

O.A.No.586 of 2020
in
C.S.(Comm.Div.) No.311 of 2020

C.V.KARTHIKEYAN,J.

When this Application is came for the first time before this Court on 11.11.2020, an order of ex-parte interim injunction was granted and thereafter notice was also directed to the Respondent.

2.A memo had been filed on behalf of the Respondent which is dated 24.11.2020 and signed on behalf of the Respondent by the Chairman and Managing Director and also by the learned counsel for the Respondent. In the said memo, the Respondent had stated as follows:

“The Respondent states that without prejudice to their right to defend in the applications and suit, the order passed in A.No.2696 of 2020 by this Hon'ble High Court was complied with by removing the picture from all platforms which are accessible online or offline pending disposal of suit. The photograph / still was published in one issue of the Bi-Weekly Magazine Kumudam Reporter dated 19.06.2020 and after that the same was not used by

them. The STILL in the online platform was removed in obedience of the interim order passed by this Hon'ble Court.

The Respondent / Defendant therefore humbly prays that this Hon'ble Court may be pleased to record the above facts and thus render justice.

Dated at Chennai on this 24th Day of November 2020.

sd/-

Respondent / Defendant

Counsel for Respondent / Defendant”

3.However, it was requested that a counter affidavit shall be filed in the Application. Mr.R.Amizhdhu, learned counsel for the Respondent stated that a counter affidavit has also filed and the learned counsel drew the attention of this Court to paragraphs 5, 6 and 18 which are in conformity with the relevant portions of the memo which has been extracted above. Paragraphs 5, 6 and 18 are as follows:

“5.I have already filed a memo stating that the frame used in the film published in the one issue of bi-weekly magazine was already circulated and the

photograph of the frame was removed from online media owned by the respondent in compliance of the direction of this Hon'ble Court.

6.I state that I pray this Hon'ble Court may be pleased to record the undertaking that our company is not going to use any of the copyright owned by the Applicant without due permission from the Applicant.

18.I reiterate on behalf of the respondent company that we did not commit any infringement and also assure that the copyright with respect of the film owned and produced by the applicant will not be infringed in the future also. It is also unreasonable to state that the mere publication of one paragraph would cause huge financial loss to the Applicant. As the apprehension is sham and ill founded, this Application is liable to be dismissed with cost.”

4.Heard Ms.S.Gayathri, learned counsel for the Applicant / Plaintiff.

The learned counsel pointed out that the Respondent themselves in their counter affidavit had stated that the frame used in the film was published in one issue of bi-weekly magazine, which was already circulated. But at the same time also pointed out the undertaking given by the Respondent that they would not use any of the copyright owned by the Applicant without

due permission of the Applicant. The learned counsel also pointed out the further undertaking given by the Respondent that they would not infringe the copyright which actually rests with the Applicant and will not be used in the future also.

5. In view of the position and in view of the categorical statement of the Respondent both in the memo and the counter affidavit, without examining the issues in detail and which issues can be taken up during the course of the trial in the suit, this Application is allowed and there shall be an order of interim injunction till disposal of the suit. No order as to costs.

6. The stand of the Respondent that they would not infringe the copyright of the Applicant and their undertaking is deeply appreciated by this Court.

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