

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.490 of 2003

M/s.Indo Overseas Films,
Rep. By its Partner Firoz Elias,
No.3, 2nd Floor, Arumugha Street,
Mount Road, Chennai – 600 002.

...Plaintiff

Vs.

1.Jorden Electronics,
Rep. By its Authorised Signatory,
Niel Gaagan Goel, No.257, Palika Bazar,
Connaught Place, New Delhi.

2.Star Entertainment (P) Ltd.,
No.701-A, Niranjana,
99, Marine Drive, Mumbai – 400 002.

3.Ultra Distributors (P) Ltd.,
2-C, Thakkar Ind. Estate,
N.M.Joshi Marg, Lower Parel (E),
Mumbai – 400 011.

...Defendants

Prayer: Complaint filed under Section 55, 60 and 62 of the Indian Copyright Act, 1955, r/w. Order IV Rules 1 & 2 of the Original Side Rules, praying as follows:-

a) for a declaration that the plaintiff are the sole, exclusive and absolute owners of the limited copy right in respect of Video, VCD, DVD, Cable TV, Pay TV and Free TV rights, etc., of the suit pictures mentioned in

the schedule to the plaint for the territories of entire India for a period of seven years;

ii) for a permanent injunction restraining the Defendant, their agents, servants, representatives, or anybody claiming through or under them from in any manner infringing the limited copy right of the Plaintiff in respect of Video, VCD, DVD, Cable TV, Pay TV and Free TV rights, etc., of the suit pictures mentioned in the schedule to the plaint either by causing any publications in Newspapers, Magazines etc., or in any other manner whatsoever;

iii) to award the costs of the suit.

For Plaintiff : Mr.A.Chidambaram

For Defendants : Mr.K.Harishankar for

Mr.C.Ramesh for D1 & D2

D3 – No Appearance

J U D G M E N T

Heard Mr.A.Chidambaram, learned counsel appearing for the plaintiff and Mr.K.Harishankar, learned counsel appearing for the defendants 1 and 2. 3rd defendant though served, has not chosen to appear either in person or through counsel, duly instructed. The 1st prayer in the plaint reads as follows:-

“a) for a declaration that the plaintiff are the sole, exclusive and absolute owners of the limited copy right in respect of Video, VCD, DVD, Cable TV, Pay TV and Free TV rights, etc.,

of the suit pictures mentioned in the schedule to the plaint for the territories of entire India “for a period of seven years”.”

3.The suit was filed in the year 2003. Almost 18 years have lapsed. The plaintiff's right itself has expired. Similarly, the 2nd defendant claims right under two agreements dated 31.01.2003 and 23.04.2001. Under the agreement dated 31.01.2003, the 2nd defendant is entitled to exploit the pictures for a period of five years i.e., till 28.02.2008. As per the agreement dated 23.04.2001, the 2nd defendant is entitled to exploit the picture till 22.04.2011. Admittedly, the period contemplated under those two agreements have expired. Therefore, nothing survives in the suit and there is no chance of success for the plaintiff. Hence, this suit is dismissed under Order XIII-A Rule 3 of the Code of Civil Procedure as amended by the Commercial Courts Act, 2015. No costs.

सत्यमेव जयते

07.09.2021

kkn
Internet: Yes/No
Index: Yes/No
Speaking/Non-speaking

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List of witness and documents filed on the side of the plaintiff:

Nil

List of witness and documents filed on the side of the defendants:

Nil

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07.09.2021



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R.SUBRAMANIAN, J.

KKN



C.S.No.490 of 2003

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