

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2018

CORAM

THE HON'BLE MS.INDIRA BANERJEE, CHIEF JUSTICE
and
THE HON'BLE MS.JUSTICE P.T.ASHA

O.S.A.Nos.176 and 177 of 2018
and C.M.P.Nos.9110 to 9112 of 2018

K.S.Rajashekarana @ K.S.Nagaraja,
Proprietor of M/s.GSR Vinmeen Creations,
No.5/6, 2nd Cross street,
Bharathisalai, Karambakkam, Porur,
Chennai - 600 116.

... Appellant in
both appeals

vs.

1. The South Indian Film Chamber of Commerce
rep. By its Honorary Secretary,
T.R.Sundaram Avenue, No.604, IV Floor,
Anna Salai, Chennai - 600 006.
2. M/s.Wonderbar Film Private Limited,
rep. By its Authorised person,
Old No.6, New No.13, 4th Floor,
Jaganathan Road, Thirumurthy Nagar,
Ponnangipuram, Nungambakkam,
Chennai - 600 034.
3. PA.Ranjith, Film Director,
C/o. M/s.Wonderbar Films Private Limited,
Old No.6, New No.13, 4th Floor,
Jaganathan Road, Thirumurthy Nagar,
Ponnangipuram, Nungambakkam,
Chennai - 600 034.
4. Shivaji Rao Gaikwad @ Rajinikanth

.. Respondents
in both appeals

Appeals filed under Order XXXVI, Rule 9 of Original Side Rules read with Clause 15 of Letters Patent against the common order dated 19.4.2018 passed in O.A.No.33 of 2018 and A.No.2076 of 2018 in C.S.No.28 of 2018 respectively on the file of this Court.

Prayer in O.A.No.33 of 2018:-

Original Application praying that this Hon'ble Court be pleased to grant ad-interim injunction restraining the respondents, agents, representations, assigns, legal heirs, their office bearer, persons claiming through them, etc., from conducting any shooting or marking any shooting - in - progress of the motion picture or to release the film in any mode, in any language which is titled as Karikalan by affixing the same as after the main title "Kala" by way of either sub-title or surname to the main title, or in any other name for the same story which is being produced by the 2nd respondent, being directed by the 3rd respondent and acted in the said title role by 4th respondent till the dispose of main suit.
(*Amended as per order dt.22.02.2018 in Appln.No.1611/2018).

A.No.2076 of 2018:-

Application praying that this Hon'ble Court be pleased to:-

a) in para 16 of the plaint add the following after last line of para 16 "Relief of prayer(aa) in para 17 is incapable of valuation".

b) to insert in between para 17(a) and para 17(b) as follows:
"17(aa)" to declare that the plaintiff is the owner of Title and story in "Kaala @ Karikalan" or "Karikalan @ Kaala" and its story modifying the life of earlier Chola emperor Karikalan to suit the modern life of a hero reforming the evils activities of others in the society".

For Appellant .. Mr.R.Vigneshwaran
For Respondents .. Mr.P.R.Raman
2 to 4 Senior Counsel
for M/s.C.Seethapathy

* * * * *

COMMON JUDGMENT
(Delivered by Ms.Indira Banerjee, Chief Justice)

These appeals are against a judgment and order dated 19.04.2018 passed by the learned Single Bench, dismissing O.A.No.33 of 2018 and Application No.2076 of 2018 filed by the appellant in the suit being C.S.No.28 of 2018.

2. The suit was filed seeking a permanent injunction restraining the defendant from releasing the film titled

"KARIKALAN". The claim in the suit was on the contention that the appellant plaintiff had copyright over the title "KARIKALAN". It is, however, well settled that there is no copyright to a title as held by the learned Single Bench.

3. It is further well settled that the plaintiff cannot by way of an amendment change the entire nature, character and basis of the suit. If the initial suit was based on the claim of copyright only to the title, by way of an amendment, the plaintiff, could not have claimed copyright in the story.

4. Learned Senior Counsel appearing on behalf of the respondents submits and rightly that there is not a whisper in the plaint about the story of the respondents and now that the film has already been released, the plaintiff cannot make out a new case.

The appeals are, thus, dismissed. No costs. Consequently, C.M.P.Nos.9110 to 9112 of 2018 are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

bbr

To

The Sub Assistant Registrar,
Original Side, High Court, Madras.

+lcc to Mr.R.Vigneshwaran, Advocate, S.R.No.48453

O.S.A.Nos.176 and 177 of 2018

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