

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 17.03.2020
Pronounced on : 27.05.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

C.S.No.212 of 2015
and
O.A.No.294 of 2015 & A.No.2082 of 2015

M/s.Sun TV Network Limited,
rep. by its Authorised Signatory
Mr.M.Jyothi Basum
Murasoli Maran Towers,
73, MRC Nagar Main Road,
MRC Nagar,
Chennai-600 028.

... Plaintiff

Vs.

1.M/s.Magnus Cineprime Private Ltd.,
rep. by its Managing Director
Mr.Venkata Srinivas Boggaram,
II Floor, Plot No.113, Phase III,
Kamalapuri Colony, Srinagar Colony,
Hyderabad-500 073.

2.M.Malkapuram Shiva Kumar

3.New Volga Videos
rep. by its Proprietor Mr.Guduru Ravinath,
Flat No.202, 6-3-900/2, Susmith Enclave,
Panjagutta,
Hyderabad-500 082.

... Defendants

This Civil Suit is filed under Order VI Rule 1 of O.S. Rules read with Order VII Rule 1 of CPC and read with Sections 55 & 62 of the Copyrights Act, 1957 for the prayer as stated therein.

For Plaintiff : Ms.M.Sneha

For Defendants : Set Ex-parte

J U D G M E N T

Heard Ms.M.Sneha, learned counsel for the plaintiff. The defendants 1 to 3 were set ex-parte on 23.10.2019.

2. The suit is for declaration that the plaintiff is the sole and exclusive copyright holder for broadcasting the Telugu Colour Film “Karthikeya” and for consequential permanent injunction.

3. The brief facts of the plaintiff's case are as follows:

The plaintiff is a Television Network in South India. The first defendant, who was the producer and exclusive copyright holder of the

Telugu Colour Film “Karthikeya”, has assigned the copyright in favour of the second defendant, who in turn has assigned the copyright in favour of the plaintiff. The assignment was for a perpetual period, determined at 99 years. When the third defendant herein had uploaded the said film in YOUTUBE, without any rights, the plaintiff had questioned the violation, to which, YOUTUBE had sought the plaintiff to get a Court order, since there was a conflict of interest. Since the third defendant had not taken steps to remove the film from YOUTUBE, the present suit has been filed.

4. The plaintiff had examined one Mr.M.Jyothi Basu, the authorised signatory of the plaintiff's company, as P.W.1. In his deposition, P.W.1 had stated that the copyright of the Telugu colour Film “Karthikeya” was assigned by the first defendant to the second defendant through an Assignment Agreement dated 22.03.2014, which has been marked as Ex.P2. Thereafter, the defendants 1 and 2 had also confirmed and acknowledged the assignment to the lab on 07.02.2014 respectively, which letters have been marked as Exs.P3 to P6. Subsequently, the second defendant had assigned the copyright of the said film in favour of the plaintiff through an assignment agreement dated 06.06.2014, marked as

Ex.P7, whereby a part of the total consideration towards the assignment was made and the balance was agreed to be paid at later dates. Subsequently, on 21.10.2014, the entire sale consideration came to be paid by the plaintiff to the second defendant and Ex.P8 supplementary agreement was entered into between them.

5. The third respondent had illegally uploaded the said movie in YOUTUBE owing to which, the plaintiff had intimidated YOUTUBE of the violation of its copyright on 01.03.2015. In turn, YOUTUBE had released a counter notification dated 06.03.2015, marked as Ex.P10 calling upon the plaintiff to confirm that the plaintiff have initiated action seeking a Court order to restrain the infringing activity. A screen shot of the movie, that had been illegally uploaded on YOUTUBE, has been marked as Ex.P11. Depositing all these aspects, P.W.1 had ventured to justify the relief sought for in the suit.

6. Ex.P2 establishes a valid assignment being made by the first defendant in favour of the second defendant. Likewise, Ex.P7 reveals that the assignment was in turn transferred in favour of the plaintiff. Ex.P10

also establishes the screening of the said movie in YOUTUBE, which is further ratified through Ex.P11, which are the screen shots of the uploaded movie.

7. When there was a valid assignment by the second defendant in favour of the plaintiff through Ex.P7 and the second defendant had all the rights to assign in view of Ex.P2, which is the assignment made by the first defendant in favour of the second defendant, the third defendant herein had no right or authority to upload the movie in YOUTUBE media. In view of the valid assignment existing in favour of the plaintiff for a perpetual period, the illegal action on the part of the third defendant in uploading the movie could be termed as “infringement” of the copyrights assigned in favour of the plaintiff. Accordingly, the plaintiff can be termed to be the sole and exclusive holder for broadcasting the Telugu Colour Film “Karthikeya” and the defendant also would not be entitled or authorised to deal with the said film in any manner and accordingly, the plaintiff would be entitled for the reliefs claimed in the suit. As such, the plaintiff would be entitled to succeed in the suit.

8. In the light of the above findings, the Civil Suit is decreed as prayed for with costs. Consequently, connected Miscellaneous Applications are closed.

27.05.2020

Index:Yes/No
Web:Yes/No

DP

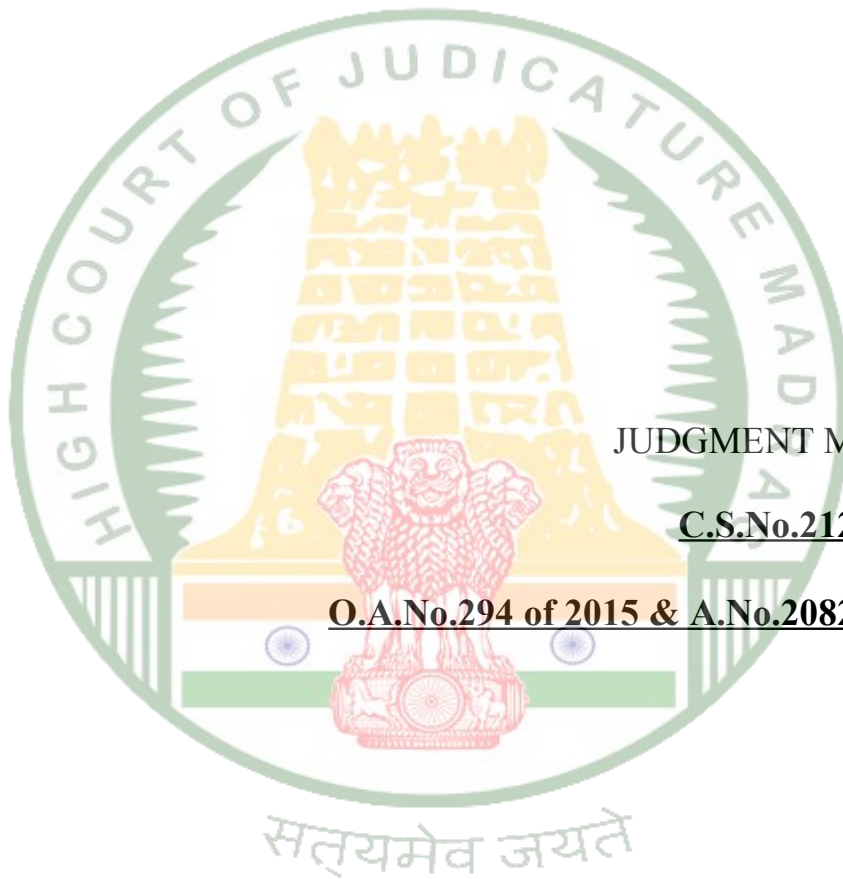


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M.S.RAMESH, J.

DP



JUDGMENT MADE IN

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