

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 31ST DAY OF JANUARY 2018

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

O.A. Nos.523 to 525 of 2017

in

C.S. No.344 of 2015

Anand Cine Service,
Rep. by its Partner,
Manohar Prasad,
No.3, Sarangapani Street,
T.Nagar, Chennai 600 017.

... Applicant/Plaintiff
(in all original applications)

-Versus-

1. M/s.Balaji Real Media Pvt. Ltd.,
Rep. by its Producer Mr.T.Ramesh, having office at
No.41, Manaswi Apartment,
Marudham Street, Fathima Nagar,
Valasaravakkam, Chennai 600 087.

2. M/s.Balaji Colour Laboratories,
Rep. by its Director/Partner/Manager,
22, Arcot Road, Bharani Studio Complex,
Saligramam, Chennai 600 093.

3. M/s.Real Image Media Technologies Pvt. Ltd.,
7-B, 3rd Street, Balaji Nagar,
Royapettah, Chennai 600 014.

4. M/s.UFO Moviez India Ltd.,
No.33/1, Wallajah Road,
Chepauk, Chennai 600 002.

5. M/s.Prasad Xtreme Digital Cinema Network,
No.58, Arunachalam Road,
Saligramam, Chennai 600 093.

6. M/s.Scrabble Entertainment Pvt., Ltd.,
33/1, Wallajah Road,
Chepauk, Chennai 600 002. ... Respondents/Defendants
(in all original applications)

O.A. No.523 of 2017:-

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the 2nd respondent, his men, agents, servants or anybody either claiming under or through him in any way and in any manner from handing over the postive or negative prints of the Telugu feature film "AARADAGULA BULLET", starring Gopichand, Nayantara directed by G.Gopal, Produced by T.Ramesh of balaji Real Media, anywhere in the world, either by the defendants 2 to 6 or anybody, without clearing the dues of the plaintiff, pending disposal of the above suit.

O.A. No.524 of 2017:-

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the first respondent, his men, agents , servants or anybody either claiming under or through him in any way and in any manner from releasing the Telugu feature film "AARADAGULA BULLET", starring Gopichand Nayantara directed by G.Gopal, produced by T.Ramesh of Balaji Real Media anywhere in the world either by the defendants 2 to 6 or anybody, without clearing the dues of the plaintiff, pending disposal of the above suit.

O.A. No.525 of 2017:-

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the respondents 3 to 6 their men, agents, servants or anybody either claiming under or through him in any way and in any manner from releasing, exhibiting or exploiting the Telugu feature film "AARADAGULA BULLET", starring Gopichand, Nayantara directed by G.Gopal, produced by T.Ramesh of Balaji Real Media, anywhere in the world, either through satellite or otherwise, without clearing the dues of the

plaintiff, pending disposal of the above suit.

These Original Applications coming on this day before this court for hearing the court made the following order:-

OA.Nos.523, 524 and 525 of 2017 have been filed by the Plaintiff in CS.No.344 of 2015, seeking interim injunction, restraining the 2nd Respondent, namely, M/s.Balaji Colour Laboratories, from handing over the positive or negative prints of the Telugu film AARADAGULA BULLET, starring Gopichand, Nayantara, directed by G.Gopal, produced by T.Ramesh of Balaji Real Media, anywhere in the world, either by the Defendant 2 to 6 or anybody, without clearing the dues of the Plaintiff, pending disposal of the suit, interim injunction, restraining the 1st Respondent from releasing the said Telugu film, anywhere in the world, either by the Defendants 2 to 6 or anybody, without clearing the dues of the Plaintiff and interim injunction, restraining the Respondents 3 to 6, from exploiting the said Telugu film, anywhere in the world either through satellite or otherwise, without clearing the dues of the Plaintiff, pending disposal of the suit, respectively.

2. According to the Plaintiff, the Plaintiff Firm is engaged in the business of hiring equipments for the purpose of shooting films. The 1st Respondent is the Producer of cinematographic films. The 2nd Respondent is the Laboratory. The 1st Respondent took on hire various equipments for shooting the cinematographic film OSTHE.

There was an agreement in this regard on 20.4.2011. Subsequently, similar equipments were hired for production of another film, by name, SAMARAN, by agreement dated 27.9.2011. Since the dues for the equipments hired for shooting the film OSTHE were not cleared, after negotiations, a joint irrevocable letter dated 13.10.2012 was given. This was also acknowledged by subsequent letter dated 22.10.2012. Subsequently, the release of the picture SAMARAN was announced. The Plaintiff called upon the 1st Defendant to make the payment, by letter dated 5.12.2012.

3. Thereafter, since the amount was not paid, CS.No.829 of 2012 was filed in this Court. In an original application filed in the said suit, an order was passed that the film shall not be released since the learned counsel for the Respondents undertook to make the payment. A payment of Rs.35 lakhs was paid by a demand draft. Since further amount was not paid, a contempt petition was filed in Cont.P.No.111 of 2013. Since the Respondents did not appear, an order of arrest was passed and the 1st Respondent was produced on execution of warrant. It has been stated that as on the date of filing of the present suit, a sum of Rs.1,32,62,387.16/- was due. Thereafter, the 1st Respondent came out with a Tamil film THIMIRI, which was announced to be released on 25.4.2015. This was a dubbed version of the Tamil film OSTHE. It was at that stage that the present suit was filed.

4. On 23.4.2015, this Court had granted an order

of status quo as on that date. The 1st Respondent, thereafter, gave an undertaking letter and also paid a sum of Rs.10 lakhs on 25.4.2015 and handed over three post dated cheques and agreed to pay the balance of Rs.90 lakhs before the next film proposed to be produced by them or released. All the three cheques were dishonoured on the ground of 'insufficient funds'. It was stated that the 1st Respondent was to release his Telugu film AARADAGULA BULLET and consequently, claiming that there is an amount due to the Plaintiff and the balance of convenience is in favour of the Plaintiff and that a prima facie case has been made out, interim injunction has been sought as stated above in these applications.

5. The 1st Respondent has filed a counter affidavit, stating that the suit is not maintainable under Order 2 Rule 2 of CPC. It has been stated that this Court had granted an order of status quo on 23.4.2015, for a limited period of six weeks. It has been stated that the Applicant/ Plaintiff had coerced the 1st Respondent to pay a sum of Rs.10 lakhs. He had earlier coerced him to pay a sum of Rs.35 lakhs. It has been stated that unless the money claimed is established in trial proceedings, the Applicant is not entitled for a mandatory decree. It has been further stated that the bills and the ledger accounts have to be correlated. It has been further stated that the Applicant, as a Financier, was coercing the 1st Respondent to sign blank cheques and blank forms and letter heads. It has

been stated that the film AARADAGULA BULLET has got nothing related to the cause of action. It has been further stated that the 1st Respondent had changed its name to M/s.Jaya Balaji Real Media Private Limited. It has been stated that the Applicant has not made out any prima facie case and consequently, the applications have to be dismissed.

6. Additional common counter affidavit has also been filed, stating that negotiations were initiated. It was stated that the Plaintiff had obtained an interim order, in respect of the Telugu film THIMIRI on 23.4.2015 and it was informed to the 1st Respondent on 24.4.2015. He had gone to the Office of the Applicant at Chennai at 6.00 a.m. The Applicant had agreed for settlement and that a sum of Rs.10 lakhs has to be paid on or before 25.4.2015. Accordingly, he flew to Mumbai on 25.4.2015 in the early morning and his wife had made arrangements and paid a sum of Rs.10 lakhs to the Applicant at Hyderabad. He denied execution of any document on 25.4.2015. It was further stated that a sum of Rs.8 lakhs was paid on 10.12.2011 and another sum of Rs.35 lakhs was paid on 11.1.2013 by RTGS. A further sum of Rs.10 lakhs was paid on 25.4.2015. In all, Rs.53 lakhs had been paid. It has been stated that this was in accordance with the Memo of Compromise dated 10.1.2013. It was prayed that the applications should be dismissed.

7. This Court heard the learned counsel for the Applicant and the Respondents.

8. It is the case of the Plaintiff that they are

engaged in the business of hiring equipments for the purpose of film shooting. The 1st Respondent had hired the equipments both at the time of production of Tamil film OSTHE and at the time of subsequent production of the second film SAMARAN. Monies were due even at that particular point of time. Therefore, a Memo of Compromise was entered into between the parties. That was filed in a suit in CS.No.829 of 2012. Since the terms were not adhered to, the Plaintiff had to file a contempt petition and the 1st Respondent was also produced before the Court on execution of warrant. It is stated that subsequently another film has been produced by the 1st Respondent, by name, THIMIRI. It was at that particular point of time that this suit was filed.

9. It was further stated that earlier this Court had granted an order of status quo. The 1st Respondent had made a payment of Rs.35 lakhs on 11.1.013 through a demand draft. Subsequent amounts have not been paid. It has been further stated the 1st Respondent had issued three cheques dated 29.4.2015, 25.5.2015 and 25.6.2015 for a sum of Rs.15 lakhs, Rs.25 lakhs and Rs.25 lakhs, respectively and all the three cheques were dishonoured on the ground of 'insufficient funds'. It is under theses circumstances that the plaintiff now urges that the Court should step in and prohibit the Telugu film AARADAGULA BULLET from being released or exhibited commercially.

10. However, on the other hand, it is the contention of the learned senior counsel for the 1st

Respondent that the name of the 1st Respondent had been changed as M/s.Jaya Balaji Real Media Private Limited. But, more importantly in the additional counter affidavit, it has been stated that on the date when the cheques were issued, the Applicant had gone over to Mumbai and in that regard, he had also produced a flight ticket.

11. It was stated that the Plaintiff had obtained signatures in blank cheques and other documents and had also utilised those documents and the present claim was opposed on the ground of fraudulently prepared documents. I am unable to accept the said contention of the learned counsel for the 1st Respondent/ 1st Defendant.

12. It is a fact that the Plaintiff is in the business of hiring equipments used for the purpose of film shooting. It is also a fact that the 1st Defendant is in the business of producing films. Naturally, the 1st Defendant has necessity to use the equipments hired by the Plaintiff. There were occasions when the 1st Defendant had actually used the equipments hired by the Plaintiff. They were on the occasion of the production of the Tamil film OSTHE and another film SAMARAN and amounts were due and therefore, a sum of Rs.35 lakhs was said to have been paid by the 1st Defendant. When the 1st Defendant was to produce another movie THIMIRI, the present suit was filed.

13. This Court, on appreciation of the documents and on appreciation of the arguments advanced by the learned counsel for the Plaintiff, had ordered status quo. At that

juncture, the 1st Defendant appears to have issued three cheques, as stated above, dated 29.4.2015, 25.5.2015 and 25.6.2015. A letter was also issued on 25.4.2015. All the three cheques for Rs.15 lakhs, Rs.25 lakhs and Rs.25 lakhs were dishonoured on the ground of insufficient funds. According to the 1st Defendant, on 25.4.015, the 1st Defendant had actually left for Mumbai. These are all aspects which have to be decided at the time of trial. However, the fact is that the Plaintiff is basing his claim on hiring of the equipments used for film shooting and naturally, charges will have to be paid and till such charges are paid, the Defendants had an obligation to produce as guarantee necessary safeguards for the Plaintiff. Seeking such safeguards, the Plaintiff has filed the present applications as stated above.

14. The amounts due to the Plaintiff had been actually accepted by the 1st Defendant in the earlier suit also and a sum of Rs.35 lakhs had been paid. According to the Plaintiff, another sum of Rs.10 lakhs had been paid by the 1st Defendant. The fact that signed documents were available with the Plaintiff indicates that there were transactions between the 1st Defendant and the Plaintiff. Had the 1st Defendant settled the dues, the 1st Defendant would have called upon the Plaintiff to return back the signed blank documents available with him including the signed blank cheques. However, the 1st Defendant had not taken any such steps. The 1st Defendant had also not

initiated any separate action for return of any of the signed documents available with the Plaintiff.

15. For all these reasons, I hold that the Plaintiff has made out a prima facie case and the balance of convenience is in favour of the Plaintiff. The facts that the cheques were presented and that the cheques were dishonoured on the ground of 'insufficient funds', alone is recorded in this order. In order to realise the dues of the Plaintiff, it is only just and proper that the Telugu film AARADAGULA BULLET should be injuncted from being released. Accordingly, these applications are allowed as prayed for and there shall an order or interim injunction as prayed for in all these three applications, pending disposal of the suit.

Sd./-C.V.K.J

31/01/2018

//Certified to be true copy//

Dated at Madras this the day of 2018.
JJ 01/03/2018

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.