

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 24TH DAY OF SEPTEMBER 2018

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

A. No.7279 of 2018
in
C.S.Diary.No.40385 of 2018

Mr.Nirmal Kumar Maheswari,
18, Crescent Park Street,
T.Nagar
Chennai-600 017. Plaintiff

-Versus-

1.Firoz A.Nadiadwala,
Sole Proprietor,
M/s.BAse Industries Group,
Plot No.20, Barkat,
Gulmohar Cross Road,
No5, J.V.P.D.Scheme, 'Mumbai-400 049

2. M/s.Zee Entertainment Enterprises Limited,
Represented by its Director,
33-b, 1st and 2nd Floor,
Olympia Platina,
Sidco Industrial Estate,
Guindy, Chennai-600 032.

3. Oyeeee Media Limited,
represented by its Director
A201, 2nd Floor, New Link Road, Crystal Plaza,
Oshiwara, Andheri West,
Mumbai-400 053.

4. Eros International Media Ltd.
Represented by its Director, 901/902,
Supreme Chambers,
Off Veera Desai Road,
Andheri West,
Mumbai-400 053.

..Defendants

A.No.7279 of 2018:-

Mr.Nirmal Kumar Maheswari,
18, Crescent Park Street,
T.Nagar
Chennai-600 017.

... Applicant/Plaintiff

-Versus-

1.Firoz A.Nadiadwala,
Sole Proprietor,
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Mumbai-400 053.

..Respondents/Defendants

Application praying that this Hon'ble Court be pleased to grant leave to sue against the Defendants 1st, 3rd and 4th in this Court.

This application coming on this day before this court for hearing the court made the following order:-

There is a sole plaintiff and there are four defendants in the main suit.

2 Sole Plaintiff in the main suit is the lone applicant herein. Defendants 1 to 4 in the main suit are respondents 1 to 4 respectively in the instant application.

3 Parties in this application are referred to by their respective ranks in the main suit for the sake of convenience and clarity.

4 The instant application has been taken out by the plaintiff inter alia under Clause 12 of Letters Patent seeking leave to sue as defendants 1, 3 and 4 are residing and/or carrying on business outside the territorial jurisdiction of this Court.

5 This application for leave to sue is projected on the ground that a substantial part of cause of action for main suit has arisen within the territorial jurisdiction of this Court and therefore, leave is necessary in the light of defendants 1, 3 and 4 residing and/or carrying on business outside the territorial jurisdiction of this Court.

6 A thumb nail sketch of facts as it unfurls from the submissions of Mr.S.Vasudevan, learned counsel on record for the plaintiff, are that the first defendant borrowed certain sums of money from the plaintiff for production of a Hindi Feature Film titled 'POWER' (hereinafter referred to as 'suit movie No.1' for brevity). In other words, the first defendant is the principal borrower, is his say.

7 It is submitted by learned counsel for plaintiff that the aforesaid suit movie No.1 did not do well and therefore, the principal borrower agreed to make good the borrowing in his next endeavour being another Hindi Feature Film which goes by the title 'WELCOME BACK' (hereinafter referred to as 'suit movie No.2' for brevity).

8 It is also submitted by learned counsel for plaintiff that midway production of suit movie No.2, first defendant transferred/sold suit movie No.2 to the second defendant, who continued the production of the said movie No.2.

9 Plaintiff, having lent monies and not having got back their dues, was awaiting release of suit movie No.2. However, defendants 3 and 4 started claiming certain rights in suit movie No.2 necessitating issue of a notice.

In the aforesaid circumstances, the instant suit has been filed arraying the principal borrower, the entity to whom the production of suit movie No.2 was transferred/sold and the entities which claimed certain rights in suit movie No.2 as defendants 1, 2 and 3/4 respectively.

10 It is the specific say of learned counsel for plaintiff that major part of cause of action has arisen within the jurisdiction of this Court, i.e., in Chennai, as the plaintiff financed Rs.2 crores to the first defendant where the lien to suit movie No.2 and a letter dated 27.07.2015 confirming the liability of defendants was issued to the plaintiff.

11 To be noted, letter dated 27.07.2015 has been placed before me as plaint document No.6. It is also submitted that cheques issued by the first defendant in favour of the plaintiff were dishonoured. The dishonour of cheques have taken place within the territorial jurisdiction of this Court is plaintiff counsel's say. The dishonoured cheques together with the returned memo have been filed as plaint document No.10 and the same are dated 25.08.2015.

12 Besides the above, it is submitted that suit movie No.2 was ultimately released in Chennai within the territorial jurisdiction of this Court also. It is the further say of learned counsel for plaintiff that telecast of suit movie No.2 in certain channels have taken place in various places including places within the territorial jurisdiction of this Court.

13 I have heard learned counsel for plaintiff and perused the plaint as well as the affidavit filed in support of the instant leave to sue application.

14 It appears prima facie that a part of the cause of action has arisen within the territorial jurisdiction of this Court and prima facie it appears that it is a fit case to express the intention of this Court to exercise jurisdiction over the entire suit. I do so.

15 In the result, the prayer in the instant leave to sue application is acceded to. In other words, Application No.7279 of 2018 in C.S.No.D40382 of 2018 is allowed and ordered as prayed for.

Sd/- M.S.J.
24.09.2018

//Certified to be a true copy//
Dated this the day of 2019.
SU/14.08.2019

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.



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