leaving behind his wife Drona Vajjula Venkata Mahalakshmi, the third defendant and thus, according to the plaintiff,

the 3rd Defendant being the only legal heir to D.L.Narayana and his son Krishnamurthy is entitled to succeed to their estate and as such the third defendant is entitled to convey /assign the World Negative rights and other rights in respect of the five telugu pictures described in the plaint schedule under Ex.P1 in favour of the second defendant and thus, it is the case of the plaintiff that he had acquired the rights of the 5 telugu pictures described in the plaint schedule in Ex.P5.

12. The above case of the plaintiff is stoutly resisted by the fourth defendant. In such view of the matter, as rightly contended by the counsel for the fourth defendant, it is for the plaintiff to establish primarily that the 3 defendant, as such, is entitled to convey the World Satellite Broadcasting rights and other rights in respect of the five telugu pictures described in the plaint schedule under Ex.P1 in favour of the second defendant.

13. At the foremost, it is found that though the plaintiff has claimed that D.L.Narayana had died in the year 1974, as regards the above case of the plaintiff, there is no material forth coming. The plaintiff has not cared to mark the death certificate of D.L.Narayana. Even assuming for the sake of arguments that as put forth by the plaintiff, D.L.Narayana had died in the year 1974, it is for the plaintiff

to establish that D.L.Narayana died leaving behind his only son Krishnamurthy as his legal heir to succeed to his estate. As regards the above case of the plaintiff, there is no material forth coming other than the marking copy of the death certificate of Krishnamurthy as Ex.P15. The plaintiff has not endeavored to establish that Krishnamurthy is the only legal heir left behind by D.L.Narayana. In this connection, it is stated by the plaintiff's counsel that under Ex.P15, the father's name of Krishnamurthy is mentioned as D.L.Narayana. But that would not clinch the issue. By Ex.P15, we cannot assume that Krishnamurthy alone is the legal heir of D.L.Narayana. In this connection, the plaintiff examined as PW1, during the course of cross examination, has admitted that after perusing the documents marked by him, the legal heir certificate of D.L.Narayana is not available and that, he has not produced the legal heir certificate of Krishnamurthy, but according to him, he has produced the voter ID card of the 3rd defendant. According to PW1, though he has not filed any document to show that the third defendant owns the right of the suit schedule pictures, but she has inherited the rights because she is the daughter-in-law of D.L.Narayana. In this connection, it is also noted that the plaintiff has also marked another document as Ex.26, which is stated to be the family Member certificate issued to the 3rd defendant by Tahsildaar

Machilipattinam Mandal, Andhra Pradesh, dated 30.06.2015.==

Therefore, It could be seen that Ex.P26 has come into existence, after the institution of the present civil suit. However, a perusal of Ex.P26 is found to be not supportive to the plaintiff's case. It is mentioned in Ex.P26 that the 3rd defendant is the wife of Krishnamurthy, who is the son of D.L.Narayana. That being the position, under the said document, it cannot be inferred that Krishnamurthy is the only son of D.L.Narayana and that there is no other legal heir to D.L.Narayana. It is also found that Ex.P26 has come to be issued as a family member certificate on the basis of the affidavit produced by the applicant and it is found that the applicant of the same, is the third defendant. As adverted to earlier, Ex.P26 has come into existence, after the institution of the civil suit. That apart, it has been clearly mentioned Ex.P26 that it is only a family member certificate and not a legal heir certificate. In such view of the matter, it could be seen that the plaintiff cannot derive any support from Ex.P26 to contend that Krishnamurthy is the only legal heir of D.L.Narayana, who is stated to be the producer of five telugu pictures described in the plaint schedule. As seen above, even in respect of 2 telugu pictures described in the plaint schedule, the plaintiff has not established as such that D.L.Narayana is the producer of the same, vide Ex.P22 and 25. Be that as it may, in the light of the above discussions, when it is

found that the plaintiff has not established that D.L.Narayana left his only son Krishnamurthy as his sole heir and thereby, Krishnamurthy's wife, the third defendant is entitled to convey the rights in respect of 5 telugu pictures described in the plaint schedule under Ex.P1 in favour of the second defendant, it could be seen that the plaintiff has miserably failed to establish that the third defendant had the legal competency to convey any right in respect of the Telugu pictures described in the plaint schedule under Ex.P1 in favour of the second defendant. The other documents produced on the side of the plaintiff do not in any manner advance the case of the plaintiff as regards the legal entitlement of the third defendant to convey the right of the telugu pictures described in the plaint schedule in favour of any person, particularly under Ex.P1 in favour of the second defendant. Therefore, when Ex.P1 is not established to be a legal conveyance by the plaintiff, the claim of the plaintiff that he has claimed the right of the telugu pictures described in the plaint schedule under Ex.P5, through Exs.P1 and P3 cannot be accepted in any manner and therefore, as rightly contented by the counsel appearing for the fourth defendant, the plaintiff has failed to establish that he had purchased the World Satellite Broadcasting rights and other rights of the 5 telugu pictures described in the plaint schedule from the lawful owners.

14. It is contented by the plaintiff's counsel that the fourth defendant though had raised various pleas in the written statement including the stiff resistance of the plaintiff's case, has not cared to come forward to adduce any evidence and therefore, according to him, the court should take adverse inference against the 4th defendant and taking into consideration of the evidence adduced on the side of the plaintiff, according to him, the plaintiff's case should be accepted. However, when it is found that the 4th defendant has vehemently disputed the entitlement of the reliefs sought for by the plaintiff in the plaint, it could be seen that the plaintiff having come forward with the suit seeking specific reliefs upon certain points have to establish the same. The plaintiff having failed to establish the same by adducing acceptable evidence, it could be seen that the plaintiff cannot be allowed to pick holes in the defendants' case and thereby endeavor to succeed in his case without any proof or material with reference to the same.

15. Under the agreements marked as Exs.P1, P3 and P5, it is found that the plaintiff has claimed rights of assignment in respect of five 5 Telugu pictures described in the plaint schedule for a period of 99 years. It is found that as per Exs.P21 to P25, the films mentioned therein, are stated to be certified by the CBFC on 11.08.1956,

31.07.1951, 22.02.1965, 22.08.1955 and 25.06.1953 respectively. Therefore, it could be seen that barring the film mentioned in Ex.P23, it is found that the other films had been produced during the years 1950 and when it is found that under section 26 of the Copy Right Act, 1957, in the case of the cinematography film, the Copy Right in respect of the same shall subsist until 60 years from the beginning of the calendar year next following the year in which the film is published, when it is found that the present suit having been laid by the plaintiff seeking the reliefs beyond the period of 60 years stipulated under Section 26 of the Copy Right Act, 1957, it could be seen that the suit laid by the plaintiff seeking the copy right of the films beyond the period mentioned under Section 26 of the above mentioned Act also cannot merit legal acceptance. However, it is contended by the plaintiff's counsel that when the parties have agreed to convey the rights in respect of the said films for more than period prescribed under section 26 of the above referred Act, the same cannot be curtailed. However, when under the Act, the copyright was to subsist only for 60 years from the date of publication of the film, it is found that the claim of the plaintiff in respect of the copy right of the 5 telugu pictures under Ex.P5 for a period of 98 years from 05.08.2010 as such also cannot be accepted in the eyes of law.

16. It is the specific case of the 4th defendant that he had already telecasted the 4 movies described in the plaint schedule on various dates and the details of the same had been given in the written statement. The same has not been controverted by the plaintiff by way of reply statement. It is also found that even after Ex.P5, the first film had been telecasted by the 4th defendant as stated in the written statement. As regards the above case of the 4th defendant, the plaintiff has not made any specific denial during the course of his evidence. The plaintiff has chosen to answer, as regards the same, that he does not know about the same. It could therefore be seen that the plaintiff has feigned ignorance about the telecast of the film by the 4th defendant. No doubt, the 4th defendant has claimed independent right in respect of the 4 films described in the plaint schedule. Be that as it may, it is found that the films had been already telecasted by the 4th defendant and the same had not been specifically controverted by the plaintiff.

17. However, it is contended by the plaintiff's counsel that as regards the contention of the counsel appearing for the 4th defendant with reference to Section 26 of the Copy Right Act, the same has not been specifically raised in the written statement. It is therefore submitted that as regards the above defence set out during the course

of arguments, the 4th defendant is not entitled to raise the same and in this connection, the decision reported in **2015(9) SCC 755 (Nandkishore Lalbhai Mehta V. New Era Fabrics Pvt. Ltd., & Ords.)** is relied upon.

18. That apart, it is also contended by the plaintiff's counsel that the plaintiff has not sought the relief as regards the Telugu pictures described in the plaint schedule only with reference to the copy rights but as also included the other rights pertaining to the release of the said films, through the satellite media and the other various media and in such view, the above said rights having come into existence after the Copy Right Act, 1957, it is contended that Section 26 of the Copy Right Act, 1957 would not be applicable to the facts and circumstances of the case at hand. In this connection, the reliance is placed upon the decision reported in **1994-2-L.W.158 (Raj Video Vision, registered partnership firm rep.by its partners V. M/s.Sun T.V.)**. However, as pointed out above, it is found that the plaintiff has mainly preferred the suit claiming the copy right of the telugu pictures described in the plaint schedule and also incidentally claimed the satellite rights and other rights with reference to the same. That apart, the main reliefs sought for the above plaintiff

pertains to the cinematography films and the copyright of the same as such and the other incidental rights flow from the main copyright, it is found that Section 26 of the Copy Right Act, 1957 would be applicable to the case at hand. In any event, as discussed in the course of the judgment, the plaintiff's case is not rejected mainly relying upon Section 26 of the Copy Right Act, 1957. On the other hand, the plaintiff's case is not accepted inasmuch as the plaintiff has failed to establish that he has acquired the copy right of the films concerned from the lawful owner.

19. When it is the specific case of the plaintiff that he would be able to sustain his case only if he is able to establish that he had purchased the rights in respect of the 5 films described in the plaint schedule from the lawful owner, it could be seen that the plaintiff would have been aware of the nature of the rights acquired by him with reference to the same. In this connection, the plaintiff, during his cross examination, has admitted that only after knowing the producer and the mechanism as to the acquisition of the purchase of the rights of the films and only after the verification of the ownership of the concerned films and after consulting the title verification of D2 & D3 and also with D1, he had purchased the rights under Ex.P5. Therefore, it could be seen that according to the plaintiff, only after due enquiry,

he has chosen to purchase the rights of the five films described in the plaint schedule under Ex.P5. However, when it is found that the plaintiff has failed to establish that the 3rd defendant had the legal competency to convey the rights to others, the claim of the plaintiff that he had acquired the rights from the lawful owners as regards the right of the 5 films described in the plaint schedule cannot be countenanced in any manner.

20. In the light of the above discussions, it is found that the plaintiff has miserably failed to establish that he has purchased/acquired the World Satellite Broadcasting rights and other rights in respect of the Telugu pictures described in the plaint schedule from the lawful owners. Accordingly, it is held that the plaintiff is not entitled to obtain the relief of declaration and injunction as prayed for in the suit.

21. Issue No.2

Though the 4th defendant has taken a defence in the written statement that he has acquired valid copy right in respect of the films described in serial No. 1 to 4 of the plaint schedule, as regards the said claim, there is no material forthcoming. As adverted to earlier, the 4th defendant has not endeavoured to establish his defence by

adducing any oral and documentary evidence. In such view of the matter, it is held that the 4th defendant has failed to establish that he has acquired valid copy right in respect of the Serial No.1 to 4 of the Telugu pictures described in the plaint schedule. Accordingly, issue no.2 is answered.

22. Issue No.3

The issue is framed as if whether the plaintiff has given up his claim over the suit properties as claimed by the 4th defendant. However, it is found that the 4th defendant has not specifically made any plea in the written statement that the plaintiff has given up his claim over the suit properties. Though in para-14 , he would state that the plaintiff has withdrawn the legal notice dated 03.12.2010, as regards the above defence, nothing is forthcoming on the part of the 4th defendant. In such view of the matter, it is held that there is no defence made by the 4th defendant that the plaintiff has given up his claim over the suit film. That apart, it is also held that the 4th defendant has not established that the plaintiff has given up his claim over the suit films. Accordingly, issue No.3 is answered.

23. Issue No.4

The suit is dismissed with cost.

03.04.2017

Index :Yes/No
Internet:Yes/No
sli/sms

T.RAVINDRAN,J.

sms

Pre-delivery Judgment in
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