

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 21ST DAY OF DECEMBER 2017

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

A. No.7646 of 2017

in

C.S. No.767 of 2017

Sanjay Bhansali
S/o.M.C.Bhansali
No.38, Audiappa Naicken Street,
Sowcarpet,
Chennai 600 079.

.. Applicant / Plaintiff

Vs.

1.J.Neelakandan @ V.T.V.Ganesh
Proprietor, M/s.VTV Productions
Son of Janardhanan
G-3, Lotus Colony,
Nandanam, Chennai - 600 035.

2.S.Rajeswari
Wife of J.Neelakandan,
G-3, Lotus Colony,
Nandanam, Chennai - 600 035.

.. Respondents / Defendants

Application praying that this Hon'ble Court be pleased to appoint an Advocate as Commissioner to monitor the release of the movie produced by the 1st respondent viz., "Chakka Podu Podu Raja" starring N.Santhanam and others, Music by T.R.Silambarasan and directed by G.L.Sethuraman, receive the collections and deposit the same to the credit of the above suit in C.S. No.767 of 2017.

This Application coming on this day before this court for hearing the court made the following order:

This application has been filed by the Plaintiff in CS.No.767 of 2017, seeking to appoint an Advocate Commissioner to monitor the release of the movie produced by the 1st Respondent, viz. 'Chakka Podu Podu Raja', starring N.Santhanam and others, music by T.R.Silambarasan and directed by G.L.Sethuraman, and to receive collections and deposit the same to the credit of the above suit in CS.No.767 of 2017.

2. CS.No.767 of 2017 has been filed, seeking recovery of a sum of Rs1,92,13,600/- together with interest and for permanent injunction, restraining the Defendants or anybody acting under them, from releasing the picture 'Chakka Podu Podu Raja', starring N.Santhanam and others, music by T.R.Silambarasan and directed by G.L.Sethuraman, without settling the dues of the Plaintiff and for costs.

3. According to the Plaintiff, the 1st Defendant, namely, J.Neelakandan @ V.T.V.Ganesh, Proprietor of M/s.VTV Productions, had approached the Plaintiff in the first week of September 2011, seeking financial assistance for production of Tamil Movie, starring T.R.Silambarasan and Trisha under his banner VTV Productions and he

had also offered Exclusive World Satellite Broadcasting Service, Satellite Television Broadcasting Service, etc for the movie 'Vinnaihandi Varuven', starring Silambarasan, Trisha, Santhanam and others, directed by Goutham Vasudeva Menon and produced by VTV.Ganesh.

4. According to the Plaintiff, a sum of Rs.50,00,000/- lakhs was paid and the 1st Defendant had agreed to repay the principal amount together with finance charges of Rs.12,00,000/-, amounting to Rs.62 lakhs in 12 monthly instalments, commencing from 13.10.2011. A promissory note was also executed on 13.9.2011 and a mortgage deed was also registered in Document No.7813 of 2011 on 20.9.2011 with respect to Flat No.2, Ground Floor, Block No.G, Housing Board Flats, Lotus Colony, Nandanam, Chennai 600035. However, the 1st Defendant was irregular in repayment. Thereafter, the Defendants had issued a cheque, bearing No.681683 on 8.10.2012 for a sum of Rs.71,77,000/- and the said cheque was returned with endorsement 'funds insufficient'. In this regard, CC.No.442 of 2013 had been filed and is pending on the file of the 8th Metropolitan Magistrate, George Town. It has been further stated that acknowledgements were also made admitting the liability.

5. It has been further stated that a movie, 'Chakka Podu Podu Raja' starring N.Santhanam and others is to be released on 22.12.2017 and consequently, an Advocate Commissioner is to be appointed to monitor the release of the movie.

6. It is to be mentioned that earlier, the Applicant/Plaintiff had filed OA.No.976 of 2017, seeking interim injunction, restraining the Respondents from releasing the movie, 'Chakka Podu Podu Raja'. This court had specifically observed that the Applicant had not taken any steps with respect to mortgage deed or the promissory note. This Court had, therefore, dismissed the said application, however had given the permission to file necessary application to monitor the collections from the release of the movie. In these circumstances, the present application has been filed, as stated above, seeking appointment of an Advocate Commissioner to monitor release of the movie.

7. Notice was directed and the Respondents had entered appearance and filed a counter. In the counter, it has been stated that the signatures in the various documents produced by the Plaintiff were forged and fabricated. Mr.M.K.Kabir, the learned senior counsel for the Respondents drew the attention of this court

to the various documents and stated that even to a naked eye, there is a difference in the signature of the Defendants. It has been further stated that the mortgage deed is admitted. But, however, all other documents are denied. It has been further stated that the promissory note was not executed by the Defendants. With respect to the cheque, it has been stated that the applications seeking to quash the proceedings had been filed in the High Court. It has been further stated that the Defendants were ready to repay the mortgage amount together with interest and as a matter of fact, the learned senior counsel has also produced a demand draft for a sum of Rs.12 lakhs, which was refused to be received by the learned counsel for the Applicant.

8. I have carefully considered the rival arguments.

9. The suit had been filed for recovery of a sum of Rs.1,92,13,600/- together with interest and for costs and for permanent injunction against the release of the movie, 'Chakka Podu Podu Raja'. Along with the suit, OA.No.976 of 2017 had been filed, but this court did not accede to the request to grant any injunction and at that time, this Court had felt that the probable better option for the Plaintiff would be to monitor the proceeds from the movie.

However, the said observations were made even before notice was directed to the Respondents.

10. Today, in this application, notice has been issued and the Respondents had entered appearance. In the counter, the Respondents denied the execution of the promissory note and also execution of the cheque. The Respondents had also denied the signatures in all the documents. The Respondents had only admitted the mortgage deed only for Rs.5 lakhs.

11. The learned senior counsel for the Respondents actually produced a demand draft for about Rs.12 lakhs to cover the principal and interest, towards mortgage. When there is total denial, the Court is handicapped in passing any orders. The Plaintiff will have to prove his case in a manner known to law, by adducing oral and documentary evidence.

12. At the time when OA.No.976 of 2017 was dismissed, this Court had felt that preventing release of a movie would not be a better option which could be encouraged by the Court, particularly, in view of the facts and circumstances of the case and at that time, had suggested that application of the present nature may be filed. But, by no stretch of imagination, that does not amount that restraint

orders should also be passed. Orders can only be passed only after hearing both sides.

13. In the present case, the Respondents have completely denied all the monetary transactions. The learned counsel for the Applicant has stated that there has been admissions that there is a promissory note and that cheque was issued. But, the signatures in the said promissory note and the cheque have been specifically denied. Once there is total denial, the matter is to be referred to trial. Consequently, I hold that the relief as prayed for in this application cannot be granted. Accordingly, this application is dismissed. No costs.

Sd./- C.V.K.J.

21.12.2017

//Certified to be true copy//

Dated at Madras this the th day of 2017.

COURT OFFICER (O.S.)

TPY/4.1.2018

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