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A.No.578 of 2022

in

C.S.(Comm. Div.) No.31 of 2021

SENTHILKUMAR RAMAMOORTHY, J

This application is filed by the plaintiff seeking amendment of the plaint. The suit was filed seeking a declaration that the plaintiff is the owner of the copyright in the movies listed in schedule-A to the plaint and for both mandatory and permanent injunctions to remove the URLs specified in Schedule-B and restrain uploading, downloading, streaming and the like of the Schedule-A films on YouTube

2. The suit is at the pre-trial stage, but the written statement has been filed by the first defendant. The amendment prayed for by the plaintiff is to include the relief of rendition of accounts and for a decree in terms of profits. A consequential amendment with regard to payment of court fee in respect of such relief is also prayed for.



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3. The first respondent/first defendant has filed a counter and opposes the amendment. The legal ground on which the application opposed is that the plaintiff is required to estimate the value of relief prayed for as per Section 12 of the Commercial Courts Act, 2015. The respondent asserts that the market value is required to be determined even in respect of intangible rights such as intellectual property rights. On the merits, the first respondent asserts that the suit is founded on a fabricated document as evidenced by the name specified in such fabricated document, which is incorrect.

4. The nature of the amendment which is prayed for is the inclusion of an additional relief arising out of the same cause of action. The applicant states that he is constrained to seek such relief especially in view of the refusal of interim relief on the ground of balance of convenience.

5. Section 12 of the Commercial Courts Act is relevant only for determining specified value. In this case, the applicant has expressly stated that once the profit is ascertained, court fee would be paid on ad valorem basis. Therefore, the objection is untenable.



6. Keeping in mind the legal position on amendment of pleadings

especially at the pre-trial stage, this application is liable to be allowed.

Accordingly, A.No.578 of 2022 is allowed as prayed for. Consequently, the applicant/plaintiff is permitted to carry out the amendments to the plaint on or before 25.03.2022. Upon carrying out the amendments, the amended plaint shall be served on the defendants within a week thereafter. The defendants shall be entitled to file an additional written statement in response to the amended plaint. Such additional written statement shall be filed within two weeks from the date of receipt of the amended plaint.

List on 08.04.2022.

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11.03.2022

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