

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02-11-2020

CORAM

THE HONOURABLE MR. JUSTICE R. SUBBIAH  
AND  
THE HONOURABLE MR. JUSTICE C. SARAVANAN

ORIGINAL SIDE APPEAL NOS. 211 AND 224 OF 2020

O.S.A. No. 211 of 2020

M/s. Sri Venkateswara Creations  
rep. by its Managing Partner  
Mr. Venkata Ramana Reddy  
Plot No.6, H.No.8-3-988/6  
Shalivahana Nagar  
near Satya Sai Nigamagmam  
Srinagar Colony  
Hyderabad - 500 073

...Appellant/Defendant 1

Versus

1. M/s. Sun TV Network Limited  
rep. by its Authorised Signatory  
Mr.M. Jyothi Basu  
Murasoli Maran Towers  
No.73, MRC Nagar Main Road  
MRC Nagar, Chennai - 600 028

2. M/s. Mango Mass Media Pvt Ltd.,  
rep. by its Managing Director  
Mr. Ramakrishna Veerapaneni  
Plot No.2, Womens Co-operative Society  
Road No.2, Banjara Hills  
Hyderabad - 500 034

3. Star Suvarna, Star TV Network  
rep. by its Authorised Signatory  
Bagmane Tech Park, 7th Floor, 66/1  
4th "A" Main Road, Byrappa Layout  
Sadguntepalaya, C.V. Raman Nagar  
Bangalore - 93

...Respondents/Plaintiff  
& Defendants 2 &3

O.S.A. No. 224 of 2020

M/s. Sun TV Network Limited  
rep. by its Authorised Signatory  
Mr.M. Jyothi Basu  
Murasoli Maran Towers  
No.73, MRC Nagar Main Road  
MRC Nagar, Chennai - 600 028

...Appellant

Versus

1. M/s. Sri Venkateswara Creations  
rep. by its Managing Partner  
Mr. Venkata Ramana Reddy  
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Sadguntepalaya, C.V. Raman Nagar  
Bangalore - 93

...Respondents

O.S.A. No. 211 of 2020:- Appeal filed under Order XXXVI Rule 9 of Original Side Rules read with Clause 15 of Letters Patent against the Judgment and Decree dated 11.09.2020 passed in Application No. 1845 of 2020 against O.A. No. 314 of 2020 in Civil Suit No. 187 of 2020 only as against direction No.V and reiterated in Para No.21 of the order. A.1845/20 Application praying to dismiss the application for injunction as sought for by the applicant and vacate the orders passed by this Court, dated 18/08/2020

O.S.A. No. 224 of 2020:- Appeal filed under Order XXXVI Rule 9 of Original Side Rules read with Clause 15 of Letters Patent against the Judgment and Decree dated 11.09.2020 passed in O.A. No. 314 of 2020 in Application No. 1829 and 1845 of 2020 in Civil Suit No. 187 of 2020 on the file of this Court

OA 314/2020: Application praying to grant ad interim injunction restraining the respondents/defendants, their men & agents, persons claiming through them in any manner exploiting or exhibiting the schedule mentioned movies through satellite cable TV and in all other digital forms pending disposal of the suit.

O.S.A. No. 211 of 2020

For Appellant : Mr. C. Prasanna Venkatesh  
For Respondents : Mr. J. Ravindran  
for Mrs. M. Sneha for R1  
Mr. Sivaraja Srinivasan for R2  
Mr. Sathish Parasaran, Senior Advocate  
for Mr. S. Parthasarathy for R3

O.S.A. No. 224 of 2020

For Appellant : Mr. J. Ravindran  
for Mrs. M. Sneha  
For Respondents : Mr. C. Prasanna Venkatesh for R1  
Mr. Sivaraja Srinivasan for R2  
Mr. Sathish Parasaran, Senior Advocate  
for Mr. S. Parthasarathy for R3

COMMON JUDGMENT

(Judgment of the Court was delivered by R. SUBBIAH, J)

The appellant in O.S.A. No. 211 of 2020 is the first defendant in the suit in C.S. No. 187 of 2020. O.S.A. No. 224 of 2020 was filed by the plaintiff.

2. At the outset, the learned counsel for the appellant in O.S.A. No. 224 of 2020 submitted that they do not wish to pursue the said appeal. He therefore prays to return the amount deposited by the said appellant as security to secure the interest of the parties herein.

3. The said suit in C.S. No. 187 of 2020 was filed by the appellant in O.S.A. No. 224 of 2020 for a permanent injunction to restrain the defendants, their men, agents, persons claiming through them in any manner exploiting or exhibiting the schedule mentioned movies through satellite, Cable TV and in all other digital forms.

4. For the sake of convenience and easy reference, the parties to these appeals shall be referred to as per their litigative status in the suit as 'plaintiff' and 'defendants', as the case may be.

5. Pending suit, the plaintiff filed O.A. No. 314 of 2020 praying to grant an ad-interim injunction to restrain the respondents/defendants, their men and agent, persons claiming through them in any manner exploiting or exhibiting the schedule mentioned movies through satellite, cable TV and in all other digital forms till the disposal of the suit.

6. When the Original Application No. 314 of 2020 was taken up for hearing, this Court, by an order dated 18.08.2020, granted an interim injunction with a direction to the plaintiff to deposit in Court, the entire consideration of Rs.8,95,00,000/- on or before 28.08.2020 to the credit of the suit. It was also made clear that by such deposit, the plaintiff would not get any further right, if the third defendant had already paid consideration to the first defendant, and therefore granted liberty to the plaintiff to work out its remedies.

7. It is represented that the plaintiff has also deposited the amount of Rs.8,95,00,000/- as directed in the order dated 18.08.2020.

8. On notice, the second defendant in the suit has filed A. No. 1829 of 2020 and prayed for vacating the interim injunction granted on 18.08.2020 in O.A. No. 314 of 2020 in C.S. No. 187 of 2020.

9. The first defendant in the suit, appellant in O.S.A. No. 211 of 2020, had also filed an application in A. No. 1845 of 2020 to vacate the interim injunction granted on 18.08.2020 in O.A. No. 314 of 2020 in C.S. No. 187 of 2020.

10. In the application for vacating the interim injunction, it was contended by the second defendant that even before the agreement dated 28.05.2020 was entered into between the plaintiff and the first defendant, the first defendant entered into an agreement dated 16.11.2019 with the second defendant in the capacity of producer and owner of the film Maharishi, which is one of the films mentioned in the schedule of the plaint. Further, by another agreement dated 05.04.2020, the rights to dub and exploit theatrically and non-theatrically the remaining 20 films listed in the schedule were also assigned in favour of the second defendant. Therefore, the question of granting the very same rights over the 21 scheduled movies in favour of the plaintiff did not arise. It is also stated that the subsequent agreement entered into between the plaintiff and the first defendant on 28.05.2020 in respect of the schedule mentioned 21 movies will not bind the second defendant in any manner.

11. On considering the aforesaid averments of the second defendant, by the order dated 11.09.2020, the learned single Judge vacated the interim injunction granted on 18.08.2020 and permitted the plaintiff to withdraw the amount of Rs.8,95,00,000/- deposited by it without prejudice to its right to pursue the suit and also in seeking further relief in the suit. The learned single Judge also observed that since the first defendant had already entered into an agreement with the second defendant, the first defendant was directed to deposit Rs.3 crores into the Court, which will be one third of the total consideration on or before 25.09.2020 as security for loss, if any. Aggrieved by this portion of the order, the first defendant has filed O.S.A. No. 221 of 2020.

12. Today, when the appeals are taken up for hearing, the learned counsel appearing for the plaintiff (Appellant in OSA No. 224 of 2020) submitted that he is not pressing the relief sought for in O.S.A. No. 224 of 2020 and therefore, the appeal may be dismissed as not pressed. He also submitted that the plaintiff may be permitted to withdraw the sum of Rs.8,05,00,000/- deposited by them to the credit of the suit.

13. While seeking to withdraw the appeal in O.S.A. No. 224 of 2020, the learned counsel for the plaintiff would contend that the first defendant did not disclose to the plaintiff about the earlier agreements dated 16.11.2019 and 05.04.2020 entered into with the second defendant. The first defendant, without disclosing the subsistence of the earlier agreements dated 16.11.2019 and 05.04.2020 with the second defendant, had entered into the agreement dated 28.05.2020 with the plaintiff and thereby caused enormous loss to it. In such circumstances, the plaintiff is entitled to claim damages from the first defendant. He submitted that the learned single Judge also rightly directed the first defendant to deposit a sum of Rs.3 crores being one third of the total consideration towards damages that was inflicted on the plaintiff, if the plaintiff establish the same. He therefore submitted that the direction given by the learned single Judge in Para No.20 (v) of the order dated 11.09.2020 need not be interfered with.

14. The learned counsel for the first defendant (appellant in O.S.A. No. 211 of 2020) would contend that when the plaintiff unconditionally withdraws the appeal filed in O.S.A. No. 224 of 2020, he has no right to seek for continuance of the direction issued by the learned single Judge in Para No.20 (v) of the order dated 11.09.2020. In fact, while vacating the order of interim injunction, the learned single Judge ought not to have

directed the first defendant to deposit Rs.3 crores and it is only as against this portion of the direction, the first defendant has filed the O.S.A. No. 211 of 2020. The learned counsel for the first defendant therefore prayed for allowing O.S.A. No. 211 of 2020.

15. We have heard the counsel for both sides. Having regard to the submissions made by the learned counsel for the plaintiff/appellant in O.S.A. No. 224 of 2020, permission is hereby granted for withdrawal of O.S.A. No. 224 of 2020 as not pressed.

16. As the appellant (plaintiff) seeks permission to withdraw the appeal in O.S.A. No. 224 of 2020, we are of the view that the appellant has no locus standi to contend that the direction issued by the learned single Judge in Para No.20 (v) of the order dated 11.09.2020 has to be sustained. Having chosen to withdraw O.S.A. No. 224 of 2020 by accepting the order passed by the learned single Judge on 11.09.2020, it cannot contend that the direction issued by the learned single Judge in Para No.20 (v) of the order dated 11.09.2020 has be sustained. In such view of the matter, liberty is given to the plaintiff to establish, in a manner known to law, that it is entitled to claim damages from the first defendant, for having entered into an agreements on 28.05.2020 and 08.08.2020 with them, without disclosing the subsistence of earlier agreements dated 16.11.2019 and 05.04.2020 between the first defendant and the second defendant. In view of such liberty having been given to the plaintiff to claim damages in a manner known to law, the direction issued by the learned single Judge in Para No.20 (v) of the order dated 11.09.2020 cannot be sustained.

17. In the result,

(i) O.S.A. No. 211 of 2020 filed by the first defendant in the suit is allowed by setting aside the direction issued by the learned single Judge in Para No.20 (v) of the order dated 11.09.2020.

(ii) O.S.A. No. 224 of 2020 filed by the plaintiff is dismissed as not pressed and thereby confirming the Judgment and Decree dated 11.09.2020 passed in O.A. No. 314 of 2020 in Application No. 1829 and 1845 of 2020 in Civil Suit No. 187 of 2020.

(iii) Registry is directed to refund the sum of Rs.8,95,00,000/- deposited by the appellant in O.S.A. No. 224 of 2020, pursuant to the direction of the learned single Judge vide order dated 18.08.2020, forthwith.

(iii) There shall be no order as to costs. Consequently, all the connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rsh

To

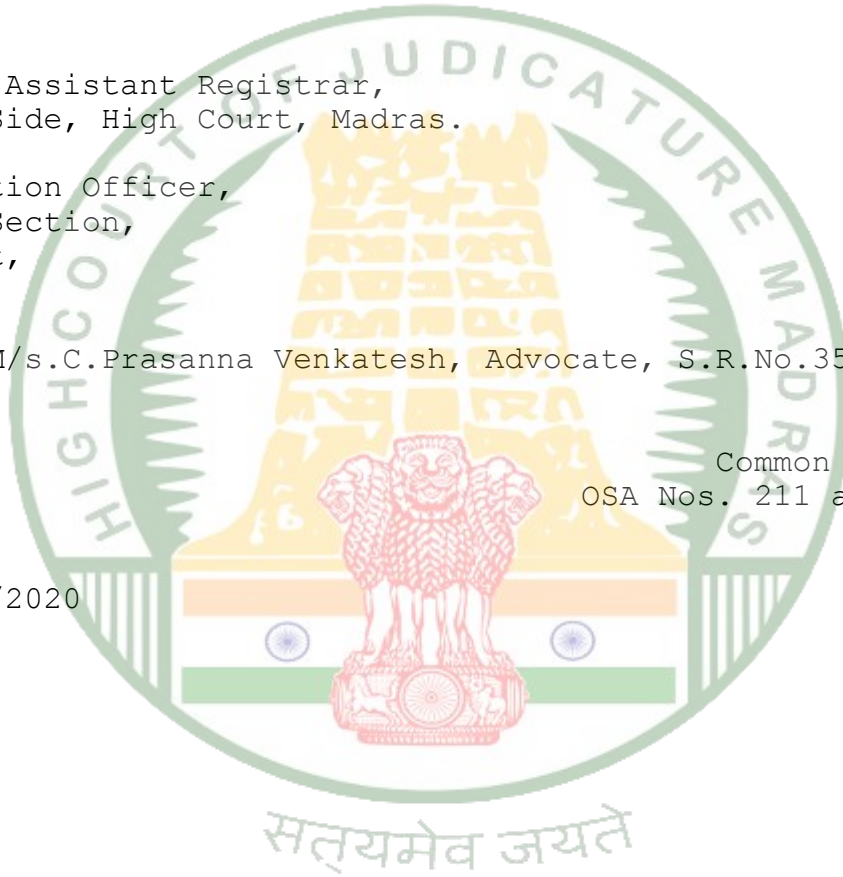
1.The Sub Assistant Registrar,  
Original Side, High Court, Madras.

2.The Section Officer,  
Accounts Section,  
High Court,  
Madras.

+2ccs to M/s.C.Prasanna Venkatesh, Advocate, S.R.No.35348

Common Judgment in  
OSA Nos. 211 and 224/2020

SAI (CO)  
KKV/30/11/2020



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