

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.11.2019

Coram

The Honourable Mr.Justice N.SATHISH KUMAR

C.S.No.157 of 2012

Ms.Sona Heiden,
D/o.Mr.Richard Heiden,
Proprietrix, M/s.Uniq Productions,
Saraswathy Enclave, Ground Floor,
New No.59(Old No.28), K.B.Dasan Road,
Taynampet, Chennai-600 018

...Plaintiff

Versus

1.T.Siva,
Proprietor,
Amma Creations,
No.15, Baskar Colony,
3rd Street, Virugambakkam,
Chennai-600 092

2.Mr.Jakkula Nageswara Rao,
8-3-166/C, Yerragada,
Nandha Nagar,
Hyderabad

....Defendants

This Civil Suit is filed under Order IV Rule 1 of the Original Side Rules r/w Order VII Rule 1 of the Code of Civil Procedure, and r/w Sections 55 & 62 of Copyright Act, 1957 praying to (a) to declare that the defendants are not entitled to exploit the right of

the plaintiff in respect of the Tamil motion picture "Kanimozhi" featuring Jai and others directed by Sripathy Ranagasamy including the negative right, distribution right, dubbing right and exploitation of the motion picture or releasing, screening or distributing or publishing the same in Telugu or in any other language in any form or in Television or any other media, without the written consent of the plaintiff,

(b)to grant permanent injunction restraining the defendants, their men, servants, agents or any person claiming under them from exploiting the Tamil motion picture "Kanimozhi" under the title Leve Journey or any other title by dubbing the same in Telugu/or in any other language and releasing, screening, distributing, publishing, telecasting, printing copying in any other language in any form,

(c)for the costs of the suit.

For Plaintiff : Mr.M.Sudhan for M/s.S.Thanka

Sivan

For Defendant : Set ex-parte

J U D G M E N T

The suit has been filed for the following reliefs:

(a) to declare that the defendants are not entitled to exploit the right of the plaintiff in respect of the Tamil motion picture

"Kanimozhi" featuring Jai and others directed by Sripathy Ranagasamy including the negative right, distribution right, dubbing right and exploitation of the motion picture or releasing, screening or distributing or publishing the same in Telugu or in any other language in any form or in Television or any other media, without the written consent of the plaintiff,

(b) to grant permanent injunction restraining the defendants, their men, servants, agents or any person claiming under them from exploiting the Tamil motion picture "Kanimozhi" under the title Leve Journey or any other title by dubbing the same in Telugu/or in any other language and releasing, screening, distributing, publishing, telecasting, printing copying in any other language in any form,

(c) for the costs of the suit.

2. The suit has been filed for declaration, declaring that the ex-parte rights of the plaintiffs in respect of the motion pictures and also for permanent injunction.

3.The case of the plaintiff is that originally, she is carrying on business of film production and distribution under the name and style of M/s.Uniq Productions and in the course of her business, the second defendant entered into an agreement dated 28.01.2010 with the plaintiff. It is further submitted that the first defendant had earlier commenced production of a Tamil Film starring Actor Jai and others and directed by Mr.Sripathy Rangaswamy and the said film was named as "Kanimozhi", however, due to paucity of funds, he was not able to continue and complete the film production. After mutual discussions, the cost of the said film was finalized at Rs.1,58,00,000/- and the plaintiff has paid the entire consideration by way of cheques and cash. In view of the agreement, the plaintiff has become the producer/ owner of the said film "Kanimozhi" and the copy rights of the said film were vested with the plaintiff. It is further submitted that the movie was also released by the plaintiff.

4. While matter stood thus, the first defendant is indulging in illegal activity of dubbing the film in Telugu and other languages

without obtaining the consent of the plaintiff, on his own. Hence, the suit.

5. The defendants remained set ex-parte. On the side of the plaintiff, PW1 has examined and Ex.P1 to P4 were marked. PW1 in his cross examination has submitted about the nature of agreement dated 28.01.2010 entered between the first defendant and the plaintiff and payment of money towards the production of the film. The first defendant has agreed to receive a sum of Rs.1,58,00,000/- for the entire world theatrical, non theatrical, audio and all electronic media rights of Tamil Version of the film excluding Indian Satellite Rights (other languages). It is specifically agreed that with regard to the other language rights, it was mutually agreed to share the same in 50%:50% ratio in between the plaintiff and the first defendant. Ex.P1 is the Agreement dated 28.01.2010 between the first defendant and the plaintiff, Ex.P2 is the statement filed to prove consideration figures by the plaintiff to the first defendant, Ex.P3 is the communication dated 25.01.2012 sent to the plaintiff by the first defendant

admitting to sell the total rights of the said film, Ex.P4 is the Advertisement dated 23.02.2012 released by the defendants in the Telugu newspapers. The Agreement itself clearly indicates that the entire rights of the said film have been assigned to the plaintiff. Ex.P2 the statement filed to prove consideration figures by the plaintiff to the first defendant remain unchallenged. From the above uncontroverted evidence of the plaintiff and the documents filed also proves the claim of the plaintiff.

6. In the result, the suit is decreed as indicated above with costs.

13.11.2019

Index : Yes/No

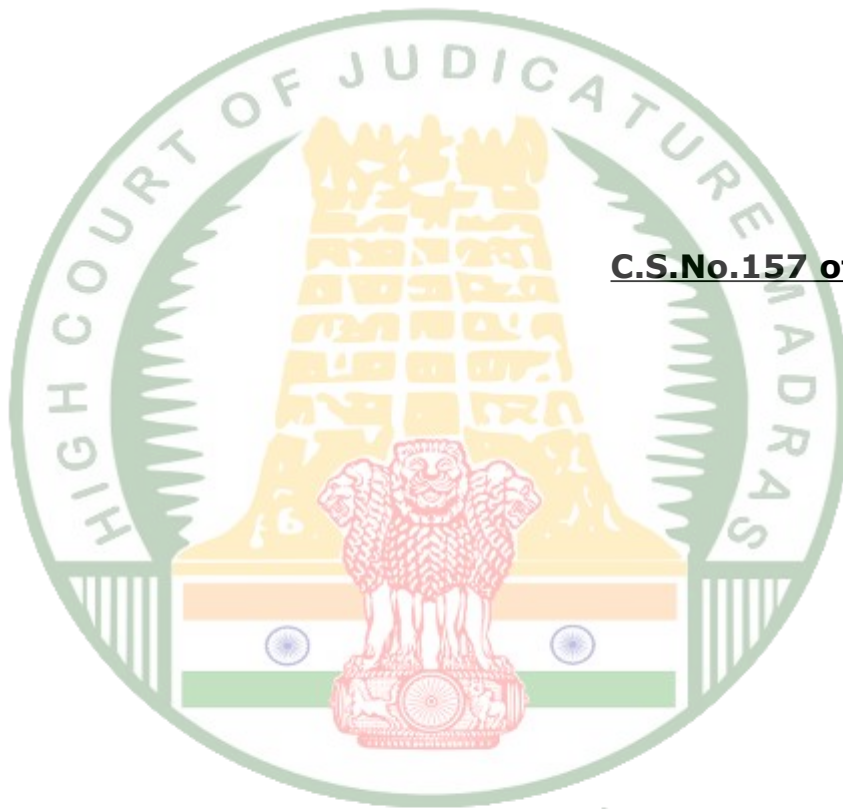
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