

**THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

**WRIT PETITION No. 9909 OF 2019**

**ORDER :**

The case of the petitioners is that they are the original title owners of the registered movie by name and style of “Eedu Jodu” and accordingly they have commenced the production of the movie by investing huge amounts. They have also entered into an agreement with the Music Director and also other artists by agreements dt.23.05.2017 and 13.04.2017, respectively. They have released posters in the social media for advertisement purpose wherein petitioners’ names were clearly shown as producers. While so, the 5<sup>th</sup> respondent approached the petitioners and shown her willingness to join as Co-producer by contributing some amounts for which petitioners also accepted to lessen their financial burden and also entered into an agreement dt.28.07.2018. The grievance of the petitioners is that though they have invested huge amounts the 5<sup>th</sup> respondent released a poster by changing the title of the movie as “Jodi” and also changed the names of the petitioners as producers. It is also the grievance of the petitioners that the 5<sup>th</sup> respondent falsely obtained ‘U’ certificate from respondent No.2 vide Certificate No.DIL/1/15/2019-HYD, dt.04.04.2019, falsely, by suppressing the fact that the petitioners are the producers of the said film. It is further stated that the petitioners have also issued Legal Notice dt.22.04.2019 to the 2<sup>nd</sup> respondent requesting them to take action against the 5<sup>th</sup> respondent by recalling the certificate issued to the 5<sup>th</sup> respondent for

the fraud committed by the 5<sup>th</sup> respondent. As no action has been taken by the 2<sup>nd</sup> respondent, present writ petition is filed.

The 3<sup>rd</sup> respondent filed counter disputing the facts in the writ affidavit and also stating that the petitioners have issued Legal Notice to the Telugu Film Chamber and on the said notice the Chamber called for explanation from respondents 4 and 5 and the matter is pending before the Telugu Film Chamber, but, without disclosing the said fact, petitioner filed the present writ petition. It is also stated that the 2<sup>nd</sup> petitioner has sold the Hindi Rights of the subject film, but, the said fact is not disclosed in the writ affidavit.

Heard learned counsel for the petitioners who submits that since there is violation of Rule 21(d) of the Cinematograph (Certification) Rules, 1983, petitioners have issued legal notice dt.22.04.2019 to the 2<sup>nd</sup> respondent; and that as per Rule-32 of the Act, if any complaint is received by the Board in respect of a film which has been certified for public exhibition, the same shall be forwarded to the Central Government, but, without doing so, the 2<sup>nd</sup> respondent submitted reply dt.25.04.2019 to the legal notice issued by the petitioners stating that certification of the subject film was done on the basis of documents submitted by the Producers as required under the Cinematograph Act, 1952 and Cinematograph (Certification) Rules, 1983 and that accordingly film was examined and certified. He also submits that the ownership issues and monetary issues do not fall under the purview of 2<sup>nd</sup> respondent. He further submits that in fact petitioners are the

original producers of the film and by committing fraud the 3<sup>rd</sup> respondent obtained certification which has to be annulled.

On the other hand learned counsel for the 3<sup>rd</sup> respondent submits that petitioners have alternate remedy under Section 5(1) of the Act, against granting of certification and the private rights of the petitioners and respondents cannot be decided in the writ petition. He also submits that in fact respondent No.3 is the producer of the film; and that since the entire film material of the subject film was available with the 3<sup>rd</sup> respondent, the 3<sup>rd</sup> respondent made application for certification of film before the 2<sup>nd</sup> respondent.

A reading of the writ affidavit and counter goes to show that the petitioners are disputing the title of the 3<sup>rd</sup> respondent in whose favour the 2<sup>nd</sup> respondent has issued certification dt.04.04.2019; and that the 2<sup>nd</sup> respondent has already replied the Legal Notice got issued by the petitioners dt.22.04.2019, stating as follows;

“In this regard this is to state that the process of the film certification of the above film was done on the basis of documents submitted by the Producers as required under the Cinematograph Act, 1952 and Cinematograph (Certification) Rules, 1983. Accordingly the film was examined and certified.

Further it is also informed that ownership and monetary issues do not fall under the purview of CBFC”.

The fact that the petitioners have approached Film Chambers for conciliation is also not disputed. Even the agreement dt.

28.07.2018 entered into between the petitioners and 5<sup>th</sup> respondent also provides for arbitration clause. These aspects have not been mentioned in the writ affidavit.

It is to be seen that the disputed question of fact regarding monetary consideration for making the film cannot be decided in the writ petition and the petitioner has necessarily to approach civil Court for decision of such rights. Though learned counsel for the petitioners states that there is bar under Section 7(F) of the Act, but, a reading of Section 7(F) goes to show that suit is barred against Central Government, Tribunal and the Board. Even in the legal notice got issued by the petitioners dt.22.04.2019, it is not indicated as to which provisions of Rules are violated by the respondents. Though learned counsel for the petitioners states that there is violation of Rule 21(d), the 2<sup>nd</sup> respondent has already replied on 25.04.2019 to the notice issued by the petitioners.

In view of the aforesaid facts and circumstances, when petitioners have efficacious remedy for decision of their title over the subject film, they should have availed alternate remedy by approaching civil Court or should have availed the remedy of arbitration for decision of their rights as provided in the agreement dt.28.07.2018.

Having regard to the aforesaid facts and circumstances, I do not see any merit in the writ petition.

Accordingly the writ petition is disposed of granting liberty to the petitioners to avail alternate remedy as may be available to them under law. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

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**A.RAJASHEKER REDDY, J**

26.08.2019  
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**THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**



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