



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2022

CORAM:

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

O.A.No.35 of 2022 & A.No.350 of 2022
& A.No.4693 of 2021

in

C.S.(Comm. Suit) No.59 of 2021

O.A.No.35 of 2022

Lyca Productions Private Limited,
Rep. By its Authorized Signatory Mr.Neelkant Narayanpur
No.55, Vijayaraghava Road,
T.Nagar, Chennai-600 017, Tamil Nadu ... Applicant

Vs.

Vishal Krishna Reddy,
The Sole Proprietor of M/s.Vishal Film Factory,
No.73, 1st Street, Kumaran Colony,
Vadapalani, Chennai-600 026, Tamil Nadu ... Respondent

A.No.350 of 2022

Lyca Productions Private Limited,
Res. By its Authorized Signatory Mr.Neelkant Narayanpur
No.55, Vijayaraghava Road,
T.Nagar, Chennai-600 017, Tamil Nadu. ... Applicant

VS

Vishal Krishna Reddy,
The Sole Proprietor of M/s.Vishal Film Factory,
No.73, 1st Street, Kumaran Colony,
Vadapalani, Chennai-600 026, Tamil Nadu ... Respondent

A.No.4693 of 2021



Lyca Productions Private Limited,
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No.55, Vijayaraghava Road,
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No.73, 1st Street, Kumaran Colony,
Vadapalani, Chennai-600 026, Tamil Nadu

... Respondent

Prayer in O.A.No.35 of 2022: This Original Application is filed under Order XIV Rule 8 of Original Side Rules r/w.Order XXXIX of CPC, 1908 praying to grant an order of interim injunction restraining the Respondent, their men, agents, employees, representatives or any persons acting through or under the Respondent from in any manner releasing or exhibiting the movie “Veeramae Vaagai Soodum”, including its dubbed versions in Telugu [Saamanyudu], Kannada [Obba], Hindi, Malayalam and other languages, if any, produced by Respondent in theatres within India or Worldwide or satellite channels or digital medium including Over-the-Top (OTT) media streaming platforms or any other media streaming platforms or any other medium pending disposal of the above suit.

Prayer in A.No.350 of 2022: This application is filed under Section XIV Rule

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8 of the High Court O.S.Rules read with Sections 151 of the Code of Civil Procedure, 1908 praying to direct that all amounts received or receivable by the Respondent in relation to the film titled “Veeramae Vaagai Soodum”, including its dubbed versions in Telugu [Saamanyudu], Kannada [Obba], Hindi, Malayalam and other languages, if any, including but not limited to sums received or receivable from agreements for distribution rights, satellite rights, digital rights, dubbing rights, remake rights, music rights, theatrical collections to be deposited into Court to the account of the above suit pending disposal of the said Suit.

Prayer in A.No.4693 of 2021: This application is filed under Section XIV Rule 8 of the High Court O.S.Rules read with Order VII Rule 14 read with Order XI Rule 1 of the Code of Civil Procedure 1908, praying to permit the applicant to bring on record the additional documents mentioned in the list of documents in the Schedule attached herewith and forming part hereof.

For Applicant : Mr.V.Raghavachari for
(in all applications) Ms.Hema Srinivasan

For Respondent : Mr.A.Chidambaram
(in all applications)

COMMON ORDER



the respondent from releasing or exhibiting the movie 'Veeramae Vaagai Soodum'. The admitted position is that ad-interim relief was not granted when the application was moved, and the movie was released in cinema theatres in early February 2021. Therefore, as regards the theatrical release, nothing survives of the application. A.No.350 of 2022 is filed for a direction that all sums received or receivable by the respondent in relation to the movie 'Veeramae Vaagai Soodum' should be deposited to the credit of the suit. A.No.4693 of 2021 is filed to bring on record additional documents.

2. The suit is filed for recovery of a sum of Rs.21.29 crore along with interest thereon. The principal basis on which the suit is founded is a loan agreement dated 21.09.2019 between the applicant and the respondent. The said loan agreement records that the loan had been availed of by the respondent from Gopuram Films/Anbu Chezhan, who is referred to as the original lender under the agreement. As per the agreement, the applicant had taken over the loan availed of by the respondent from Gopuram Films. Consequently, the agreement records that the respondent agrees to repay a sum of Rs.21.29 crore in the manner specified at clause 5 thereof. By way of security, the agreement provides for a first lien to the applicant on all rights, titles and interest in all future film projects of the respondent until the loan



is fully discharged.

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3.The applicant had filed several interim applications previously. The first set of applications pertained to a movie called 'Chakra'. By order dated 18.02.2021, the respondent was permitted to release the movie in theatres subject to provision of accounts for the period extending from 19.02.2021 to 05.03.2021. Orders were passed subsequently with regard to the obligation of the respondent to obtain the approval of this Court before releasing the movie on OTT platforms and on television. Eventually, by order dated 18.08.2021, the said applications were disposed of. By such order, the respondent was directed to submit monthly statements of account in respect of the movie 'Chakra'. In addition, the respondent was permitted to exercise rights over the movie 'Chakra' subject to the condition that the respondent should deposit 50% of the proceeds realized from the exploitation of the rights over the movie to the credit of the suit.

4. The respondent submitted that the statement of account for the period extending from 19.02.2021 to 05.03.2021 was submitted. However, the respondent asserts that the movie 'Chakra' was a failure and was not screened after 05.03.2021. The respondent further states that the movie was

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not released on OTT platforms or on television. The present applications are filed in the above facts and circumstances.

5. Learned counsel for the applicant contends that the applicant took over and discharged the loan availed of by the respondent from Gopuram Films. The applicant further contends that the earlier order dated August 2021 was not complied with by the respondent. The respondent's assertion that the movie was not screened after 05.03.2021 is refuted on the basis of several tweets on social media. In particular, the applicant relies upon a tweet by the respondent on 15.03.2021 indicating that the movie 'Chakra' had completed 25 successful days. The applicant also relies upon several agreements entered into by the respondent with Zee TV for assigning the rights in respect of the Tamil, Telugu and Kannada versions of the movie. The applicant also relies upon the distribution, license and dubbing agreements in respect of the movie. On such basis, it is asserted that the respondent has received amounts in excess of Rs.23 crore by exploiting rights over the movie 'Veeramae Vaagai Soodum'. In these circumstances, it is contended that the suit claim is liable to be secured and that it could not be secured in spite of the earlier orders in view of the respondent's non-compliance with such orders.

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6. As regards the application for production of additional documents, the applicant contends that these documents were not filed with the plaint because there was initially no dispute with regard to the discharge of the loan availed of by the respondent from Gopuram Films. Such dispute was raised only in the written statement. By drawing reference to the first counter affidavit filed by the respondent, the applicant points out that the respondent admitted its liability, albeit by raising a dispute with regard to the quantum of Rs.21.29 crore. However, after the written statement was filed, it became necessary to produce documents evidencing the discharge of the loan availed of by the respondent from Gopuram Films. In this connection, the applicant relies upon Order XI Rule 1(c)(ii) and contends that documents required to respond to a case set up by the defendant subsequent to the filing of the plaint may be produced. Besides, the applicant also relies upon Order XI (1)(5) and contends that 'reasonable cause' has been made out for the production of these documents.

7. In light of the rival contentions, it remains to be considered

whether the applicant is entitled to security in respect of the suit claim.

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Upon perusal of the order dated 18.08.2021, there is no doubt that this Court intended to balance equities by securing the suit claim and at the same time not shutting off the revenue stream of the respondent. Towards such end, the respondent was required to deposit 50% of the proceeds into the Court to the credit of the suit. This order was not complied with on the ground that the relevant movie was not screened after 05.03.2021, and that consequently no proceeds were received. In effect, the suit claim has not been secured in any manner till date. This leads to the question whether the applicant has made out a case to secure the suit claim. As indicated earlier, the suit is for recovery of a sum of Rs.21.29 crore, and is founded on the loan agreement dated 21.09.2019. The said agreement categorically recorded that the respondent agrees to repay a sum of Rs.21.29 crore in the manner set out in clause 5 thereof. Security has also been provided by the respondent in respect thereof. Although some doubts have been expressed with regard to the enforceability of certain clauses of the agreement in an earlier order, no definitive conclusions can be drawn in such regard at the interlocutory stage. Thus, the agreement discloses *prima facie* that the respondent is liable to pay a sum of Rs.21.29 crore to the applicant. Moreover, the applicant seeks permission to produce documents evidencing that the loan availed of by the respondent from Gopuram Films was discharged by the applicant. In order to



substantiate such contention, the applicant referred to bank statements evidencing debits from the applicant's bank account to and in favour of Gopuram Films. When the above facts are taken into consideration, there is no doubt that the applicant has established a strong *prima facie* case. The respondent was directed to deposit 50% of the proceeds of the movie 'Chakra' into Court, but failed to comply with such obligation. From the documents produced by the applicant by way of tweets on social media, while no definitive conclusions can be drawn, it does appear *prima facie* that the movie was screened after 05.03.2021. Even otherwise, in view of the admitted inability or failure of the respondent to comply with its obligation to remit 50% of the proceeds into Court, the apprehension of the applicant that it would not be in a position to realize the fruits of the decree unless the claim is secured should be considered reasonable. The respondent has also not offered or provided any other security. Therefore, the respondent should be directed to furnish security. The extent of such security remains to be addressed.

8. The respondent contended that it had availed of a loan of Rs.12

crore from Gopuram Films and an additional sum of Rs.3 crore. Therefore, it

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is asserted that the claim of Rs.21.29 crore is not tenable. For interlocutory purposes, even if one proceeds on the assumption that the assertion of the respondent is correct, the respondent should at least provide security to the extent of Rs.15 crore.

9. Turning to the application for production of additional documents, Order XI Rule 1(c) CPC is an exception to the general rule that all documents in the power, possession, control or custody of the plaintiff should be produced along with the plaint. Such exception applies when a document is sought to be relied upon in answer to a case set up by the defendant subsequent to the filing of the suit. In the case at hand, the respondent has taken a stand in the written statement that the loan availed of by the respondent from Gopuram Films was not discharged by the applicant. Therefore, the applicant is entitled to rely upon the aforesaid exception. In any event, Sub-Rule 5 of Order XI Rule 1 CPC enables a party to seek and obtain leave of the Court to produce additional documents even if such documents were in its power or possession at the time of filing of the suit. However, 'reasonable cause' should be established. The expression, 'reasonable cause' is inherently not capable of precise definition and would depend on the answer to the questions 'reasonable cause' for what and in what circumstances. In the present case, issues have not been framed in the



suit. Besides, as stated above, these documents are sought to be produced in answer to the defence set out by the defendant after the suit was filed.

Moreover, the documents on record do not indicate *prima facie* that the respondent raised the plea that the plaintiff did not make payments to Gopuram Films in pre-suit correspondence. Consequently, the applicant has established 'reasonable cause' for production of these documents subject to the objections of the respondent, including on the grounds of relevance and proof.

10. In the result, these applications are disposed of on the following terms without any order as to costs:

(i) The respondent is directed to establish an interest bearing fixed deposit account in a nationalised bank in the name of the Registrar General, Madras High Court, for a sum of Rs.15 crore to the credit of the suit. Such fixed deposit shall be for an initial period of one year, and should be renewed until disposal of the suit.

(ii) Upon establishing the fixed deposit, the original fixed deposit receipt shall be deposited with



the Registrar General and a copy thereof shall be provided to the applicant/plaintiff.

(iii) Such fixed deposit shall be established within a period of three weeks from the date of receipt of a copy of this order.

(iv) The fixed deposit shall be subject to the outcome of the suit.

(v) The applicant is permitted to produce the additional documents subject to objections by the respondent, including with regard to relevance and proof. The respondent shall file the statement of admission/denial in respect of the additional documents within two weeks.

(vi) List the suit on 22.03.2022.

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