

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.04.2019

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

C.S.No.272 of 2019

&

O.A.Nos.409 to 311 of 2019

Ulka Shah

Rep. By her Power of Attorney Agent

Mr.Divya Kumar Kabra

Plot No.45, Ganpati Bhavan

1st Floor M G Road

Goregoan (W)

Mumbai - 400 062

... Plaintiff

Vs.

1.Mr.Raghava Lawrence

Propreitor

Sri Apartments, Plot 504

Ragavendra Productions

Jawaharlal Nehru Salai, 100 Feet Road

Vadapalani, Chennai - 600 026

Also at

2/4, 1st Cross Street, 3rd Avenue

Pudur

Ashok Nagar

Chennai - 600 083

2.M/s.Sun TV Network Ltd.,

Rep. By its Director

Murasoli Maran Towers, 73

MRC Nagar Main Road

MRC Nagar, Chennai- 600 028

3.N.Ramasamy, Proprietor

Sri Thenandal Films

No.8, 80 Feet Road

Thevar Thottam
Saligram, Chennai - 600 064

.. Respondents

This Civil Suit is preferred, under Order IV Rule 1 of O.S.Rules read with Order VII Rule 1 of the Code of Civil Procedure read with Sections 51, 55, 62 of the Copyrights Act, 1957 and read with Sections 29, 52, and 134 of the Trademarks Act, 1999, praying for

A) Permanent injunction restraining the defendants, their principal, officers, directors, agents, franchisees, servants and all others acting for and on their behalf, from directly or indirectly, from in any manner infringing the plaintiff's copyright, especially rights in prequel, sequel, prefix and suffix, remake, adaptation, as well as the other underlying rights in the film "Kanchana" including by producing, directing, advertising, distributing or communicating to the public art work pertaining to the film, "Kanchana 3" or doing such acts in relation to any other cinematograph film that infringes the plaintiff's rights;

B) Permanent injunction restraining the defendants, their principal, officers, directors, agents, franchisees, servants and all others acting for and on their behalf, from directly or indirectly, from in any manner infringing the plaintiff's trademark or other intellectual property rights, especially rights in title, brand, prequel, sequel, prefix and suffix, remake, adaptation, as well as the other underlying rights in the film "Kanchana", including by producing, directing, advertising, distributing or communicating to the public, the proposed movie "Kanchana 3" or in any the manner infringing the plaintiff's rights;

c) Delivery up, or in the alternative, destruction of all originals and copies of the infringing movie "Kanchana 3" as well as all promotional material such as posters, banners, etc;

D) Costs of the suit;

E) and pass such further or other orders as this Hon"ble Court may deem fit in the facts and circumstances of the case and thus render justice.

For Plaintiff : Mr.S.R.Raghunathan

For Defendants : Mr.K.Harishankar for D1

Mr.J.Ravindran
for Ms.M.Sneha for D2

Mr.S.Karthikai Balan for D3

JUDGMENT

There is a sole plaintiff and there are three defendants in the instant suit.

2.Mr.S.R.Raghunathan, learned counsel on record for the sole plaintiff, Mr.K.Harishankar, learned counsel on record for the first defendant, Mr.J.Ravindran, learned counsel representing the counsel on record for the second defendant and Mr.S.Karthikai Balan, learned counsel on record for the third defendant are before this Court.

3. Mr.Divya Kumar Kabra, Power of Attorney Agent of the plaintiff, who has verified and signed the plaint, Mr.K.Sriramulu, Authorized Representative of first defendant and Mr.M.Jothi Basu, from the Legal Department of second defendant company, whom this Court is informed is the Authorized Signatory of the second defendant company and Mr.N.Ramasamy, the third defendant are present before this Court. To be

noted, this Court is informed that first defendant is carrying on business in the name of 'Ragavendra Production' as sole Proprietor and first defendant has given an authorization letter dated 15.04.2019 authorizing aforementioned Mr.K.Sriramulu to represent him in the instant case.

4. All the aforesaid four learned counsel, on instructions, from their respective clients, submitted that the entire suit has been amicably settled amongst the parties and the terms of compromise has been reduced to what has been captioned 'MEMORANDUM OF COMPROMISE ENTERED INTO BETWEEN THE PARTIES UNDER ORDER XXIII RULE 1 OF CPC' and dated 16.04.2019 (hereinafter 'said MOC'). To be noted, said MOC has been duly signed by the plaintiff, three defendants and their respective counsel.

5. Self-attested photo copies of the photo identity cards of the aforesaid parties, who are present before this Court are also annexed to said MOC. Aforesaid parties to the lis present before this Court submit that they have entered into said MOC after understanding all the terms and conditions and all the four parties to the lis requested that the main suit itself may please be disposed of by recording said MOC and by passing a decree in terms of said MOC. On instructions, all four learned counsel made a common request in unison in this regard. Said MOC reads as follows:

'MEMORANDUM OF COMPROMISE ENTERED INTO BETWEEN THE

PARTIES UNDER ORDER XXIII RULE 1 OF CPC'

1. The plaintiff has filed the present suit inter alia for a permanent injunction restraining the Defendants from in any manner infringing the Plaintiff's copyright, especially rights in prequel, sequel, prefix and suffix, remake, adaptation, as well as the other underlying rights in the film "Kanchana", including by producing, directing, advertising, distributing or communicating to the public art work pertaining to the film "Kanchana 3", or doing such acts in relation to any other cinematograph film that infringes the Plaintiff's rights.

2. The First Defendant is the Producer of the film titled "Kanchana 3" and has assigned the entire exhibition and exploitation rights for theatrical and non-theatrical exploitation in favour of the Second Defendant and the Second Defendant has scheduled to release the film all over the World on 19.04.2019.

3. The First and the Second Defendant had filed Caveat Petitions in this Hon'ble High Court and therefore they were served with notices by the Plaintiff in C.S.No.272 of 2019 along with O.A.Nos.408 to 410 of 2019 that were filed for various interim reliefs. After opposing the grant of interim injunction on various grounds, the parties with a view to giving a quietus to the entire dispute arising in the present suit have decided to amicably resolve the dispute and enter into this Memorandum of Compromise on the following terms:

a) In consideration of the Plaintiff giving up its entire claim in the present suit in relation to the film "Kanchana" and "Kanchana 3", the First Defendant has this day paid the Plaintiff a sum of Rs.50 Lakhs (Rupees Fifty Lakhs only) towards full and final settlement of all the Plaintiff's claims in the present suit. The amount of Rs.50 lakhs shall be adjusted by the Plaintiff towards the amount payable by the 3rd Defendant herein, as per clause 8 in Memo of Compromise in C.S.No.70 of 2019.

b) The Plaintiff hereby confirms that from this day onwards the Plaintiff shall not have any right, interest or claim with respect to any copyrights of any kind whatsoever with respect to the films "Kanchana" and "Kanchana 3" save and except the sole and exclusive dubbing rights in respect of the Cinematograph Film "Kanchana" and "Kanchana 2" assigned

in favour of Goldmines Telefilms Pvt. Ltd. in which the Plaintiff is a Director. The First Defendant shall be entitled to all the copyrights in the said Films including the right to make prequel/sequel to the said films. All the rights accrued in favour of the Plaintiff by virtue of the Decree in the C.S.No.326 of 2018 and Memorandum of Compromise dated 18.07.2018 recorded in the said C.S.No.326/2018 shall vest on and from this date on the First Defendant, insofar as they relate to the film "Kanchana".

c) The Plaintiff hereby confirms that the rights accruing to her in the film "Kanchana" in terms of the Memorandum of Understanding dated 18.07.2018 and Agreement dated 17.07.2018 shall stand assigned in favour of the First Defendant absolutely and on and from this date the Plaintiff shall have no right, interest or claim to any copyrights in the film "Kanchana" or "Kanchana 3" including the right to make Prequel/sequel.

d) The Third Defendant who is the producer of the film "Kanchana" hereby confirms that on and from the date he has no copyrights in the said film "Kanchana" and all the copyright he possessed shall on and from this date stand assigned in favour of First Defendant absolutely. The Third Defendant undertakes to execute any further letters, documents and/or agreements to confirm the assignment of all his rights, title and ownership of all Copyrights in the film "Kanchana" in favour of the first Defendant.

e) The Plaintiff and Third Defendant have no objection for the release of the film "Kanchana 3" by the Second Defendant.

4. This Memorandum of Compromise may be taken on record by this Hon'ble Court and the parties have agreed that this Memorandum of Compromise shall form part of the Decree and the present suit may be decreed in terms thereof and thus render justice.

Dated at Chennai on this the 16th day of April, 2019.

Sd/-
PLAINTIFF

Sd/-
COUNSEL FOR PLAINTIFF

Sd/-
1st DEFENDANT

Sd/-
COUNSEL FOR 1st DEFENDANT

Sd/-
2nd DEFENDANT

Sd/-
COUNSEL FOR 2nd DEFENDANT

Sd/-
3rd DEFENDANT

Sd/-
COUNSEL FOR 3rd DEFENDANT

6. In the light of the aforesaid narrative, the suit itself is disposed of recording said MOC and holding that there shall be a decree in the main suit in terms of said MOC. Said MOC along with the self-attested photocopies of the photo identity cards of the parties to the lis and aforesaid authorization letter dated 15.04.2019 given by first defendant, shall all form part of compromise decree and the suit is disposed of in terms of said MOC. No costs. Consequently, connected interlocutory applications are closed.

16.04.2019

Speaking order: Yes/No

Index: Yes/No

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and O.A.Nos.409 to 411 of 2019

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