

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 14.02.2017

PRONOUNCED ON: 17.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CS.No.977 of 2010

OA.No.1256 of 2010 and A.No.6844 of 2010

SUN TV Network Limited by its Manager (Programming)
L.Jotheeswaran, Chennai-28

Plaintiff

Vs

1. M/s.Vaishnavi Cinema by its Producer
S.Krishna Prasad, Hyderabad 500034

2. S.Krishna Prasad

3. New Volga Videos by G.Ravinath
Hyderabad-4

4. Balaji Colour Laboratories, Hyderabad-33

Defendants

Prayer:- This Civil Suit is filed under Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 of CPC read with Sections 55 and 62 of the Copyright Act, 1957.

For Plaintiff : Mr.B.K.Girish Neelakandan

For Defendants : Set Exparte

JUDGEMENT

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

- (a) granting declaration, declaring that the Plaintiff is the exclusive copy right holder of the cinematography film MITHRUDU (Telugu Colour) starring Bala Krishna, Priyamani, Brahmanandam Chandra Mohan, Dharmavarapu, Pradeep

Rawat and others directed by Mahadev and produced by S.Krishna Prasad inclusive of the rights of Satellite Television Broadcast, Direct to Home Broadcast, Direct Satellite Service, Terrestrial Television Broadcast and all other rights connected therewith including exhibition of the film by means of wireless diffusion and by wire for communication to the public through Television Broadcast for the entire world as assigned in the agreement dated 17.12.2008 and supplementary agreement dated 28.4.2009.

(b) granting permanent injunction restraining the Defendants from in any manner infringing the Plaintiff's copy rights in the cinematography film MITHRUDU (Telugu Colour), starring Bala Krishna, Priyamani, Brahamanandam Chandra Mohan, Dharmavarapu, Pradeep Rawat and others directed by Mahadev and produced by S.Krishna Prasad inclusive of the rights of Satellite Television Broadcast, Direct to Home Broadcast, Direct Satellite Service, Terrestrial Television Broadcast, CD, DVD and all other rights connected therewith including exhibition of the film by means of wireless diffusion and by wire for communication to the public through Television Broadcast CD, DVD for the entire world as assigned in the agreement dated 17.12.2008 and supplementary agreement dated 28.4.2009.

(c) awarding damages of Rs.25,00,100/-.

(d) Directing the Defendants to pay costs.

2. It had been stated that in the plaint that the Plaintiff is a popular satellite TV Network and is the exclusive copyright holder of the cinematography Telugu Film MITHRUDU, having acquired the copyright for the same by an assignment agreement dated 17.12.2008 and a supplementary agreement dated 28.4.2009 from the Producer S.Krishna Prasad, the 2nd Defendant herein. By the said supplementary agreement, it was agreed that the telecast commencing date mentioned in the agreement dated 17.12.2008 shall be read as 1.5.2010 and the period shall be perpetual period from 17.12.2008. The said film was telecast only as MITHRUDU. The 2nd Defendant had authorized the

4th Defendant to deliver the sound and picture negatives to the Plaintiff and the 4th Defendant had given a confirmation letter dated 17.12.2008 to the Plaintiff in this regard. However, DVD and CD of the said film were released and sold freely in the market by the 3rd Defendant without any legal right. Due to the illegal piracy of the said film by the Defendants, the Plaintiff had suffered substantial loss. Thus, the Defendants had committed offences under Sections 51, 63, 69 and 70 of the Copyright Act, 1957. By releasing DVD, CD of the said film, the Defendants had infringed the Plaintiff's exclusive copy right over the said film. It had been stated in the plaint that the Plaintiff had acquired the copy right for the said film by paying consideration of Rs.2,05,00,000/-. When the Plaintiff is the sole copy right holder of the said film MITHRUDU, the Defendants are freely selling the DVD and CD of the said film without any authority whatsoever. The damages incurred by the Plaintiff is Rs.25,00,100/-. In such circumstances, this civil suit had been for the reliefs as stated above.

4. Though the Defendants 1 to 4 were served on 11.2.2011, 31.3.2013 and 5.2.2011 respectively, 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 20.12.2016. One M.Jothibasur, authorised signatory for the Plaintiff Firm had filed the proof affidavit for his chief examination and receipt of 5 documents and one material object to prove the suit claim. In the exparte evidence, the said authorised signatory was examined as PW.1 and Ex.P1 to P5 and MO.1 were made.

5. Considering the oral and documentary evidence, viz. Ex.P1 to

Ex.P5 and MO.1 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. Consequently, the connected applications are closed. Time for payment is three months.

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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 - M.Jothibas

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

S.No	Exhibit	Description	Date
1	Ex.P. 1	Original Board Resolution	14112011
2	Ex.P. 2	Original assignment agreement	17122008
3	Ex.P. 3	Photocopy of the confirmation letter	17122008
4	Ex.P. 4	Original supplementary agreement	28042009
5	Ex.P. 5	Photocopy of the censor certificate	29042009
6	MO. 1	Original CD for the film MITHRUDU	

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

Nil

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

Nil

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C.V.KARTHIKEYAN, J.

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Pre-Delivery Judgement in
CS.No.977 of 2010

17.02.2017

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