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*A.No.4481 of 2022
in C.S.(Comm. Div.).No.388 of 2019*

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M.SUNDAR, J.,

In this order, the parties are referred to by their respective ranks in the main suit for the sake of convenience and clarity.

2.Considering the scope of the captioned application, suffice to say that the captioned main suit pertains to claim of copyright qua 13 Telugu Cinematographic Films adumbrated in the schedule to the plaint in which a particular artiste (Dr.Bhanumathi Ramakrishna, hereinafter 'said artiste' for convenience) features.

3.The Plaintiff is a private limited company incorporated in India and so is the first defendant. Mr.V.Praveen Kumar, learned counsel representing Mr.PL.Narayanan, learned counsel on record for the plaintiff, Mr.Aditya Reddy, learned counsel on record for the first defendant and Ms.T.E.Krishna, learned counsel on record for the second



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defendant are before this Commercial Division. To be noted, the third defendant has already been set exparte by another Hon'ble Single Judge in and by proceedings dated 30.09.2019.

4.As regards the trajectory of the main suit, the parties are in the midst of trial before learned Additional Master-II. In this order, the aforementioned 13 plaint scheduled movies shall be referred to as 'suit movies' for the sake of convenience and clarity.

5.As regards stage of the trial, this Commercial Division is informed that DW1 [one Mr.Kannan] from the first defendant company is now in the witness box and his chief examination is yet to be completed. The first defendant wanted to mark an agreement dated 14.03.2002 entered into purportedly between the aforementioned said artiste featuring in the suit movies and the third defendant. To be noted, a copy of this document has been filed as Document No.1 along with the written statement dated 19.08.2019 filed by the first defendant. The document filed along with the written statement which is now being sought to be



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marked is a photocopy. Learned counsel for the plaintiff objected to the same on two grounds and they are as follows:

(a) The document is a forged document and it cannot be taken cognizance of;

(b) The original has not been produced inspite of prior notice to the defendants calling upon them to produce the originals.

6.Faced with the above situation, learned Additional Master-II has sent the matter to this Commercial Division in and by proceedings dated 02.09.2022 which reads as follows:

'Both side counsel present. Proof affidavit of DWI filed and recorded as evidence. Ex.D1 to Ex.D3 marked. While attempting to mark other two documents by counsel for defendant, counsel for plaintiff strongly objected to mark the 2 other documents on the ground that those documents are not mentioned in the written statement and not furnished the copy of documents and request to send the case before court. At request of counsel for plaintiff, post the case before court.'



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7.As the entire matter turns only on objection of an adversary to marking of a document, a counter affidavit is not really necessary. To be noted, the difficulty appears to have arisen because the 'learned Additional Master-II' ('AM-II' for convenience) does not have adjudicatory powers but that does not deter AM-II from recording the objection and marking the document with objection leaving it to this Commercial Division to decide on the objection. Therefore, this Commercial Division decided to hear both the learned counsel and dispose of the captioned application to facilitate the trial to proceed further.

8.Suffice to say that the aforementioned document shall be marked in accordance with the Indian Evidence Act, 1872/The Code of Civil Procedure, 1908 subject to the aforementioned two objections raised by the plaintiff. In other words, learned Additional Master-II shall make it clear that the aforementioned 14.03.2002 document is being marked subject to the aforementioned two objections by the plaintiff. This means



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when the captioned suit is before this Commercial Division, the objections of the plaintiff will be considered i.e., at the time of rendering judgment in the main suit. It will be open to both parties to advance arguments and all questions, rights and contentions in this regard are left open for being canvassed when the main suit is argued.

9.The above draws the curtains on the screen in the captioned application.

10.Learned counsel for first defendant submits that he does not have any further witness to be examined. Learned counsel for second defendant submits that she would be letting in oral evidence by examining one witness. This one witness will be the second defendant [DW2]. Thereafter, AM-II shall post the matter before this Commercial Division.

11.Let AM-II proceed in accordance with the directives/observations in this order. List before learned Additional



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12.The captioned application is ordered accordingly. There shall be
no order as to costs.

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Dated : 10.10.2022

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