

IN THE HIGH COURT OF JUDICATURE AT MADRAS

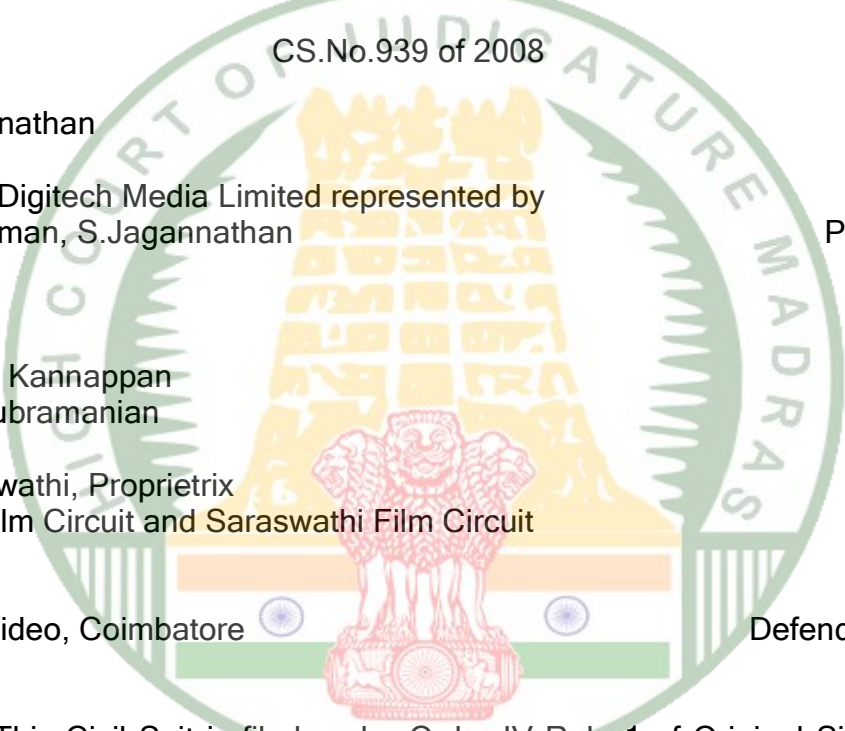
RESERVED ON: 20.04.2018

PRONOUNCED ON: 06.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CS.No.939 of 2008

- 
1. S.Jagannathan
2. Modern Digitech Media Limited represented by
its Chairman, S.Jagannathan
- Plaintiffs
- Vs
1. Jayanthi Kannappan
2. S.Balasubramanian
3. R.Saraswathi, Proprietrix
Movie Film Circuit and Saraswathi Film Circuit
Madurai
4. Prince Video, Coimbatore
- 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 the reliefs as stated therein.

For Plaintiff : Mr.M.Aravind Subramaniam

For Defendants : Set Exparte

JUDGEMENT

This Civil Suit has been filed, seeking a Judgement and Decree, against the Defendants, for the following reliefs:-

- a) for declaration that the Plaintiff is the sole, exclusive and

absolute owner of the limited copyright, viz. the entire video rights, including VCD, DVD or rights in any other video format in respect of the Tamil pictures more fully described in the Schedule to the plaint for perpetual period.

b) for permanent injunction, restraining the Defendants, their men, agents, officers, etc. from exploiting or infringing the Plaintiff's Limited copyright, viz. the entire video rights including VCD, DVD or rights in any other video format in respect of the Tamil Pictures more fully described in the Schedule to the plaint for perpetual period.

c) for costs of the suit.

2. The case of the Plaintiffs is as follows:-

a. The Plaintiff is carrying on business in exhibition and distribution of motion pictures, commercial and non commercial in all languages. The husband of the 1st Defendant, A.L.S.Kannappan was the producer of motion pictures in Tamil and he produced and released a Tamil film, Kandan Karunai, starring Sivaji Ganesan, Jayalalitha, etc. The 1st Defendant, by an agreement dated, 20.8.1986, assigned the video rights of the said picture, Kandan Karunai, in favour of the 2nd Defendant for perpetual period for valuable consideration. The 2nd Defendant, by a letter of arrangement, dated 25.08.1986, assigned the entire video rights of the said picture in favour of the Plaintiff. The consideration for granting the assignment was sharing of the royalty in the ratio of 50:50. Thus, the Plaintiff had acquired the right to exploit the video rights of the said picture, Kandan Karunai.

b. The 3rd Defendant is also the Producer of motion pictures and had produced several Tamil pictures. The 3rd Defendant had assigned the entire video rights of the picture, Naan Yen Pirandhen, starring MGR, by an agreement dated 21.09.2001 to the Plaintiff for a period of 75 years for valuable

consideration. Similarly, the 3rd Defendant had assigned the entire video rights of the pictures, Arasa Kattalai and Saraswathi Sabatham, by an agreement dated 21.09.2001 to the Plaintiff for a period of 75 years for valuable consideration. Thus, the Plaintiff alone is vested with the video rights of the said four pictures to the exclusion of any other person. The Plaintiff had exploited the rights by manufacturing VCDs and DVDs and the same are available in the market.

c. While so, the 4th Defendant, without any manner of right, had manufactured and released digital video discs of the said four pictures and they are being circulated in the market illegally. After coming to know that the discs are available in the market, he purchased the discs from one of the leading shops, viz. Music World, at Spencer Plaza, Mount Road, Chennai, on 20.08.2008. The exploitation made by the 4th Defendant is illegal and hence, the Plaintiff had sent a legal notice dated 7.9.2008 and there was no reply. In such circumstances, this civil suit has been filed, seeking reliefs as stated above.

3. After service of notice to the Defendants, a written statement dated 25.04.2011 had been filed by the 4th Defendant alone, denying the plaint averments, particularly, the assignment of video rights of the said four pictures to the Plaintiff.

4. It was observed by this Court by order dated 31.01.2018 that with regard to the Defendants 2 and 3, the suit had already been dismissed on 7.9.2010 for default. With regard to the 1st Defendant, she had already been set exparte on 14.12.2010. With respect to the 4th Defendant, who is the only

contesting Defendant, they had entered appearance and also filed a written statement as stated above. Since there was no representation for the 4th Defendant on 31.01.2018, the matter was ordered to be listed under the caption, 'Undefended Board' on 2.2.2018. The learned counsel for the 4th Defendant had filed a memo dated 9.2.2018, withdrawing his appearance for the 4th Defendant. Hence, this Court by order dated 9.2.2018, had ordered for recording exparte evidence.

5. Accordingly, S.Jagannathan, Chairman of the 2nd Plaintiff has filed the proof affidavit for his chief examination and receipt of 7 documents as documentary evidence to prove the suit claim. In the Evidence, he examined himself as PW.1 and marked Exs.P1 to P7 as documentary evidence in order to prove the suit claim. The documents establish the right of the Plaintiff to exploit the four films to the exclusion of others. Even though the 4th Defendant had filed a written statement, they had chosen not to participate in the proceedings. The Court can therefore only examine the evidence produced by the Plaintiff.

6. Considering the oral and documentary evidence, viz. Ex.P1 to Ex.P7 adduced by PW.1, this Court is of the view that the plaintiffs have proved the suit claim and hence, the Plaintiffs are entitled for the reliefs, as asked for. Accordingly, this civil suit is decreed as prayed for, with costs.

06.06.2018

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 - S.Jagannathan

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

1. Ex.P1 is the xerox copy of the agreement dated 20.0.1986 between the 1st Defendant and 2nd Defendant.
2. Ex.P2 is the original letter dated 25.8.1986 by the 2nd Defendant to the Plaintiff.
3. Ex.P3 is the copy of the agreement dated 21.9.2001 between the 3rd Defendant and the Plaintiff.
4. Ex.P4 is the copy of the agreement dated 21.9.2001 between the 3rd Defendant and the Plaintiff.
5. Ex.P5 is the copy of invoice dated 20.08.2008.
6. Ex.P6 is the copy of the legal notice dated 7.9.2008 addressed to the 4th Defendant.
7. Ex.P7 is the copy of Memorandum of Understanding dated 7.10.2008 between the 1st Plaintiff and the 2nd Plaintiff.

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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06.06.2018

WEB COPY

C.V.KARTHIKEYAN, J.

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