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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 30TH DAY OF JUNE, 2021

THE HON'BLE MR. JUSTICE M.SUNDAR

C.S. No.724 of 2019

and

A.No.276 of 2020

C.S. No.724 of 2019

Bosco Prabu,
S/o.Anthony,
Flat No.117, SI 2nd Floor,
Iniya Illam Lakshmi Enclave,
14th Street, Kubera Nagar Extension,
Madipakkam, Chennai 600 091.

... Plaintiff

/versus/

1. P.S.Mithran,
12, Kabali Nagar,
Mylapore, Chennai 600 004.

2. Mr.Kottapadi Jayaram,
Proprietor of KJR Studios,
No.5, 4th Floor, Rapid Skyline Apartment,
8/4, Sreekrishnapuram Street, Royapettah,
Chennai 600 014.

3. South Indian Film Writers Association,
Rep. by its President Shri K.Bhagyaraj,
L-33, Flat-1, 2nd Floor, LIG,
Bharathidasan Colony, K.K.Nagar,
Chennai 600 078.

... Defendant

Civil Suit praying that this Hon'ble Court may be pleased to pass a



a) to grant a declaration in favour of the plaintiff that the script which is used by the Defendants 1 and 2 in making the infringed film 'HERO', absolutely belongs to the Plaintiff

b) To grant permanent injunction restraining the defendants 1 and 2 by themselves, itself or through its men, servant, agents or any person claiming through or under the Defendants 1 and 2 in any manner from releasing and / or screening or in any print media of the infringed film titled 'HERO' in any form or style on 20th December 2019 or any other date;

c) to appoint advocate commissioner or a committee of story writer (s) or experts from the film industry to quantify the copying / stealing done by the Defendants in the infringed film from the copyrighted script of the Plaintiff 'VETRI' and to file a detailed report before the Hon'ble Court to determine the infringement of Plaintiff's copyrighted script by the Defendants 1 and 2 titled 'HERO';

d) to direct all the Defendants 1 and 2 jointly and severally liable to pay initial compensation of Rs.1,00,01,000/- (Rupees One Crore and One Thousand Only) to the plaintiff as advance and further compensation and damages as determined by the Hon'ble Court,

e) to direct all the defendants to pay the cost of the suit and other expense relating to the suit.



A. No.276 of 2020

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1. P.S.Mithran,
12, Kabali Nagar,
Mylapore, Chennai 600 004.

...Applicant/1st Defendant

Vs

1. Bosco Prabu,
S/o.Anthony,
Flat No.117, SI 2nd Floor,
Iniya Illam Lakshmi Enclave,
14th Street, Kubera Nagar Extension,
Madipakkam, Chennai 600 091.

... 1st Respondent/Plaintiff

2. Mr.Kottapadi Jayaram,
Proprietor of KJR Studios,
No.5, 4th Floor, Rapid Skyline Apartment,
8/4, Sreekrishnapuram Street, Royapettah,
Chennai 600 014.

3. South Indian Film Writers Association,
Rep. by its President Shri K.Bhagyaraj,
L-33, Flat-1,2nd Floor, LIG,
Bharathidasan Colony, K.K.Nagar,
Chennai 600 078.

... 2nd -3rd Respondents/
3rd -4th Defendants

Application praying that this Hon'ble Court be pleased to grant

leave to the applicant/1st defendant to deliver the Interrogatories as set out in the form Appended to this affidavit to the plaintiff for examination of the plaintiff after the required notice.

This Suit along with this application coming on this day before this

Court having in the presence of Mr.M.Sunil Kumar, Advocate for the



2020 and Mr.T.Mohan, for Ms.Nivedita S.Menon, Advocates for the 1st defendant in C.S.no.724 of 2019 and for the applicant in A.No.276 of 2020 and Mr.S.Karthikei Balan, Advocate for the 2nd Defendant in C.S.No.724 of 2019 and for the 2nd respondent in A.Nos.276 of 2020 and Mr.S.Arvinth Raj, for Ms.A.Vinupradha, Advocates for the 3rd defendant in C.S.No.724 of 2019 and for the 3rd respondent in A.No.276 of 2020 and upon reading the plaint filed in C.S.No.724 of 2019 and the Judges Summons and the Affidavit of P.S.Mithran filed in A.No.276 of 2020 and memo dated 22.06.2021 and the affidavit of A.Bosco Prabhu filed herein and the learned counsel for the plaintiff having submitted that amicable out of Court settlement is arrived at between the plaintiff and second defendant, however the plaintiff has no claim whatsoever against all the three defendants post such settlement with the second defendant and four intra-court appeals i.e., O.S.A.Nos.146 to 149 of 2020 become infructuous on withdrawal of the captioned suit and all the aforementioned counsel submitted in unison in one voice that they will report before Hon'ble Division Bench that the aforementioned Original Side Appeals have become infructuous and give a closure to all the four intra-court appeals, and this Court doth recording the same,

it is ordered as follows:-



withdrawn as settled out of Court.

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2. That a certificate under Section 69 of The Tamil Nadu Court Fees and Suits Valuation Act 1955, do issue herein, out of and under the seal of this Court in favour of Bosco Prabu, the Plaintiff herein, authorising him to receive from the Pay and Accounts office, High Court, Madras, a sum of Rs.1,05,000/- (Rupees One Lakh and Five Thousand only) being the entire Court fee paid on the plaint by the plaintiff herein, within eight weeks from this day i.e on or before 25.08.2021.

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

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

Sd./-

ASSISTANT REGISTRAR (O.S.I)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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05.08.2021

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C.S.No.724 of 2019
and
A.No.276 of 2020

ORDER :-

DATED: 30.06.2021

THE HON'BLE MR.JUSTICE
M.SUNDAR

FOR APPROVAL: 06.08.2021

APPROVED ON: 06.08.2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.06.2021

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

C.S.No.724 of 2019**&****A.No.276 of 2020**

Bosco Prabu
S/o.Anthony
Flat No.117, 2nd Floor
Iniya Illam Lakshmi Enclave
14th Street, Kubera Nagar Extension
Madipakkam, Chennai 600 091

... Plaintiff

Vs.

1. P.S.Mithran
 2. Mr.Kottapadi Jayaram
Proprietor of KJR Studios
No.5, 4th Floor, Rapid Skyline Apartment
8/4, Sreekrishnapuram Street, Royapettah
Chennai – 600 014
 3. South Indian Film Writers Association
Rep. by its President Shri K.Bhagyaraj
L-33, Flat – 1, 2nd Floor, LIG
Bharathidasan Colony, K.K.Nagar
Chennai – 600 078
- .. Defendants

This Civil Suit is preferred, under Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 of the Code of Civil Procedure and Commercial Courts Act, 2015 and under Section 62 of the Copyright Act seeking following reliefs

- a) to grant a declaration in favour of the plaintiff that the script which



is used by the Defendants 1 and 2 in making the infringed film 'HERO', absolutely belongs to the Plaintiff

b) To grant permanent injunction restraining the defendants 1 and 2 by themselves, itself or through its men, servant, agents or any person claiming through or under the Defendants 1 and 2 in any manner from releasing and / or screening or in any print media of the infringed film titled 'HERO' in any form or style on 20th December 2019 or any other date;

c) to appoint advocate commissioner or a committee of story writer (s) or experts from the film industry to quantify the copying / stealing done by the Defendants in the infrined film from the copyrighted script of the Plaintiff 'VETRI' and to file a detailed report before the Hon'ble Court to determine the infringement of Plaintiff's copyrighted script by the Defendants 1 and 2 titled 'HERO';

d) to direct all the Defendants 1 and 2 jointly and severally liable to pay initial compensation of Rs.1,00,01,000/- (Rupees One Crore and One Thousand Only) to the plaintiff as advance and further compensation and damages as determined by the Hon'ble Court,

e) to direct all the defendants to pay the cost of the suit and other expense relating to the suit.

For Plaintiff : Mr.M.Sunil Kumar

For Defendants : Mr.T.Mohan
for Ms. Nivedita S.Menon
for 1st Defendant
Mr.S.Karthikei Balan for 2nd defendant
Mr.S.Arvinth Raj
for Ms.A.Vinupradha for 3rd defendant

JUDGMENT



learned counsel appearing on behalf of Ms.Nivedita S Mohan, counsel on record for first defendant, Mr.S.Karthikei Balan, learned counsel on record for second defendant and Mr.S.Arvinth Raj, learned counsel representing Ms.Vinu Pradha, counsel on record for third defendant are before this Virtual Court.

2. Captioned suit and application therein have been listed today under the caption 'FOR WITHDRAWAL' at the instance of plaintiff who has filed an affidavit and memo, both dated 22.06.2021.

3. Adverting to paragraph 2 of the aforementioned affidavit, learned counsel for first defendant submitted that the settlement referred to therein is between the plaintiff and second defendant.

4.Responding to this, learned counsel for plaintiff submitted that the amicable out of Court settlement arrived at is between the plaintiff and second defendant, however the plaintiff has no claim whatsoever against all the three defendants post such settlement with the second defendant. This submission is recorded.

5. Be that as it may, adverting to Paragraphs 2 and 5 of earlier proceedings dated 08.04.2021, all the aforementioned learned counsel before this Court submitted that four intra-court appeals i.e., O.S.A.Nos.146 to 149 of 2020 become infructuous on withdrawal of the

captioned suit and all the aforementioned counsel submitted in unison in



one voice that they will report before Hon'ble Division Bench that the aforementioned Original Side Appeals have become infructuous and give a closure to all the four intra-court appeals. This submission is recorded.

6. In the aforementioned affidavit and memo, plaintiff has sought refund of Court fee. This takes us to Section 69-A of 'The Tamil Nadu Court-Fees and Suits Valuation Act, 1955' (hereinafter 'TN Court Fees Act' for brevity and convenience) as amended. In the light of the submissions made before this Court, it is clear that the lis has been settled out of Court without resorting to any one of the modes adumbrated in Section 89 of 'The Code of Civil Procedure, 1908' ('CPC' for brevity). Notwithstanding this, plaintiff is entitled to full refund of Court fee in the light of judgment of Hon'ble Supreme Court in the case of ***The High Court of Judicature at Madras Vs. M.C.Subramaniam & Ors.*** reported in ***2021 SCC OnLine SC 109***. Relevant paragraphs in ***M.C.Subramaniam***'s case are paragraphs 26 and 27 and the same read as follows:

'26. Thus, even though a strict construction of the terms of Section 89, CPC and 69-A of the 1955 Act may not encompass such private negotiations and settlements between the parties, we emphasize that the participants in such settlements will be entitled to the same benefits as those who have been referred to explore alternate dispute settlement methods under Section 89, CPC. Indeed, we find it puzzling that the Petitioner should be so vehemently opposed to granting such benefit. Though the



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Registry/State Government will be losing a one-time court fee in the short term, they will be saved the expense and opportunity cost of managing an endless cycle of litigation in the long term. It is therefore in their own interest to allow the Respondent No. 1's claim.

27. Thus, in our view, the High Court was correct in holding that Section 89 of the CPC and Section 69-A of the 1955 Act be interpreted liberally. In view of this broad purposive construction, we affirm the High Court's conclusion, and hold that Section 89 of CPC shall cover, and the benefit of Section 69-A of the 1955 Act shall also extend to, all methods of out-of-court dispute settlement between parties that the Court subsequently finds to have been legally arrived at. This would, thus, cover the present controversy, wherein a private settlement was arrived at, and a memo to withdraw the appeal was filed before the High Court. In such a case as well, the appellant, i.e., Respondent No. 1 herein would be entitled to refund of court fee.'

***(underlining made by this Court
for ease of reference)***

7. Therefore, there is no difficulty in acceding to the prayer of the plaintiff for refund of full Court fee paid subject to standard statutory deductions, if any. Refund of Court fee to the plaintiff by the Registry shall be by way of an instrument drawn in favour of the plaintiff. To be noted,



forthwith commence and comply with procedure formalities in this regard i.e., refund of court fees. This refund process shall be completed expeditiously by the Registry and in any case within eight weeks from today i.e., on or before 25.08.2021.

Captioned suit, captioned application and all other applications (if any) are dismissed as withdrawn as settled out of Court recording the above stated position of parties and with the aforementioned direction regarding refund of Court fee. There shall be no order as to costs.

Sd/-M.S.J.
30.06.2021

// Certified to be true copy//

Dated at Madras this day of 2021.

Court Officer(O.S.)

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