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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 1ST DAY OF MARCH 2022

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

A.No.312 of 2022

in

C.S.No.35 of 2021

SPM Arts LLP

Represented by its Designated Partner,

Sanjay Kumar Lalwani,

Having its Office at

No.66B Seeyalam,

1st Street, F1, 1st Floor,

Villivakkam, Chennai 600 049

... Plaintiff

-Versus-

1.Chakri Chigurupati,

Proprietor,

Sri Kanaka Durga Chalana Chitra,

Having Office at:

No.8-3-973/1,

Sri Durga Splendor, 1st Floor

Srinagar Colony,

Hyderabad – 500 073.

2.B.Kumar,

Proprietor,

Bangalore Kumar Films,

Having Office at

7/8, T N Somanna Complex,

2nd Cross, Gandhi Nagar,

Bangalore – 560 009.

Also at:

<https://hcservices.ecourts.gov.in/hcservices/>

No.9/41, 57th Street,



10th Sector, KK Nagar,
Chennai 600 078.

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3. Mohandas Pai,
Proprietor,
Dheeraj Enterprises,
No.245, 5th Cross, 5th Block,
3rd Phase, BSK 3rd Stage,
Bangalore – 560 085.

4. Qube Cinema Technologies Pvt. Ltd.
No.1034, Dr.Rajkumar Road,
Rajajinagar 4th Block,
Bangalore – 560 010.

5. Zee Entertainment Enterprises Limited,
Represented by its Director,
Having Regional Office at
No.39, 3rd Floor,
United Mansions, MG Road,
Bangalore – 560 001.

6. Aditya Music (India) Private Limited,
Represented by its Director,
Having Registered Office at
3-5-1091/7, Venkateshwara Colony,
Narayanaguda, Hyderabad,
Telangana 500 029.

... Defendants

A.No.312 of 2022:-

Chakri Chigurupati,
Proprietor,
Sri Kanaka Durga Chalana Chitra,
Having Office at:
No.8-3-973/1,
Sri Durga Splendor, 1st Floor
Srinagar Colony,
Hyderabad – 500 073.

...Applicant/ 1st Respondent



-Versus-

1.SPM Arts LLP

Represented by its Designated Partner,
Sanjay Kumar Lalwani,
Having its Office at
No.66B Seeyalam,
1st Street, F1, 1st Floor,
Villivakkam, Chennai 600 049

... 1st Respondent/ Plaintiff

2.B.Kumar,
Proprietor,
Bangalore Kumar Films,
Having Office at
7/8, T N Somanna Complex,
2nd Cross, Gandhi Nagar,
Bangalore – 560 009.

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Having Registered Office at
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Narayanaguda, Hyderabad,
Telangana 500 029.

... Respondents

Application praying that this Hon'ble Court be pleased to pass a summary judgement in C.S.(comm.Div) No.35 of 2021 under the Order XIII-A of the code of civil procedure 1908.

This Application coming on this day before this court for hearing,
the court made the following order:-

An application for summary judgment has been filed by the 1st defendant.

2.The suit is for a permanent injunction to restrain the defendants from directly or indirectly releasing the movie "Shadow" either through theatres or Over the Top (OTT) Platforms. In addition, a decree is prayed for for the payment of a sum of Rs.1,09,87,570/- by defendants 1 and 2 jointly and severally to the plaintiff. Pleadings have not been completed in the suit. Several interim applications were filed, and the said applications were disposed of.

3.The 1st defendant has taken out this application on the basis that

the plaintiff has no real prospect of succeeding in the suit on the basis of



pleadings and documents produced by the plaintiff.

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4. In support of the application, the 1st defendant raised the following contentions. The first contention is that the relief of permanent injunction has been rendered infructuous by the release of the movie pending the suit. The second contention is that the suit is founded on an Assignment of Entire World Satellite Rights in All Indian Languages Agreement dated 25.06.2018 (the Assignment Agreement). Although the agreement is between the plaintiff and the 1st defendant, it bears three signatures. The third contention is that the 1st defendant did not receive any amount from the plaintiff under either the Assignment Agreement or the Finance Agreement dated 09.07.2018 (the Finance Agreement). With specific reference to the Finance Agreement, the 1st defendant contended that Clause 2 thereto prescribes interest at the rate of 36% per annum, whereas Clause 16 thereto prescribes interest at the rate of 18% per annum. The fourth contention is that the Finance Agreement draws reference to the issuance of a post dated cheque and promissory note, whereas such documents were not produced by the plaintiff. The fifth contention is that the plaintiff has not produced the letter from Rainbow Laboratory in spite of the fact that such letter is referred to in the above mentioned agreement. For all these reasons, the 1st defendant contends that the plaintiff has no real



prospect of succeeding in the suit.

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5. Learned counsel for the plaintiff refuted the above contentions on several grounds. The first contention of the plaintiff is that a joint and several decree has been prayed for both against defendants 1 and 2. The second contention of the plaintiff is that several interim applications including an application for joinder of cause of action, were allowed. The third contention of the plaintiff is that an application for rejection of plaint was filed and such application was rejected; nevertheless, this application was filed on the same grounds. The fourth contention of the plaintiff is that a sum of Rs.5,00,000/- was paid to the entity under the name of Lakshmi Narasimha Entertainment under instructions from the 1st defendant. Similarly, it is stated that subsequent payments were made to the 2nd defendant under instructions from the 1st defendant as evidenced by the communication dated 07.07.2018. By drawing reference to paragraph No.13 of the plaint, the plaintiff substantiated the above contention by pointing out that the payments specified at serial No.1 of the table therein was made to Lakshmi Narasimha Entertainment on instructions from the 1st defendant and the payments in the subsequent serial numbers were made to the 2nd defendant. The fifth contention of the plaintiff is that evidence need not be pleaded in the plaint. With regard to the discrepancy in the interest rate, the plaintiff states that the interest rate of 36% per annum as per Clause 2 of the



Finance Agreement is on the repayment of the loan amount other than by way of lump sum repayment. On the contrary, interest at the rate of 18% per annum as per Clause 16 thereof is in case of lump sum payment. As regards the third signature on the Assignment Agreement, the plaintiff states that the said signature is that of the 2nd defendant.

6. In light of the rival contentions, the question that arises for consideration is whether the application filed by the 1st defendant for summary judgment is liable to be allowed. Order XIII -A of the Code of Civil Procedure, 1908, as amended by the Commercial Courts Act, 2015 deals with summary judgment. Rule 3 thereof is relevant for the purpose of this application and is, therefore, reproduced hereunder:

"3. Grounds for summary judgment -

The Court may give a summary judgment against a plaintiff or defendant on a claim if it considers that

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(a) the plaintiff has no real prospect of succeeding on the claim or the defendant has no real prospect of successfully defending the claim, as the case may be; and

(b) there is no other compelling reason why the claim should not be disposed of before recording of oral evidence."



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7. On perusal of Rule 3, it is clear that the Court should conclude that plaintiff has no real prospect of succeeding on the claim and that there is no other compelling reason why the plaint should not be disposed of before recording oral evidence. Therefore, it should be examined as to whether it can be inferred that the plaintiff has no real prospect of succeeding on the claim. As pointed out by the 1st defendant, the prayer for permanent injunction has been rendered infructuous subsequent to the filing of the suit. However, the application to join the causes of action was allowed, thereby permitting the plaintiff to sue for recovery of money.

8. The plaintiff seeks a joint and several money decree both against defendants 1 and 2. In support of the suit, the plaintiff has filed 13 documents. These documents include the Assignment Agreement, the letter dated 07.07.2018 by which the 1st defendant purportedly authorised the plaintiff to make payments to the 2nd defendant, the Finance Agreement and the bank statements of the plaintiff for several periods extending from 01.06.2018 to 28.02.2019. The Assignment Agreement records that a sum of Rs.5,00,000/- was paid to Lakshmi Narasimha Entertainment by RTGS on 25.06.2018. There is a specific averment that such payment was made on



paragraph No.13 of the plaint, details of the payments made to defendants 1 and 2. All these payments are said to have made either by NEFT or RTGS, and bank statements of the plaintiff have been included as documents in order to substantiate this plea.

9.The 1st defendant seeks a summary judgment on the grounds set out earlier. One ground is that the Assignment Agreement bears three signatures although there are only two parties thereto. The fact that the Assignment Agreement bears three signatures is not a ground to invalidate or eschew the document at the pre-trial stage. The other contention of the 1st defendant is that the plaintiff has not adduced any proof for making payments to the 1st defendant. On this issue, the plaintiff has stated that the payment of a sum of Rs.5,00,000/- to Lakshmi Narasimha Entertainment was on instruction from the 1st defendant and the other payments set out at paragraph No.13 of the plaint were made to the 2nd defendant on instructions of the 1st defendant. A communication dated 07.07.2018 from the 1st defendant to the plaintiff is on record in this regard. Although the 1st defendant denies the payments and the documents, the said issue cannot be decided at the pre-trial stage. The 1st defendant also contended that the post dated cheque and promissory note, which were adverted to in the agreement, have not been enclosed by the plaintiff. It cannot be concluded



from the non-filing of the said documents that the plaintiff has no real prospect of succeeding in the suit. The alleged discrepancy in interest rates is also not material for purposes of this application.

10. Therefore, it cannot be concluded at this juncture that the plaintiff has no real prospect of succeeding in the suit. Indeed, it cannot even be concluded that it is improbable that the plaintiff would succeed.

11. For reasons set out above, A.No.312 of 2022 is dismissed without any order as to costs.

Sd./-SKRJ.

01/03/2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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EVK 09/03/2022