

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE C.SARAVANAN

O.S.A. Nos. 462 & 463 of 2018

JSK Film Corporation
Rep. By its Proprietor,
J. Sathish Kumar,
No.9/3, Vidyaraman Street,
T. Nagar,
Chennai 600 017

.. Appellant
in both appeals

Vs.

1.R. Naveen

.. 1st respondent
in OSA 462/18

2.M/s.Rebel Studio
Rep. By its Partner
Mr. Deepan Boopathy
Sri Balaji Apartments
New No.4, Old No.6,
Rajambal Street,
T.Nagar,
Chennai - 600 017

..2nd respondent
in both appeals

3. Dunger Chand Kothari

.. 1st respondent
in OSA 463/18

4. Ravi Prasad Film Labs
33/12, Dr.Subbaraya Nagar,
Kodambakkam,
Chennai 600 024

.. 3rd respondent
in OSA 463/2018

5.Real Image Media Technologies
42, Dr. Ranga Road, Marvadi Thottam,
Narasimhapuram,
Mylapore,
Chennai - 600 004

... 4th respondent
in OSA 463/18

Appeals filed under Order XXXVI Rule 11 of the Original Side Rules read with Clause 15 of the Letters Patent against the order and decreetal order dated 16.04.2018 made in Application Nos. 7665 and 7666 of 2017 in C.S.No.677 & 22 of 2017.

For Appellant : Mr.A.S.Kailasam
(in both OSA) M/s.A.S.Kailasam and Associates

For 1st respondent
in OSA 462/18 : Mr.M.Ramalingam

For 1st respondent
in OSA 463/18 : Mr.S.Ashok Kumar

COMMON JUDGMENT

(Delivered by M.M.SUNDRESH, J.)

As both these appeals arise out of same order, they are taken up for hearing together and disposed of by way of a common judgment.

2. The appellant in O.S.A.No.462 of 2018 is the subsequent purchaser and in the suit C.S.No.677 of 2017 no relief has been sought for as against the said appellant. O.S.A.No.463 of 2018 has been filed by the appellant in the capacity of a garnishee.

3. The first respondent in O.S.A.No.462 of 2018 filed O.A.No. 839 of 2017 in C.S. No. 677 of 2017 seeking grant of permanent injunction restraining the defendants from releasing the movie. The first respondent in O.S.A.No. 463 of 2018 filed O.A.No. 31 of 2017 in C.S.No.22 of 2017 seeking identical relief.

4. By order dated 20.10.2017, the appellant herein was directed to deposit a sum of Rs.50 lakhs to the credit of C.S.No. 677 of 2017 and a sum of Rs.42 lakhs to the credit of C.S.No.22 of 2017.

5. Aggrieved by the said order dated 20.10.2017 the appellant herein filed Application No. 7665 of 2017 in C.S.No.

677 of 2017 and Application No. 7666 of 2017 in C.S.No. 22 of 2017. The learned Single Judge by order dated 16.04.2018 confirmed the order dated 20.10.2017 and dismissed the applications filed by the appellant herein. Challenging the same, the present appeals have been filed.

6. Learned counsel appearing on behalf of the appellant submitted that the application filed by the first respondents herein, being O.A.No. 839 of 2017 in C.S. No. 677 of 2017 & O.A.No. 31 of 2017 in C.S.No.22 of 2017, seeking injunction restraining the defendants from releasing the movie have become infructuous. He further submitted that the appellant herein has already paid the sum of Rs. 25 lakhs which has been adjusted and the said money has been received by the respondent/plaintiff, and, therefore, looking from any perspective, the order of the learned Single Judge would require interference.

7. Learned counsel representing the contesting respondents in both the appeals would submit that they are concerned with the very same movie in which the second respondent/defendant has received money from them and the agreement contains a sub-clause that subsequent alienees are also bound and, therefore, the order of the learned Single Judge requires no interference.

8. We find force in the submission made by the learned counsel appearing on behalf of the appellant. The applications filed in O.A.No. 839 of 2017 in C.S. No. 677 of 2017 & O.A.No. 31 of 2017 in C.S.No.22 of 2017 seeking injunction have admittedly become infructuous. We also find that no relief for recovery has been sought for against appellant in both the suits. It is also an admitted case that the appellant had already deposited Rs. 25 lakhs and the same has been accepted by the plaintiffs. The appellant is only a subsequent alienee and thus not a garnishee. Therefore, the order dated 20.10.2017 insofar as O.A.No. 839 of 2017 in C.S. No. 677 of 2017 & O.A.No. 31 of 2017 in C.S.No.22 of 2017 warrants interference and the same are, accordingly, set aside. However, liberty is given to the 1st respondent/plaintiff to file appropriate application, if so advised otherwise.

Accordingly, appeals stand allowed. No costs. Consequently, connected CMP Nos. 21491 and 21525 of 2018 are closed.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

ssm

To

The Sub Assistant Registrar
Original Side
High Court, Madras.

+1 cc to Mr.A.Muthuraman, Advocate, Sr.No. 27449
+1 cc to Mr.S.Ashok Kumar, Advocate, Sr.No. 26941
+2 cc's to M/s.A.S.Kailasam & Associates,
Advocate, Sr.No. 26240 & 26241

O.S.A. Nos. 462 & 463 of 2018

PA (CO)
CSL/25.06.2019



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