

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2020

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

C.S.No.433 of 2017

and

A.Nos.347 & 3085 of 2017

S.Mathikumar @ Mathi

...Plaintiff

Vs.

Express Publications (Madurai) Limited,
Represented by its Chairman and
Managing Director,
Express Gardens, No.29, 2nd Main Road,
Ambattur Industrial Estate,
Chennai - 600058.

...Defendant

PRAYER: Civil Suit filed under Order IV Rule 1 of the O.S. Rules read with Section 62 & 60 of the Copyright Act, 1957, praying to grant a judgment and decree against the defendant

(a) Restraining the Defendant from infringing the 'Common Man' Cartoon to the Plaintiff;

(b) Restraining the Defendant from infringing 108 of Plaintiff's Cartoons, i.e., assembled and made available to the public by the

Defendant in its website www.dinamani.com, and under the caption 'cartoons';

(c) Directing the Defendant to pay a sum of Rs.53,00,000/- as damages for having infringed the Plaintiff's copyright in his 'Common Man' cartoon;

(d) Directing the Defendant to pay further damages for infringing the Plaintiff's cartoon - 'Common Man' from the date of filing of the suit and till the disposal of the suit;

(e) Declaring that the threat issued by the Defendant in its Reply, dated 02.05.2017 to the legal notice issued by the Plaintiff is Groundless and unsustainable in law;

(f) Costs of the suit; and

(g) Pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thereby render justice.

For Plaintiff : Mr.SP.Chockalingam

For Defendant : Mr.S.Vijayaraghavan

JUDGMENT

Pending the suit, the parties were referred to Mediation and during the course of Mediation, both the parties have amicably resolved the disputes among themselves, pursuant to which, they have filed a Memo

of Compromise, dated 03.03.2020. The terms of the Memo of Compromise reads as follows:

MEMO OF COMPROMISE

The Plaintiff and Defendant respectfully state as follows:

PREAMBLE:

The Parties have met along with their counsel and have decided to arrive at an amicable settlement with a view to bring an end to litigation.

Though the Defendant has asserted Copyright to the “Common Man” Cartoon (Being the subject matter of the suit), in the interests of amicable settlement, it has agreed to recognize and affirm the said Copyright in favour of the Plaintiff. The Plaintiff in turn has agreed to give up all claims whether monetary or otherwise against the defendant.

The Parties have therefore entered into the Memo of Compromise on the following terms:

1. The Defendant acknowledges and affirms the Copyright for the “Common Man” cartoon and other Cartoons being subject matter of the Plaintiff.

2. The Defendant further affirms that it shall not use the “Common Man” Cartoon and other Cartoons as depicted in the Plaintiff in the future in any of its Publications.

3. The Plaintiff hereby gives up his claim for damages of Rs.1,53,00,000/- (One Crore and Fifty Three Lakhs Only) or any other claim for damages and further states that he has no other claims monetary or otherwise under any head against the Defendant.

4. The Parties shall bear their respective costs.

5. The Parties pray that this Hon'ble Court may take this Memo Of Compromise on file and dispose of the suit as settled out of Court and direct refund of full Court fee paid in favour of the Plaintiff and thus render Justice.

2. In view of the amicable settlement arrived by the parties in terms of the aforesaid Memo of Compromise, dated 03.03.2020, the Suit

in O.S.No.433 of 2017 is decreed. No costs. Consequently, the connected Applications are closed.

3. Since the parties have resolved the disputes among themselves in the Mediation, the plaintiff shall be entitled for refund of the Court fee, which is permissible.

4. The Joint Memo of Compromise, dated 03.03.2020 shall also form part of this Judgment and Decree.

03.03.2020

Index: Yes/No
Internet: Yes/No
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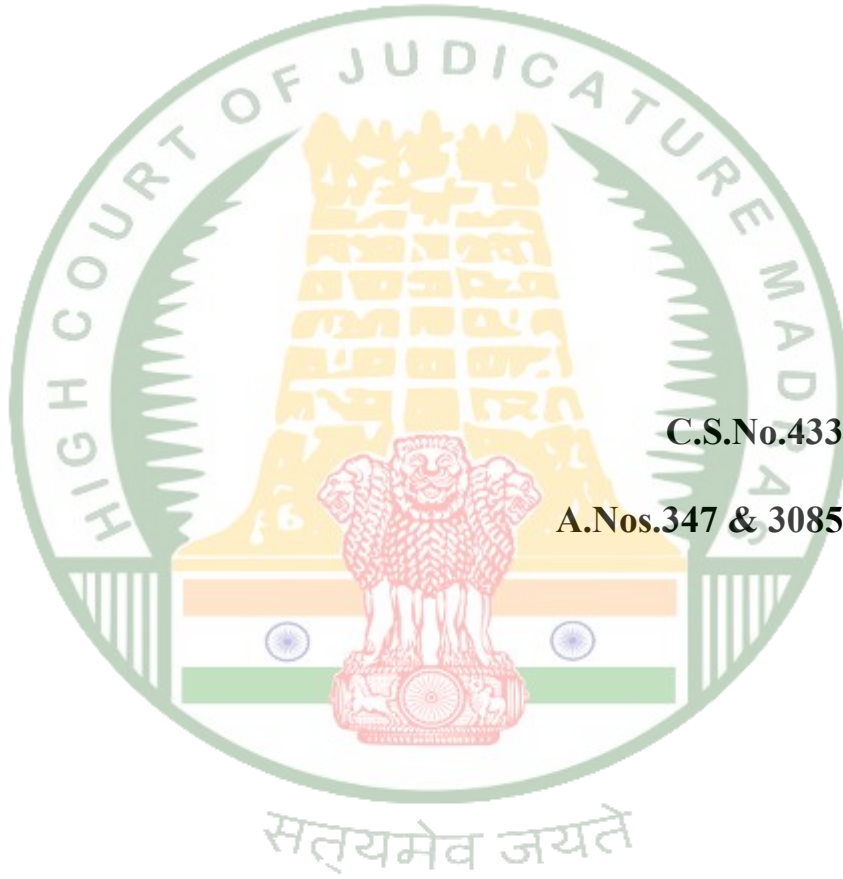
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C.S.No.433 of 2017

M.S.RAMESH,J.

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