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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO.1603 OF 2022
IN
WRIT PETITION (L) NO.11936 OF 2022
WITH
WRIT PETITION (L) NO.11936 OF 2022**

Sai Sapru Creations & Anr. ... Applicants/Petitioners.
vs
Union of India & Ors. ... Respondents

Mr. R. K. Sharma i/b Sharma Syndicate Lex Co. for the Applicants/
Petitioners.

Mr. Rashmin Khandeparkar with Mr. Rahul Dhote, Mr Aditya
Mahadevia, Mr. Vikramaditya Chavan, Ms Viveka Truman i/b
ANM Global for the Respondent Nos. 2 to 8.

**CORAM: REVATI MOHITE DERE &
MADHAV J. JAMDAR, JJ.**

DATE : 19TH APRIL 2022

P.C:-

1. Heard learned counsel for the parties.
2. By this petition, the petitioners seek the following substantive
reliefs :

“(a) The Respondents may be prohibited by a Writ of this Hon’ble High Court or by any order of this Hon’ble High Court from releasing their copied Feature Film MAIN TE BAPU by committing the offence of plagiarism by stealing the theme and screenplay of the Petitioners Feature Film TERI MERI GAL BAN GAYI (PUNJABI).

(b) The status quo ante may be ordered against release of the Film MAIN TE BAPU produced by the Respondents by committing the offence of Plagiarism.”

3. Learned counsel for the petitioners submits that the petitioner no.2 is in the business of producing Feature Films under the name and style of “Sai Sapru Creations”. He submits that the petitioner no.2’s husband is a Writer, registered with the Indian Motion Pictures Producers Association (“IMPPA”) and is carrying on the business under ‘Cinific Films LLP’. According to the learned counsel for the petitioners, the petitioner no.2’s husband had written a script for the film “PAPA DA VIAH”. He submits that the title of the said film was registered on 11th June 2018 with ‘Cinific Film LLP’, and that even the script and dialogues of the said film “PAPA

DA VIAH” were registered with the Screen Writer Association in 2019. According to the learned counsel for the petitioners, respondent nos.5 to 9 have plagiarised the petitioners’ film “PAPA DA VIAH”, by producing and releasing a similar feature film, by the name “MAIN TE BAPU”. He submits that respondent nos.5 to 9 have stolen the theme, script, as well as dialogues of the petitioners’ Film. According to the learned counsel, the petitioners have spent their lifetime savings i.e. to the tune of more than Rs 5,00,00,000/- (Rupees Five crores) on the said film. According to the petitioners, their film ‘PAPA DA VIAH’ subsequently renamed as ‘TERI MERI GAL BAN GAYI (PUNJABI)’ was complete in 2020, however, the said film could not be released due to the pandemic. Learned counsel for the petitioners submits that the Censor Board cannot permit the film ‘MAIN TE BAPU’ to be released, as the respondents had stolen the theme, script and dialogues of the petitioners’ film and as they had committed plagiarism.

4. Learned counsel for the respondent nos.2 to 8 submits that the said petition is not maintainable, since it raises disputed questions of the facts. He further submits that under section 55 of

the Copyright Act, 1957 the petitioners have an alternative efficacious remedy and that it is always open for the petitioners to file appropriate proceedings in accordance with law.

5. He further submits that section 5(a) and 5(b) of the Cinematograph Act, 1952 sets out, how the certification is to be given to a film and the principles for guidance in certifying films. He submits that none of the grounds raised by the petitioners in this petition can be considered by the censor board, whilst certifying the film.

6. Perused the papers. According to the petitioners, the petitioners have registered the film “Papa Da Vivah” in June 2018 and so also the dialogues, script and songs of the Film, in 2019. It appears that the petitioners could not release the film because of Covid-19, although the same was complete. It is the petitioners’ case that the respondents herein, have committed plagiarism of the petitioners’ film and that more than 90% of the film is similar to that of the petitioners’ film.

7. The petition involves several disputed questions of facts

which cannot be gone into, in writ jurisdiction. Infact, having regard to the grounds raised by the petitioners, even the censor board cannot go into the same, as the parameters and guidelines for certifying films, is to be done in terms of sections 5(a) & 5(b) of the Cinematograph Act. Infact, no relief is sought for against any statutory authority.

8. Section 55 of the Copyright Act provides, for civil remedies for infringement of copyright. Section 55 of the Copyright Act read thus:

“55. Civil remedies for infringement of copyright.—

(1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction, damages, accounts and otherwise as are or may be conferred by law for the infringement of a right: Provided that if the defendant proves that at the date of the infringement he was not aware and had no reasonable ground for believing that copyright subsisted in the work, the plaintiff shall not be entitled to any remedy other

than an injunction in respect of the infringement and a decree for the whole or part of the profits made by the defendant by the sale of the infringing copies as the court may in the circumstances deem reasonable.

(2) Where, in the case of a literary, dramatic, musical or artistic work, a name purporting to be that to the author or the publisher, as the case may be, appears on copies of the work published, or, in the case of an artistic work, appeared on the work when it was made, the person whose name so appears or appeared shall, in any proceeding in respect of infringement of copyright in such work, be presumed, unless the contrary is proved, to be the author or the publisher of the work, as the case may be.

(3) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the discretion of the court.”

9. Thus, it is always open for the petitioners to avail of an appropriate remedy, as available in law.

10. The present petition is dismissed, only on the premise, that the said petition raises disputed questions of fact, which cannot be gone into, in writ jurisdiction and there is an alternative efficacious

remedy available to the petitioners. However, we make it clear, that we have not gone into the merits of the petition and as such all rights and contentions of the parties are kept open.

11. Accordingly, the petition stands disposed of.

12. In view of dismissal of the petition, the interim application No.1603 of 2022 does not survive and as such is also disposed of.

13. All concerned to act on authenticated copy of this order.

MADHAV J. JAMDAR, J. REVATI MOHITE DERE, J.