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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 30TH DAY OF SEPTEMBER 2021

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

C.S.No.10 of 2018

Mrs.Shanthi Thiagarajan,
Proprietrix, Staar Movies,
Prashanth Gold Towers,
8, Hanumanthan Street,
T.Nagar, Chennai 600 017.

.. Plaintiff

-Vs-

1. K.E.Gnanavel Raja,
C/o. Studio Green,
2nd Floor, 13/6, Thanikachalam Road,
T.Nagar, Chennai – 600 017.

2. Vignesh Sivan,
Ceebros Atlantic Residence,
No.3, Montieth Road, 'A' Block,
Egmore, Chennai – 600 008.

.. Defendants

Civil suit praying that this Hon'ble Court be pleased to grant a
Judgment and decree on the following terms:-

(a) a permanent injunction restraining the defendants by themselves,
their partners, men, servants, agents, distributors, representatives or any one
claiming through or under them from in any manner infringing the plaintiff's
copyright in the rights over the original movie SPECIAL 26 by producing,
directing, distributing or communicating to the public any cinematograph



film under the title THAANA SERNDHA KOOTAM or any other name or in any other manner whatsoever;

(b) a preliminary decree be passed in favour of the plaintiffs directing the defendant to render account of profits made by use of copyright in the literary work of the original film, SPECIAL 26 for adapting or remaking their movie, THAANA SERNDHA KOOTAM and a final decree be passed in favour of the plaintiffs for the amount of profits thus found to have been made by the defendant after the latter have rendered accounts;

(c) for costs of the suit.

This Civil Suit having been heard on 24/09/2021 through Video Conferencing in the presence of Mr.R.Sathish Kumar, advocate for the plaintiff herein and Mr.Vijayan Subramanian, advocate for the defendants herein and upon reading the plaint filed herein and the other exhibits therein referred hereto and upon perusing the evidence adduced therein and having stood over for consideration till this date and coming on this day before this court for orders in the presence of the said advocates for the parties hereto and this court having observed that the dubbing right of new film in Tamil or Telugu not reserved with the plaintiff, clause 20 of Ex.P4 and Ex.D2 restricts the right to dub the remade version of Tamil and Telugu in any other language, in other words, the right assigned under Ex.P2 is to remake the new film in Tamil or Telugu or both, the new film in any of the



languages, vis., Tamil or Telugu may be dubbed vice versa and the restriction will not apply for the new film remade in Tamil as TSK to be dubbed in Telugu and therefore, on the basis of the terms of the agreement itself, this court finds that, the plaintiff has no cause of action against the defendants to sustain the suit and after assigning the exclusive right to remake inclusive of derivative and ancillary rights, the plaintiff has no locus to sustain the present suit alleging infringement of copyright or rendition of account of injunction and **it is ordered as follows:-**

That the suit in C.S.No.10 of 2018 be and is hereby dismissed.

2) That the plaintiff herein do pay to the defendants herein the costs of this suit as and when taxed by the taxing officer of this court and noted in the margin thereof.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
30TH DAY OF SEPTEMBER 2021.

Sd/-

ASSISTANT REGISTRAR (Comm.Cases)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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28.10.2021

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CS.No.10 of 2018

ORDER:

DATED : 30/09/2021

THE HON'BLE DR. JUSTICE
G. JAYACHANDRAN

FOR APPROVAL: 30.10.2021

APPROVED ON: 01.11.2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :24.09.2021	Pronounced on:30.09.2021
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Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Civil Suit No.10 of 2018

Mrs.Shanthi Thiagarajan,
Proprietrix, Staar Movies,
Prashanth Gold Towers,
8, Hanumanthan Street,
T.Nagar, Chennai 600 017.

.. Plaintiff

/versus/

1.K.E.Gnanavel Raja

2.Vignesh Sivan

.. Defendants

Prayer:- Civil Suit has been filed under Order VII, Rule 1 C.P.C., and Order IV, Rule 1 O.S. Rules read with Sections 51,55, 62 of the Copyrights Act, 1957 praying to grant a judgment and decree:-

(a)a permanent injunction restraining the defendants by themselves, their partners, men, servants, agents, distributors, representatives or any one claiming through or under them from in any manner infringing the plaintiff's copyright in the rights over the original movie SPECIAL 26 by producing, directing, distributing or communicating to the public any cinematograph film under the title THAANA SERNDHA KOOTAM or any other name or in any other manner whatsoever;

(b)a preliminary decree be passed in favour of the plaintiffs directing the defendant to render account of profits made by use of copyright in the literary work of the original film, SPECIAL 26 for adapting



or remaking their movie, THAANA SERNDHA KOOTAM and a final decree be passed in favour of the plaintiffs for the amount of profits thus found to have been made by the defendant after the latter have rendered accounts;

(c)for costs of the suit.

For Plaintiff :Mr.R.Sathish kumar

For Defendants :Mr.Vijayan Subramanian

J U D G M E N T

(This case has been heard through Video Conferencing)

The suit is filed for permanent injunction and for a preliminary decree to render accounts of profit.

2. Case of the plaintiff:

The sole plaintiff is the Assignee of the remake copyright of the Hindi movie “SPECIAL 26” in four southern languages (Tamil, Telugu, Malayalam and Kannada). The plaintiff obtained the remake copyright from M/s VIACOM 18 Meida Private Limited (herein after referred as “VIACOM”), by virtue of Agreement dated 19th August, 2014. As per the terms of the said remake Agreement deed, the plaintiff shall have the right to remake, dub or sub-title the movie in any of the four Southern Indian regional languages and other foreign languages. Also to assign the said rights to any third parties. If the plaintiff fails to commence the production



of the new film within a period of three years, from the date of agreement, the agreement shall stand terminated automatically and the right to remake shall automatically revert to the VIACOM.

3. In or about the year 2016, the plaintiff commenced production of the remake of the Hindi movie “SPECIAL 26” in Kannada language under the title “FEVER 26”. By September, 2016, one M/s RPP Film Factory, represented by Mr. P. Prasanth, approached the plaintiff for the remake right of the Hindi movie “SPECIAL 26” in Tamil and Telugu. On 21/09/2016, the plaintiff and M/s RPP Film Factory entered into an agreement wherein, the plaintiff transferred its right only to remake in Tamil and Telugu languages alone to M/s RPP Film Factory for a consideration of Rs.1.5 crores. Under this agreement, the sole and exclusive right to use and exploit the remake right in Tamil and Telugu as a ‘New Film’ alone was transferred and specifically, the dubbing right of the new film in any other language was not transferred. The plaintiff as the Assignor, retained with her the dubbing right. The assignee M/s RPP Film Factory paid only Rs.1.47 crores towards the total consideration of Rs.1.5 crores. TDS of Rs.3 lakhs still due and payable.



4. Further, Clause 28 of the Agreement mandate, the assignee M/s RPP Film Factory to commence its production within one year from the date of agreement and if the assignee fails to commence the production, within one year, the agreement shall stand automatically terminated and the right shall revert to the assignor and the amount paid by the assignee shall stand forfeited. While so, M/s RPP Film Factory failed to commence the production within one year. Pursuant to Clause 28(iv) of the Agreement, the remake right in Tamil and Telugu language reverted back to the plaintiff.

5. The plaintiff came to know through media and other sources that the first defendant is producing a Tamil movie titled “THAANA SERNDHA KOOTAM” (hereinafter referred to as “TSK”) through the second defendant as the Director and the story of the said movie is the adoption of Hindi movie “SPECIAL 26”. In or about 22nd September, 2017, in Wikipedia, it was stated that the film TSK is the adaptation of 2013 Hindi Film “SPECIAL 26”. In an interview published in magazine called “THE NEWS MINUTE” issue dated 21/12/2017, the second defendant, who is the Director of the movie TSK, stated that, the movie titled TSK is not scene by scene remake of “SPECIAL 26”, only the core theme of the film has been retained.



6. According to the plaintiff, she is the exclusive owner of the remake and dubbing right of the Hindi Movie “SPECIAL 26” in four regional languages. The right of remake given to M/s RPP Films Factory reverted back to her, since M/s RPP did not commence the production within one year from the date of the agreement (21/09/2016). The Tamil movie TSK is the adoption of the Hindi Movie “SPECIAL 26” and its Telugu dubbed version is therefore an infringement of her copyright over the movie.

7. Case of the defendants:

Written Statement filed by the first defendant and the same is adopted by the second defendant.

8. The defendants admit the fact that, the Hindi Movie “SPECIAL 26” was written and directed by Mr. Neeraj Pandey. M/s VIACOM 18 Media Private Limited acquired the distribution and remake rights from M/s Wide Frame Pictures and Friday Film Private Limited by an agreement dated 25/07/2012. From M/s VIACOM, the plaintiff acquired the rights to remake the Hindi Movie “SPECIAL 26” in 4 regional languages through agreement dated 19/08/2014. However, the plaintiff, vide assignment agreement dated 21/09/2016, had assigned the remake rights in Tamil and Telugu languages



negative rights and all other ancillary rights exclusively to M/s RPP Film Factory.

9.As per Clause 14 of the agreement dated 21/09/2016, M/s RPP Film Factory has right to assign or license the benefit of the agreement or any of its rights whole or in part. Thus, as per this Clause, M/s RPP Film Factory assigned the rights to remake the film in Tamil and Telugu languages to M/s Aadnah Arts owned by the first defendant. The first defendant commenced the production on 01/09/2016. Hence, the claim of the plaintiff that under Clause 28, the right reverted back to her, since M/s RPP Film Factory failed to commence production, is factually not correct.

10.The first defendant has lawfully obtained the assignment of copyright to remake the Hindi movie “SPECIAL 26” in Tamil and Telugu, which includes the right to dub being an ancillary right to the remake right. The first defendant is the plaintiff’s assignee’s assignee. M/s RPP Film Factory to whom the plaintiff has assigned the remake copyright, after receiving the consideration is proper and necessary party to the suit. The non-joinder of M/s RPP Film Factory is fatal to the plaintiff’s case. The film TSK was produced by M/s Aadanh Arts owned by the first defendant. The



Aadnah and not in his personal capacity or C/o Studio Green. For misjoinder of party also, the suit is to be dismissed.

11.The defendants admit that, the second defendant gave interview stating that the movie TSK is not exact remake of the Hindi film “SPECIAL 26” and only the core theme had been adopted. Under the assignment deed dated 23/09/2016, M/s Aadanh Arts owned by the first defendant have the absolute right to alter, edit, modify the content of the film. The film TSK was released in theatres on 12/01/2018 and the dubbed version of TSK (Tamil) in Telugu was also released. Due credits given to all the Directors, Producers, Writers and to the plaintiff’s husband in the opening credits of the film, the defendants under the agreement dated 23/09/2016 have obtained both the right to remake a new film and right to dub the movie “SPECIAL 26” in Tamil and Telugu language. Therefore, the plaintiff has no cause of action to sustain the suit. The prayers in the suit are illusory and cannot be countenanced in law.

12.Based on the pleadings, Issues were framed and the parties lead evidence. Mr. K.Anand, the Manager of the plaintiff concern was examined as PW-1. Mr. S.Sriram, the Power of Attorney of the first defendant was examined as DW-1. 7 documents (Ex.P-1 to Ex.P-7) for the



plaintiff and 4 documents (Ex.D-1 to Ex.D-4) for the defendants were marked.

13. Issues:-

1. Whether the defendants can claim remake and ancillary rights including dubbing rights over the hindi film SPECIAL 26 based on the agreement dated 23.09.2016, from one M/s RPP Film Factory?

2. Whether the defendants have exploited their Remake rights over the film SPECIAL 26 in accordance with the terms and conditions of the said agreement?

3. Whether the suit is liable to be dismissed for non-joinder of parties?

4. Whether the defendants have dubbing rights and adaptation rights specifically under the agreement dated 23.09.2016, and whether M/s RPP FILM FACTORY had the power to assign the same?

5. Whether the plaintiff is entitled to the relief as prayed?"

14. In the instant case, the parties admit the source of the right claimed by them. The witness for the defendants (DW-1) admits that, the Tamil movie "Thana Serntha Kootam"(TSK) is the remake of Hindi Film

"SPECIAL 26" (answer to question No.6) and the same was dubbed in

Telugu by the first defendant (answer to question No.38). Therefore, the



controversy centres around a very narrow campus, whether the defendants' Assignor had the right to transfer the remake right and if so, whether it includes the dubbing right also.

15. For the said purpose, the recitals in the three documents namely the Remake Rights Agreement dated 19/08/2014 given by VIACOM in favour of the plaintiff, which is marked as Ex.P-2; Assignment Agreement dated 21/09/2016 between the plaintiff and M/s RPP Film Factory; and Remake Rights Agreement between M/s RPP Film Factory and M/s Aadnah Arts represented by its Proprietor Mr.K.E.Gnanavelraja, which is marked as Ex.D-2, are to be compared and interpreted the way the parties have understood their respective rights and responsibilities, while exploited the rights assigned.

16. Remake Rights Assignment dated 19/08/2014 is Ex.P2. M/s VIACOM 18 Media Pvt. Limited the 'Assignor' and the plaintiff the 'Assignee'. They both are the signatories to this document. The relevant Clauses in the document Ex.P2 are:-

(i) Clause 1.6 defines New film/s as :

proposed to be made by Assignee in Tamil, Telugu, Malayalam and Kannada languages under such title as may be decided by Assignee, by virtue of the Remake Rights assigned by Assignor to Assignee with respect to the Original Film under this Agreement.”

(ii) Clause 1.8 defines “Remake Rights” as:

“1.8 “Remake Rights” shall mean a collective reference to the following rights:

(a) The exclusive right to make/produce the New Film/s in Tamil, Telugu, Malayalam and Kannada Languages only, based on the Literary Works;

(b) The non-exclusive right to use the title and the Literary Works of the Original Films.

(c) The non-exclusive rights to use excerpts, summaries and extracts of the Original Film/script of the Original Film, in any form such as books, posters, news items, trailers, etc., for the purposes of exploitation of the New Film/s;

(d) The exclusive right to exploit the Exploitation Rights, and all other ancillary rights in the underlying works in the New Film/s; and

(e) The exclusive right to exercise and enjoy all rights comprised in copyright in the New Film/s (as well as the underlying works therein) as first owner thereof.”

(iii) Clause 2.5 clarifies the nature of remake rights assigned and



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“2.5. The Reserved Rights in the Original Film, which are not expressly granted herein by the Assignor to the Assignee, shall at all times vest with the Assignor and the Assignor shall be entitled to deal with it in any manner it deems fit and necessary and the Assignee shall neither deal with nor exploit the Reserved Rights in any manner whatsoever and shall have no claims in respect of the same. It is specifically clarified that the Assignee shall not be entitled to make any derivative work of the New Film/s in any manner whatsoever, including without limitation, sequels/prequels/further remakes/dubbed/sub-titled version thereof, etc. For the avoidance of doubt, it is clarified that the Assignee shall be entitled to create dubbed versions in Tamil, Telegu, Malayalam, and Kannada languages, as the case maybe, out of the New Film that is first produced by the Assignee. It is further clarified that the Assignee shall also have the right to sub-title the New Film/s in all foreign languages alone (excluding all Indian languages, other than Tamil, Telugu, Malayalam and Kannada languages).

(Emphasis added)

17. Under Clause 7, the circumstances under which the assignment will get terminated is listed. The relevant Clause 7.2 says, *“Notwithstanding anything contained in this Agreement, if the Assignee fails to commence production of either of the New Film/s within 3 (three) years from the date of execution of this Agreement, this Agreement shall*



granted by the Assignor to the Assignee under this Agreement shall automatically revert to the Assignor forthwith, without requirement of any further notice by the Assignor. In such case, the Consideration already paid by the Assignee to the Assignor, shall stand forfeited, and the Assignor shall not be required to make any refund thereof to the Assignee. The Assignee further acknowledges and confirms that it shall not raise any action, claim, demand or objection against the Assignor in any manner whatsoever, in respect of the forgoing.”

18.Clause 13.2 confers right to the assignee to assign her right to the third parties subject to prior written consent of the assignor. Through the above Agreement (Ex.P-2), the plaintiff establish her right to remake a new film in all or any one of the 4 languages viz, Tamil, Telugu, Kannada and Malayalam, based on the Hindi movie “SPECIAL 26” and the right to dub it to any of the other three languages from the new film remade. The agreement specifically mandated the plaintiff to commence the production of remake within 3 years starting from 19/08/2014 also assign the remake right to the third parties.

19.It is pleaded that, the plaintiff, immediately after the agreement



titled “FEVER 26”. However, there is no substantial evidence to prove this claim. But then, it is admitted case that, the plaintiff before the expiry of the three years period has transferred part of her right to M/s RPP Film Factory under Ex.P-4. The right so conveyed is the remake right in Tamil and Telugu languages. The specific case of the plaintiff is that, under Ex.P-4 the right to dub is retained and reserved with her and not conveyed to M/s RPP Film Factory. Hence, the Clauses found in Ex.P-4, which are relevant to decide the disputed facts, are extracted below:-

20.Clause 1.1 defines the “Assigned Rights” as Remake Rights of the said Film in Tamil and Telugu languages only.

21.Clause 1.7 defines “New Film/s” means the cinematograph films proposed to be made by Assignee (M/s RPP Film Factory) in Tamil and Telugu (only) under such title as may be decided by Assignee, by virtue of the Remake Rights assigned by Assignor to Assignee with respect to the Original Film under this agreement. Whereas ‘original film’ refers to the Hindi movie ‘SPECIAL 26’ starring Akshay Kumar, Kajal Aggarwal, Anupam Kher and others.



22.Clause 1.9 refers Remake Rights assigned to M/s RPP Film

Factory includes exclusive right to make / produce new film/s in Tamil and Telugu languages only, based on the Literary Works; exclusive right to exploit the Exploitation Rights, and all other ancillary rights in underlying works in the New Film/s and certain non-exclusive right to use the title, literary work, summaries and extracts of the original film.

23.Clause 1.10 which defines reserved rights of the assignor reads, *“shall mean any and all rights not expressly granted herein including but not limited to the Intellectual Property Rights, all ancillary, all incidental, all underlying and all derivative rights emanating from the Original Film, right to make prequels and sequels thereof, the right to make remakes of the Original Film in languages other than Tamil and Telugu, rights in the musical work and sound recording and sound note rights, background music score, lyrics, actual footage from and of the Original Film, merchandising, publishing, television series rights, gaming animation, word publishing right, dubbing rights/sub-titling rights/translation rights in the Original Film, etc..”*

“The Assignor hereby assign the remake rights only in Tamil and Telugu language including but not limited to copyrights, intellectual property rights, world negative rights and all other ancillary rights, all



pictures, photographs, both positive and negative, sketches, records of songs and other music of and over the remake versions said film (collectively referred to as the “Said Rights”) exclusively to the ASSIGNEE in Tamil and Telugu languages only”.

24.Clause 7 reads as : “The Assignor agree, undertake and confirm that they have not retained, in any manner, directly or indirectly, any of the said rights in the said film in Tamil and Telugu language with themselves and the entire remake rights held by the Assignors in the said film is hereby assigned, lock, stock and barrel, in favour of the ASSIGNEE only in Tamil and Telugu languages”.

25.Clause 20 reads as : “The “ASSIGNEE” agree, undertake and confirm that they will not dub the remade versions of Tamil and Telugu in any other languages either in Indian or any Foreign languages.”

26.Thus, from the crucial terms regarding rights conferred and rights reserved and the clarifications found in the agreement proves that the right assigned to M/S RPP Film Factory by the plaintiff is to remake a new film in entirety in Tamil and Telugu language. The reserved rights



but not limited, to all ancillary, all incidental, all underlying and all derivative rights emanating from the original film. The expression the entire remake right 'lock stock and barrel' employed in Clause 7 is subject to the undertaking given by the Assignee in Clause 20, that he will not dub the remade versions of Tamil and Telugu in any other languages either in Indian or any Foreign Languages.

27.Ex.D-2 is the Remake Rights Assignment Agreement relied by the defendants. In this Agreement, M/s RPP Film Factory is the Assignor and the M/s Aadnah Arts represented by the first defendant is the Assignee. This deed is executed two days after Ex.P-2. The Clauses in Ex.D-2 are identical in juxtaposition Ex.P4 including the consideration, except the parties and date of execution. These two exhibits namely Ex.P-4 and Ex.D-2 compared to Ex.P-2, one find that, Clause 2.5 in Ex.P-2 is replicated in para 4 of Clause 4 in Ex.P-4 and Ex.D-2, except limited to two languages namely, Tamil and Telugu, instead of four languages.

28.Therefore, the rights assigned to the plaintiff under Ex.P-2 is short in right to remake the film "SPECIAL 26" (Hindi) in any or all the four languages Tamil,Telugu, Kannada and Malyalam, with restriction



plaintiff herein) shall not be entitled to make any derivative work of the New Film/s in any manner whatsoever, including without limitation, sequels/prequels/further remakes/dubbed/sub-titled version thereof. However shall be entitled to create dubbed version in Tamil, Telugu, Malayalam and Kannada languages, as the case may be, out of the New film that is first produced by the Assignee.

29.The plaintiff working the right conferred under Clause 13.2 of Ex.P2 has transferred part of her right to the her assignee M/s RPP Film Factory. This assignment of remake right is limited to entire right to remake the original movie “SPECIAL 26” (Hindi) in two regional languages namely, Tamil and Telugu, with restriction that the assignee M/s RPP Film Factory will not dub the remade versions of Tamil and Telugu in any other languages either in Indian or any Foreign languages (Clause 20).

30.Two days after execution of Ex.P4 getting the assignment of remake right from the plaintiff, her assignee M/s RPP Film Factory has assigned the rights to the Aadnah Arts represented by the first defendant. The said remake rights assignment agreement is Ex.D-2, dated 23/09/2016.



31. The subject matter of the assignment in Ex.P2 and Ex.P4 are specifically in respect of remake rights in Tamil and Telugu. The entire right of remake in four languages obtained by the plaintiff under Ex.P2 has been partly assigned in favour of M/s RPP Film Factory under Ex.P4 by the plaintiff to remake new film in Tamil and Telugu languages.

32. The terms of Assignment found in Ex.P2, Ex.P4 and Ex.D2 read together show that, the copyright to remake the original movie “Special 26” has been assigned to the plaintiff on 19.08.2014. This is in respect of the entire right to remake in four languages namely, Tamil, Telugu, Kannada and Malayalam. Any film so remade will fall within the definition of 'new film'. Under Ex.P2, the plaintiff is obliged to commence production of the new film within a period of three years. Also, he entitles to assign the derivative rights in full or in part. Accordingly, he has assigned part of right to M/s RPP Film Factory under Ex.P4 dated 21.09.2016. This part of assignment is in respect of the entire copyright to remake the film “Special 26” Hindi version in Tamil and Telugu. Only, the entire remake right, ancillary right and derivative right as defined in Clauses referred to above in Ex.P2 and Ex.P4 as understood by the parties and clarified under the agreement itself, is restricted to remake the movie in Tamil or Telugu and not to dub it to any other language other than Tamil and Telugu.



33.As pointed out earlier, para 4 in Clause 4 found in Ex.P4 and Ex.D2 is replicated in Clause 2.5 in Ex.P2, except the language (Tamil, Telugu, Malayalam and Kannada) . This Clause clarified that the assignee shall have the right to sub title the new film in all foreign languages alone, excluding all Indian languages, other than Tamil and Telugu languages. Clause 20 makes very specific that assignee agrees, undertakes and confirms that they will not dub the remade versions of Tamil and Telugu in any other languages either in Indian or any foreign language.

34.Thus, it is made very clear though the terms of agreement that, the remake right assigned to M/s RPP Film Factory by the plaintiff not only limited to the right of remake the movie in Tamil and Telugu, but also the derivative and the ancillary right of dubbing it in either of languages. The restriction of two languages as agreed is only in respect of dubbing the remade versions in any other languages (except Tamil and Telugu). Thus, the plaintiff, who has assigned the entire right of remake in Tamil and Telugu to M/s RPP Film Factory under Ex.P4, cannot claim that she has reserved her right of dubbing in Telugu the new film remade by the defendants in Tamil.



35.The suit has been filed on the premises that the defendants have no right to remake the film of TSK, which is the adaptation of the script “SPECIAL 26”, This plea is on the ground that the assignment given in favour of M/s RPP Film Factory on 21.09.2016 lapsed and reverted back to the plaintiff, since M/s RPP Film Factory did not commence the production of film within a period of one year from the date of assignment. For the said purpose, the learned counsel appearing for the plaintiff rely upon Clause 28.1(iv), wherein it is stated that, notwithstanding anything contained in this agreement, if the Assignee fails to commence production of either of the new film/s within 1 (ONE) year from the date of execution of this agreement, this Agreement shall automatically stand terminates, and the Remake Rights and all the rights granted by the Assignor to the Assignee under this Agreement shall automatically revert to the Assignor forthwith, without requirement of any further notice by the Assignor.

36.Similar Clause found in the parent agreement of the plaintiff with the VIACOM 18 Media Private Limited dated 19.08.2014 prescribing three years period for commencement of production. Though the plaintiff states that it commenced the production of Kannada version of the movie under the tile “FEVER 26”, there is no evidence to prove the same.

Nonetheless, it is an admitted fact that, within a period of three years, the



plaintiff has assigned the right of remake in Tamil and Telugu in favour of M/s RPP Film Factory and M/s RPP Film Factory in turn assigned right of remake to the first defendant. Ex.D3 the Pooja Ceremonies photos for the movie “THAANA SERNDHA KOOTTAM” is dated 30th October 2016 and Teasers of the film have been telecasted in the social media from 1st November 2016. Therefore, the plea of the plaintiff that the assignment conferred to M/s RPP Film Factory has been reverted back to the plaintiff is not correct and also the facts found from Ex.P2, Ex.P4 and Ex.D2 proves that the defendants had got valid assignment to remake the movie in two languages in Tamil and Telugu. While the right of remake been assigned to M/s RPP Film Factory and M/s RPP Film Factory in turn assigned to the first defendant, the suit prayer alleging infringement of copyright by producing the movie TSK, falls to ground. There is no proof of infringement. Contrarily, the defendants able to establish the right of remaking the movie TSK in Tamil.

37.Regarding the dubbing right, it is an admitted case of the defendants that, the new film TSK, based on the script adapted from “SPECIAL 26” Hindi version and TSK was dubbed in Telugu. From reading of terms of agreement in Ex.P2, Ex.P4 and Ex.D2, the dubbing of



original assignor namely, M/s VIACOM 18 Media Private limited. The dubbing of the new film in any language other of these four languages alone is reserved with M/s VIACOM 18 Media Private Limited. Similarly, the dubbing right of new film in Tamil or Telugu not reserved with the plaintiff. Clause 20 of Ex.P4 and Ex.D2 restricts the right to dub the remade version of Tamil and Telugu in any other languages. In other words, the right assigned under Ex.P2 is to remake the new film in Tamil or Telugu or both. The new film in any of the languages viz., Tamil or Telugu may be dubbed vice versa. The restriction will not apply for the new film remade in Tamil as TSK to be dubbed in Telugu. Therefore, on the basis of the terms of the agreement itself, this Court finds that, the plaintiff has no cause of action against the defendants to sustain the suit.

38. Issue No.1 & 2:-

Clause 4.4, Clause 7, Clause 20 in Ex.P4 and Ex.D2 read together prove that the defendants can claim remake right and ancillary right which includes dubbing right of the remade new film “THANNA SERNTHA KOOTTAM”. The defendants have established its right to remake the film “SPECIAL 26” in Tamil and Telugu. The Assignor M/s RPP Film Factory through Ex.D2 has assigned exclusive right to remake the film “SPECIAL 26” both in Tamil and Telugu to the first defendant. Once a new film



remade in Tamil “THANNA SERNTHA KOOTTAM” by the first defendant, as a derivative right and ancillary right, dubbing the said movie “THANNA SERNTHA KOOTTAM” in Telugu enures on the defendants. Clause 20 is very clear that the right reserved by the original assignor namely, the plaintiff, is only in respect of dubbing the remade version in languages all other languages except Tamil and Telugu. Hence, Issue No.1 and 2 are answered in favour of the defendants.

39. Issue No.3:-

It is contended by the defendants that M/s RPP Film Factory is a necessary party, since the plaintiff has assigned the right in favour of M/s RPP Film Factory and from M/s RPP Film Factory, the first defendant has derived the right. The learned counsel appearing for the plaintiff would submit that, M/s RPP Film Factory is not a necessary party, since in the terms of the agreement found in Ex.P4 entered between the plaintiff and the M/s RPP Film Factory, the right of dubbing vested with the plaintiff under Clause 20. However, the reading of Clause 20 found in Ex.P4 restricts the right of dubbing only in all other languages except in Tamil and Telugu. In the instant case, the first defendant remade the movie in Tamil (THANNA SERNTHA KOOTTAM) and dubbed it in Telugu which is well within the



of M/s RPP Film Factory is not fatal to the plaintiff's case. Hence, this Issue is answered accordingly. Similarly, the first defendant is sued in his individual capacity, therefore, the Andnah Arts a Proprietor concern represented by Mr.Gnanavelraja is not a necessary party.

40. Issue No.4:-

For the reasons stated above, the terms of the agreement found in Ex.P4 and Ex.D2 clearly confers right on the defendants to remake the movie in Tamil or Telugu and from that remade, new film have right to dub the movie either in Tamil or Telugu, as the case may be. The said right is derivated by the first defendant from M/s RPP Film Factory, who had derivated the said right from the plaintiff under Ex.P2. After assigning the exclusive right to remake inclusive of derivative and ancillary rights, the plaintiff has no locus to sustain the present suit alleging infringement of copyright or rendition of account of injunction. This Issue is answered accordingly.

41. Issue No.5:-

For the reasons stated, Issue Nos.1,2 and 4 held against the plaintiff and therefore, the plaintiff is not entitled for the relief prayed.



42. In the result, **this Civil Suit is dismissed with costs.**

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List of witnesses examined on the side of the plaintiff:-

Mr.Anand was examined as PW-1

List of witnesses examined on the side of the defendants:-

Mr.S.Sriram was examined as DW-1

List of exhibits marked on the side of the plaintiff:-

Sl. No.	Exhibits	Dated	Description of documents
1.	Ex.P1	10.07.2019	The original Power of Attorney dated 10.07.2019.
2.	Ex.P2	19.08.2014	The copy of the Remake Rights Agreement dated 19.08.2014
3.	Ex.P3		The Copy of the Press Clippings regarding the Remake of the movie.
4.	Ex.P4	21.09.2016	The copy of the Agreement dated 21.09.2016 by the plaintiff.
5.	Ex.P5	21.12.2017	The copy of Wikipedia web-page printout dated 21.12.2017
6.	Ex.P6	21.12.2017	The copy of Article in the Magazine the News Minute dated 21.12.2017.
7.	Ex.P7		The copy of printout from various sources regarding the release of the defendant's movie.

List of Exhibits marked on the side of the defendants:-

Sl.No.	Exhibits	Dated	Description of documents
1.	Ex.D1	29.07.2019	The photocopy of the Power of Attorney dated 29.07.2019 executed in favour of the deponent by the first defendant
2.	Ex.D2	23.09.2016	The photocopy of the Agreement dated 23.09.2016 between the first defendant and RRP film factory.
3.	Ex.D3		The photocopy of the picture showing pooja



Sl.No.	Exhibits	Dated	Description of documents
			ceremony of the movie “Thaana Serndha Kootam”
4.	Ex.D4		The photocopy of the picture showing opening credit given in the movie.

Sd./- G.J.J.
30.09.2021

//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.