

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 10.07.2018
CORAM

The Honourable Mr. Justice M.M.SUNDRESH
and
The Honourable Mr. Justice N.ANAND VENKATESH

Original Side Appeal Nos.85 to 87 of 2018
and
CMP Nos.5394, 5395, 5396 of 2018

M/s.Balaji Real Media Private Limited,
(Now M/s.Jaya Balajee Real Media Private Limited.,)
Rep. By its producer Mr.T.Ramesh,
Valasaravakkam, Chennai 600 087 Appellant
in all OSA's

Vs.

1. Anand Cine Service,
Rep. By its Partners,
Manohar Prasad,
No.3, Sarangapani Street,
T.Nagar, Chennai - 600 017
2. M/s.Balaji Colour Laboratories,
Rep. By its Director / Partner/Manager,
No.22, Arcot Road, Bharani Studio Complex,
Saligramam, Chennai 600 093.
3. M/s.Real Image Media Technologies Pvt. Ltd.,
No.7-B, 3rd Street, Balaji Nagar,
Royapettah, Chennai - 600 014.
4. M/s.UFO Moviez India Limited,
No.33/1, Walajah Road,
Chepauk, Chennai 600 002.
5. M/s.Prasad Xtreme Digital Cinema Network,
No.58, Arunachalam Road,
Saligramam, Chennai 600 002.
6. M/s.Scrabble Entertainment Pvt. Limited,
No.33/1, Wallajah Road,
Chepauk, Chennai 600 002 ..Respondents in all OSA's
(Respondents 2 to 6 are only proforma parties and no remedy
is sought against them and hence the Appeal is not pressed
against Respondents 2 to 6)

Common Prayer : Original Side Appeals is filed under Order
XXXVI Rule 9 of the O.S. Rules read with Clause 15 of the
Letters Patent to allow the original side Appeals and set
aside the order and decretal order dated 31.01.2018 passed by

this Court in O.A.No.523 of 2017 (in OSA No.85 of 2018) OA No.524 of 2017 (in OSA No.86 of 2018) OA.No.525 of 2017 (in OSA No.87 of 2018) in C.S No.344 of 2015 and dismiss the said Original Application with costs of the Appellant.

For Appellants : Mr.Om Prakash,
in all OSA's Senior Counsel
for Mr.K.C.Krishnamoorthy

For Respondents: Mr.G.Veeabadhiran for 1st Respondent
in all OSA's

COMMON JUDGMENT

N.ANAND VENKATESH., J.

These Original Side Appeals have been filed aggrieved by the Common orders passed by the learned Single Judge in O.A.Nos.523, 524 and 525 of 2017 in CS No.344 of 2015 dated 31.01.2018.

2. The Appellant is the 1st defendant in the suit. The 1st respondent in these appeals is the plaintiff in the suit. The suit was filed against the appellant and others for the relief of recovery of money and for the consequential reliefs of interim injunction restraining the appellant from releasing the Movie "Thimmiri". The suit was filed on the ground that the parties entered into an agreement for hiring various equipments for production of the movie and thereby a liability arose on the side of the appellant to make the payments. Since the liability was not fulfilled, the present suit has been filed for recovery of money and for other consequential reliefs.

3. In the said suit, Applications were filed for interim injunction restraining the appellant from releasing the Telugu Feature Film "Aaradagula Bullet". The learned Single Judge after considering the materials on record and after hearing the counsel for either of the parties, came to a conclusion that the appellants had hired the equipments from the 1st respondent and did not make the payments and the cheques that were given towards the liability were also dishonoured and found that the 1st respondent had made out a prima facie case and the balance of convenience was in his favour, granted an order of injunction from releasing the Telugu Feature Film "Aaradagula Bullet". Aggrieved by the same, the 1st defendant has filed the above Original Side Appeals.

4. Mr.Om Prakash, learned Senior Counsel appearing for the petitioner would submit that the plaintiff has already filed a suit for permanent injunction in C.S.No.829 of 2012 against the Appellant restraining him from releasing the movie "Samai" without settling the bills. Applications were also

filed for interim injunction. Thereafter the Appellant has paid a sum of Rs.35,00,000/- (Rupees thirty five lakhs) to the 1st respondent. Thereafter, the appellant wanted to release the Telugu Movie "Thimmiri" and at that point of time, the present suit was filed for recovery of money and for other consequential reliefs. In this suit also, applications were filed for interim injunction not to release the Movie. The appellant entered into a compromise and paid a sum of Rs.10,00,000/- (Rupees Ten lakhs only). The Movie was thereafter released in theatres. Thereafter, the present applications were filed to restrain the appellant from releasing the Telugu Feature Film "Aaradagula Bullet" in the very same suit.

5. The learned senior counsel contented that the applications filed by the 1st respondent is not maintainable and the amount claimed by him is not accepted by the Appellant and there is a serious dispute with regard to the maintainability of the present suit.

6. The learned Counsel appearing for the 1st Respondent would submit that the appellant is liable to pay a sum of Rs.1.32 Crores along with interest and without settling the dues of the 1st respondent, the Appellant is proceeding to release all his movies. The learned Single Judge has taken into account the conduct of the appellant and after finding that the 1st respondent has made out a prima facie case and the balance of convenience was in his favour, has proceeded to grant the order of interim injunction. There is no ground made out by the appellant to interfere with the order of the learned Single Judge in these appeals.

7. We carefully considered the rival submissions made by the Counsel appearing for either side.

8. We do not propose to go into the merits of the claims put forth by either of the parties. If the appellant is not allowed to release the movie, he will not be in a position to earn money and consequently it will impact the settlement of the dues to the 1st respondent. At the same time, we must safeguard the interest of the 1st respondent also who is claiming a huge amount as due and payable by the Appellant. Therefore, taking into consideration the facts and circumstances of this case and also the interest of the parties, we have to pass an order balancing the interest of both sides. Accordingly, we direct the appellant to pay a sum of Rs.20,00,000/- (Rupees twenty lakhs only) to the 1st respondent within a period of four weeks from the date of receipt of copy of this order. On such payment, the order of injunction passed by the learned Single Judge will stand vacated and the appellant will be entitled to release exhibit and exploit the Telugu Feature Film "Aaradagula Bullet". The parties are at liberty to put forth their case on merits during trial and any order passed in the interim application

will not have any bearing on the merits of the main suit.

9. The earlier suit filed by the 1st respondent is of the year 2012 and the present suit is of the year 2015. There is absolutely no progress in both the suits and the parties seem to be concentrating only on the interim applications. We therefore, direct the parties in the above two suits to complete the pleadings and get the issues framed and stand for trial, in order to determine the rights and liabilities of the respective parties.

10. The Original Side Appeals are disposed of in terms of the above directions. Consequently, the connected Miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rka

Copy to:

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

+3cc to Mr.K.C.Krishnamoorthy, Advocate Sr.No.45109 to 45111

VD(CO)
sm:25.7.2018

Original Side Appeal Nos.85 to 87 of 2018
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