



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 25TH DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.S.No.748 of 2015

1. M/s.G.Balaji Publishers,
Flat No.5A, Sarva Shree Apartments,
Old No.57, New No.52, Gandhi Street,
West Mambalam, Chennai,
Tamilnadu – 600 033.
Rep. by its Prop. P.S.Bhaarathi

2. G.Balaji,
S/o. N.Govindarajan,
Flat No.5A, Sarva Shree Apartments,
Old No.57, New No.52, Gandhi Street,
West Mambalam, Chennai.
Tamilnadu – 600 033.

...Plaintiffs

Vs.

1. Lakshmi Publications,
No.11, Veerabathra Nagar,
Part-II, 8th Street, Mambakkam Road,
Medavakkam, Chennai – 600100.
Tamilnadu.
Rep. by it Prop. Mrs. D.Nirmala Durai.

2. J.Sakthivel,
Assistant Professor in Mathematics,
Mailam Engineering College, Mailam,
Tindivanam (Taluk), Villupuram District,
Tamilnadu – 604304.

3. R.Saravanan,
Assistant Professor in Mathematics,
Sri Venkateswara College of Engineering & Technology,
Thirupachur, Thiruvallur District,
Tamilnadu – 631203.

...Defendants



Civil suit praying that this Hon'ble Court be pleased to grant a

judgment and decree against the Defendants on the following terms:

a) a perpetual injunction restraining the Defendants by themselves or their directors, men, partners, proprietors, stockists, dealers, servants, agents, franchises, successors in interest, licensees, assignees, representatives or any of them from circulating / selling / distributing / marketing / advertising the copyright infringing book entitled “Mathematics for B.Arch 1st Semester Students” and to stop dealing in such infringing copies or in any other manner acting unlawfully so as to infringe the copyright of the plaintiffs.

b) the Defendants more particularly 1st Defendant be ordered to surrender to plaintiff for destruction all infringing copies of the work 'Mathematics for B.Arch Ist Semester Students' including those in electronic form;

c) the Defendants be ordered to prepare and render true accounts of the revenue earned so far under the said infringing copy of the work to enable this Hon'ble Court to assess the unlawful earnings made by the Defendants and thereafter to pass a final decree upon ascertaining the accounts, in favour of the 1st Plaintiff and against the Defendants;

d) the Defendants be directed pay damages of Rs.25,01,000/-



1st Plaintiff for infringing the Plaintiff's copyrighted literary work;

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e) for the costs of the suit.

This Civil Suit coming on this day before this court for hearing in the presence of Mr.S.Patrick for Mr.S.Balachandran, advocates, for the plaintiffs herein and Mr.G.Surya Narayanan, advocate for the 1st defendant herein and upon the reading the plain filed herein and the other exhibits therein referred to and upon perusing the evidence adduced herein and this court having observed that though there has been a substantial copying of certain pages of the book of the plaintiffs by the defendants, the injunctive reliefs sought for need not be granted, however, this court record the statement of the 1st defendant made in the additional written statement to the effect that they are not selling the offending books and they will not sell the offending books in future and the offending books are no longer relevant and they cannot be sold in the market. D.W.1 has categorically stated that he has withdrawn the offending books and they have been destroyed also. Hence, this court do not think that the plaintiffs would be entitled to relief of destruction of the books and If the plaintiffs are to be favoured with a decree for damages, the plaintiffs must have produced evidence to show the actual sales and the likelihood of the sales being affected because of the copied version of its book and the damages that is likely to be caused, no



conclusion that the plaintiffs have suffered such damages, and in the light of total absence of evidence, this court do not think that the plaintiffs are entitled for a decree for damages this court do not think, the Plaintiffs could be favoured with any decree in this suit and **it is ordered as follows:-**

That the suit CS No.748 of 2015 be and is hereby disposed of recording the undertaking of the defendant that the defendant shall not sell the infringing books in future.

2. That there shall be no order as to costs of this suit.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
25TH DAY OF AUGUST 2021.

Sd/-
ASSISTANT REGISTRAR (Comm.Cases)

//Certified to be true copy//
Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)
From 25th Day of September 2008 the Registry is issuing certified copies
of the Orders/Judgments/Decrees in this format.



ED

13.10.2021

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5

CS.No.748 of 2015

ORDER:

DATED : 25/08/2021

THE HON'BLE MR. JUSTICE
R. SUBRAMANIAN

FOR APPROVAL: 18.10.2021

APPROVED ON : 22.10.2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.748 of 2015

1. M/s.G.Balaji Publishers,
Flat No.5A, Sarva Shree Apartments,
Old No.57, New No.52, Gandhi Street,
West Mambalam, Chennai,
Tamilnadu – 600 033.
Rep. By its Proprietor, P.S.Bhaarithi

2. G.Balaji,
S/o. N.Govindarajan,
Flat No.5A, Sarva Shree Apartments,
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3. R.Saravanan,
Assistant Professor in Mathematics,
Sri Venkateswara College of Engineering & Technology,
Thirupachur, Thiruvallur District,
Tamilnadu – 631203.

...Defendants



Prayer: Plaintiff filed under Order IV Rule 1 of the Original Side rules r/w. Order VII Rule 1 of C.P.C., and r/w. Sections 51, 55 & 62 of the Copyright Act, 1957, praying as follows:-

a) a perpetual injunction restraining the Defendants by themselves or their directors, men, partners, proprietors, stockists, dealers, servants, agents, franchises, successors in interest, licensees, assignees, representatives or any of them from circulating / selling / distributing / marketing / advertising the copyright infringing book entitled “Mathematics for B.Arch 1st Semester Students” and to stop dealing in such infringing copies or in any other manner acting unlawfully so as to infringe the copyright of the plaintiffs.

b) the Defendants more particularly 1st Defendant be ordered to surrender to plaintiff for destruction all infringing copies of the work 'Mathematics for B.Arch Ist Semester Students' including those in electronic form;

c) the Defendants be ordered to prepare and render true accounts of the revenue earned so far under the said infringing copy of the work to enable this Hon'ble Court to assess the unlawful earnings made by the Defendants and thereafter to pass a final decree upon ascertaining the accounts, in favour of the 1st Plaintiff and against the Defendants;

d) the Defendants be directed pay damages of Rs.25,01,000/- (Rupees Twenty Five Lakhs One Thousand only) jointly and severally to the 1st Plaintiff for infringing the Plaintiff's copyrighted literary work;

e) for the costs of the suit.

For Plaintiffs : Mr.S.Patrick for Mr.S.Balachandran

For Defendants : Mr.G.Surya Narayanan for D1



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J U D G M E N T

The 1st plaintiff, the publisher and the 2nd plaintiff, the Author of the book titled “B.Arch., Mathematics” published in the year 2013, have come up with this suit, claiming that the 1st defendant had published a book said to have been authored by the defendants 2 and 3, covering some subject with a title “Mathematics for B.Arch. Ist Semester Students” in the year 2015.

2. According to the plaintiffs, the book published by the defendants virtually copies several pages of the book authored by the 2nd plaintiff and published by the 1st plaintiff in the year 2013. Citing instances of such copying, the plaintiffs would seek a decree for permanent injunction restraining the defendants from infringing the copyright of the plaintiffs for the book titled “B.Arch. Mathematics”, seeking surrender of the infringing copies of the book, accounts and damages.

3. The suit is resisted by the 1st defendant alone, while the 3rd defendant has issued a reply notice to the plaintiffs that he has no connection with whatsoever the publication of the offending book. The 2nd defendant had remained exparte. The 1st defendant would claim that being a publisher, it is not aware of the portions of the plaintiffs' book, having been copied by the Authors of the book published by the 1st defendant. It is the



plaintiffs' counsel, it had withdrawn all the books that was supplied in the market, except 8 books, of which, 3 were purchased by the plaintiffs.

4. According to the 1st defendant, none of the books have been sold and all books have been withdrawn. It is also the further claim of the 1st defendant, due to the change of syllabus, the very book itself had become redundant and it cannot be sold anymore. On the above contentions, the following issues are framed for determination in the suit:-

“1. Whether the defendants had committed infringement of plaintiffs' copyright ?

2. Whether the plaintiffs are entitled to seek for destruction of books as sought ?

3. Whether the plaintiffs have quantified Rs.25,01,000/- in pleadings and whether the Court can order any compensation without necessary pleadings ?

4. Whether the plaintiffs can claim rights over mathematical works which are already in vogue with the general public and in many websites ?

5. To what relief the parties are entitled to ?”

5. I have heard Mr.S.Patrick, learned counsel appearing for the plaintiffs and Mr.G.Surya Narayanan, learned counsel appearing for the 1st defendant.

6. Issue No.1:- Inviting my attention to the specific portions of the

books, which have been marked as MO1 (Series), Mr.S.Patrick, learned counsel appearing for the plaintiffs would submit that specific portions of



the plaintiffs' book, which has been marked as Book No.2 in MO1 (Series) have been verbatim reproduced in the book published by the 1st defendant marked as Book No.III in MO1 (Series). He would also point out that specific portions of the book marked as Book No.I in MO1 (Series) have been copied and reproduced in Book No.III, which was published by the 1st defendant. The learned counsel would also invite my attention to the evidence of D.W.1 wherein, the witness would admit that the contents of the book in some pages are exactly same. Based on the above material and evidence on record, Mr.S.Patrick would submit that it is clear that there has been an infringement of copyright of the plaintiffs. The fact that the plaintiffs have been favoured with the Registration of copyright, pending suit, is also not disputed.

6.1.Responding to the contentions of the learned counsel appearing for the plaintiffs, Mr.G.Surya Narayanan, learned counsel appearing for the 1st defendant would submit that the subject being Mathematics, there is bound to be certain similarity in the books, which cover the same syllabus. Unless it is shown that the offending book is verbatim reproduction of the publication of the plaintiff, the plaintiffs cannot seek injunction.

6.2.No doubt, the claim that there are bound to be certain



at the same time, the offending book cannot be a verbatim reproduction of the original and if it is shown that there has been a copying of the contents of the book of the plaintiffs by the defendants' Author, then the plaintiffs should be justified by seeking a decree for injunction. I have gone through the portions of the book, which are alleged to have been copied. I find that there has been a copying of certain pages of the Book No.1 and 2 marked as MO1 Series in Book No.3. While Books No.1 and 2 of MO1 (Series) are the publications of the 1st plaintiff, Book No.3 is the publication of the 1st defendant. There are two Authors of Book No.3, of which, one of the Authors has claimed that he has no connection with the publication. The other Author has remained exparte.

6.3.It is also pointed out by Mr.G.Surya Narayanan, learned counsel appearing for the 1st defendant that the syllabus has changed and the books of the plaintiffs as well as the defendant have become redundant today and therefore, both the books are not being sold today. He would also point out to the evidence of the defendant to the effect that the books, which were circulated in the market were recalled and destroyed, except 8 books, of which, 3 books were purchased by the plaintiffs and produced as material objects in the suit. Of course, the plaintiff has produced certain bills, namely, Exs.P17 and P18, showing that the books were available in the



the change of syllabus, both the books have now become redundant and they are no longer being sold by either of the parties.

6.4. In view of the above situation, I find that though there has been a substantial copying of certain pages of the book of the plaintiffs by the defendants, the injunctive reliefs sought for need not be granted. However, I record the statement of the 1st defendant made in the additional written statement to the effect that they are not selling the offending books and they will not sell the offending books in future. Therefore, Issue No.1 is answered as above, recording the statement of the 1st defendant as an undertaking by the defendants that the offending book will not be sold in future.

7. **Issue No.2 :-** This issue relates to destruction of the offending books. As already pointed out, the offending books are no longer relevant and they cannot be sold in the market. D.W.1 has categorically stated that he has withdrawn the offending books and they have been destroyed also. Hence, I do not think that the plaintiffs would be entitled to relief of destruction of the books. Hence, Issue No.2 is answered against the plaintiffs.

8. **Issue No.3:** This issue relates to damages

As far as the prayer for damages is concerned, I find total lack of

evidence. It is admitted by P.W.1 himself that if at all books can be sold,



number of copies sold will be only 300 to 500 and it caters to the limited section of students of Architecture only. The 1st plaintiff has not produced any evidence to show the volume of its sales, so as to demonstrate that the 1st plaintiff has suffered damages due to the offending book being sold in the market. If the plaintiffs are to be favoured with a decree for damages, the plaintiffs must have produced evidence to show the actual sales and the likelihood of the sales being affected because of the copied version of its book and the damages that is likely to be caused. No such evidence is placed before the Court, for the Court to come to the conclusion that the plaintiffs have suffered such damages. In the light of total absence of evidence, I do not think that the plaintiffs are entitled for a decree for damages.

9. Issue No.4: This issue relates to claim for copyright over mathematical words.

As I already pointed out, while dealing with the issue No.1, a person cannot claim absolute copyright to the mathematical formulae and the problems as such, but the Author will have a copyright to the method by which, he has solved the problems, the illustrations used and the eventual answer. Therefore, issue No.4 is answered to the effect that the plaintiffs can claim a copyright over the contents of a book in the Matematics

