



A.Nos.1512 & 1743 of 2022

in

C.S.(Comm. Div) No.34 of 2022

SENTHILKUMAR RAMAMOORTHY, J

A.No.1512 of 2022 is filed to delete the second defendant from the array of parties. A.No.1743 of 2022 is filed for amendment of the plaint by amending the description of the second defendant. Since these two applications are closely inter-related, they are disposed of by a common order.

2. The suit was filed seeking a declaration that the Telugu feature film 'Khiladi' constitutes infringement of the Tamil feature film 'Saturanga Vettai-2'' over which the plaintiff claims a copyright.

3. According to the applicant/second defendant in A.No.1512 of 2022, the said applicant/second defendant is neither a necessary nor proper party to the suit. The second defendant states that he is not the producer of the Telugu remake as alleged. By drawing reference to a Film Assignment Agreement dated 30.06.2021 by and between A Studio LLP and Pen India Limited, it is asserted that the rights assigned therein are limited to Hindi and all



Indian languages, and expressly excludes Telugu, Tamil, Malayalam and Kannada and foreign languages. On such basis, it is contended that the second defendant is entitled to be removed from the array of parties.

4. On the contrary, the plaintiff submits that the second defendant has derived rights from defendants 1 and 3. Therefore, it is asserted that the second defendant is a necessary or proper party to the suit. A necessary party is a person in whose absence an effective decree cannot be passed. Upon examining the reliefs prayed for in the suit, there is no doubt that an effective decree can be passed in the absence of the second defendant. It remains to be considered whether the second defendant is a proper party.

5. For such purpose, the question to be considered is whether the second defendant's presence is necessary for effective adjudication of all issues arising in the suit. The suit, as framed, is directed only against the Telugu Feature Film 'Khiladi'. Although the plaintiff relied on the schedule to the plaint to contend that the said schedule covers all foreign language dubbing rights and, therefore, would include the rights assigned to the second defendant, the assignment in favour of the second defendant is confined to Hindi and other Indian languages and expressly excludes foreign languages. Therefore, there is



no merit in the said contention. Since the second defendant has produced documentary evidence that neither the second defendant nor Pen India Limited are in any way concerned with the Telugu feature film 'Khiladi', the presence of the second defendant is not necessary for the adjudication of the issues arising in the suit. In case the rights of the second defendant are rights derived from defendants 1 and 3, any orders passed in these proceedings may have an indirect bearing on the second defendant. However, the second defendant does not qualify as either a necessary or proper party given the scope and ambit of the present suit.

5. Accordingly, A.No.1512 of 2022 is allowed by deleting the second defendant from the array of parties. Consequently, A.No.1743 of 2022 is dismissed. No costs.

25.04.2022

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