

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 06.02.2017

PRONOUNCED ON: 24.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CS.No.1148 of 2009

M/s.Sri Subbhajothi Movies Limited
by its Managing Director V.Heerachand Surana
Chennai-17

Plaintiff

Vs

1. M/s.Gemini Production Pvt Limited by its
Managing Director K.V.Saravanan (Alias Saran)
Chennai

2. K.V.Saravanan (Alias Saran)

Defendants

Prayer:- This Civil Suit is filed under Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 of CPC for the reliefs as stated therein.

For Plaintiff : M/s.Vedavallikumar

For Defendants : Set Exparte

JUDGEMENT

This civil suit had been filed to pass a judgement and decree, against the Defendants:-

- (a) for a sum of Rs.30,75,000/- (Rupees thirty lakhs seventy five thousand only) being Rs.15,00,000/- towards principal and Rs.15,75,000/- towards interest @ 36% and for future interest @ 36% from the date of the plaint till the date of realisation.
- (b) for a sum of Rs.30,38,000/- (Rupees thirty lakhs thirty eight thousand only) being Rs.15,50,000/- towards profits and

Rs.14,88,000/- towards interest on sale profit of the movie MUNI which has been disposed off by the Defendants to third party and for future interest @ 36% from the date of the plaint till the date of realisation.

(c) directing the Defendants to pay costs.

2. It had been stated in the plaint that the Plaintiff is carrying on the business of film distributing and producing. The Plaintiff had entered into a minimum guarantee agreement with the Defendants, who are Film Producers, on 28.11.2006. The Defendants had agreed to grant the commercial and theatrical exhibition rights of the Tamil Film MUNI. As per the said agreement, the Plaintiff had paid to the Defendants a sum of Rs.5 lakhs on 23.2.2007 by cheque no.037030 drawn on Punjab National Bank, T.Nagar. The Plaintiff had also made further payments to the Defendants on the due dates. The Defendants did not comply with the obligations mentioned in Clauses 3, 4, 8, 11 and 12 of the said agreement. In violation of the said agreement, the Defendants had released the Film and distributed through some other person and also disposed of the rights to the third parties. Hence, the Plaintiff had called upon the Defendants to repay the amounts advanced under the said agreement with interest at 36% p.a. as it was a commercial transaction. The Defendant had also agreed to compensate the Plaintiff towards the profits of the Film and accordingly, the Defendants had given four post dated cheques dated 2.4.2007 for Rs.5 lakhs, Rs.5 lakhs, Rs.50,000/- and Rs.5 lakhs, bearing Nos.315047, 315048, 315049 and 051427, drawn on UTI Bank Limited, Anna Nagar, Chennai-102 and Indian Overseas Bank, Chennai-40, respectively. However, the Defendants had requested the Plaintiff not to present the said

cheques and to present the same only after instructions from them. In all, the Defendants are liable to pay a sum of Rs.30,75,000/- (Rupees thirty lakhs seventy five thousand only) being Rs.15,00,000/- towards principal and Rs.15,75,000/- towards interest on the sum advanced under the agreement. The Defendants had also agreed to pay a sum of Rs.15,50,000/- towards the share of profits, which would have earned interest of Rs.14,88,000/- if the Defendants paid the same on time. Thus, the total amount due and payable by the Defendants is Rs.61,13,000/- through the above transaction. Since the Defendants were evasive to pay the said amount, in spite of repeated demands, this civil suit had been for the reliefs as stated above.

3. Though the Defendants were served long back in the year 2011 as seen from the note of the Master dated 21.6.2011, no written statement had been filed by them. For non filing of the Written Statement, the Defendants were set exparte and Exparte Evidence was ordered by the order of this court, dated 03.01.2017. One V.Heerachand Surana, the Managing Director of the Plaintiff Firm, had filed the proof affidavit for his chief examination and receipt of 5 documents to prove the suit claim. In the exparte evidence, the said Managing Director was examined as PW.1 and Ex.P1 to P5 were marked.

4. Considering the oral and documentary evidence, viz. Ex.P1 to Ex.P5, adduced by PW.1, this Court is of the view that the plaintiff has proved the suit claim and hence, the Plaintiff is entitled for the reliefs, as asked for. Accordingly, this civil suit is decreed as prayed for with costs. Time for payment is three months.

24.02.2017

Index:Yes/No

Web:Yes/No

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1. List of Witnesses Examined on the side of the Plaintiff:-

1. P.W.1 - V.Heerachand Surana

2. List of Exhibits Marked on the side of the Plaintiff:-

S.No	Exhibit	Description	Date
1	Ex.P. 1	Original agreement between the Plaintiff and the Defendant	28112006
2	Ex.P. 2	Cheque no.315047 drawn on UTI Bank Limited given by the Defendant to the Plaintiff for Rs.5 lakhs	02042007
3	Ex.P. 3	Cheque no.315048 drawn on UTI Bank Limited given by the Defendant to the Plaintiff for Rs.5 lakhs	02042007
4	Ex.P. 4	Cheque no.315049 drawn on UTI Bank Limited given by the Defendant to the Plaintiff for Rs.50000/-	02042007
5	Ex.P. 5	Cheque no.051427 drawn on Indian Overseas Bank Limited given by the Defendant to the Plaintiff for Rs.5 lakhs	02042007

3. List of Witnesses Examined on the side of the defendants:-

Nil

4. List of Exhibits Marked on the side of the defendants:-

Nil

24.02.2017

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C.V.KARTHIKEYAN, J.

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Pre-Delivery Judgement in
CS.No.1148 of 2009

24.02.2017

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