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C.S.(Comm.Div.) No. 228 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2022

CORAM

THE HON'BLE MR. JUSTICE M. SUNDAR

C.S. (Comm.Div.) No. 228 of 2022

&

O.A.No.737 of 2022 & A.No.5180 of 2022

in

C.S. (Comm.Div.) No. 228 of 2022

V.Prabhakar

..Plaintiff

Vs.

1. M/s.Saga Films

Represented by its Managing Partner

Mr.V.C.George Alias Appachan

Treasurer, Kerala Film Chamber of Commerce

M.G.Road, Near Shenoy's Theatre

Ernakulam, Kerala, Pin Code – 682 035

2. RajadasKurias

3. Siju Mathew

4. Navis Xaviour

5. Lavan

6. Kusan

7. Zac Harriss

8.Dr.Prabhu Thilak

Proprietor

11:11 Production / Distribution Company

No.84, Sri Devi Kuppam

Valasaravakkam, Chennai – 600 087

..Defendants



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Prayer: This Civil Suit is preferred under Order IV Rule 1 of OS rules read with Order VII Rule 1 of the Code of Civil Procedure seeking

a) Permanent injunction restraining the 2nd to 8th defendants or their men and agents, servants or anybody acting on behalf of the defendants from infringing or using or re-making and dubbing the script, story line, casting of characters, dialogues, sequence of scene and songs of the Malayalam Feature Film “Desharadham” in any manner or version, thereby unauthorizedly broadcasting, telecasting, transmitting or communicating to the general public by making it available through video or audio-video format in any theatrical form or on OTT platform;

b) Permanent injunction restraining the 2nd to 8th defendants or their men and agents, servants or anybody acting on behalf of the defendants from releasing or exhibiting the Tamil Feature Film “YUGI” produced by the 2nd to 7th defendants and being released by the 8th defendant in any dimension or cinematic, electric, electronic, social media and OTT platforms or through theatres on 18.11.2022 or on any other subsequent dates;

c) To pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and render justice;

d) for cost of the suit.

For Plaintiff : Mr.R.Abdul Mubeen
along with Mr.S.Jerome



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J U D G M E N T

WEB COPY This judgment/order will now dispose of captioned main suit and captioned two applications.

2. 16.11.2022 is the date of presentation of plaint and date of institution of suit qua captioned main suit which has been filed with prayers seeking reliefs for alleged infringement of plaintiff's purported copyright for re-making and dubbing the script, story line, casting of characters, dialogues, sequence of scene and songs in a Malayalam Feature Film with title 'DESHARADHAM' [hereinafter 'suit movie' for the sake of convenience and clarity].

3. It is the case of the plaintiff that alleged infringement in the aforementioned purported copyright is vide a Tamil cinematograph film with title 'Yugi' ('யுகி') [hereinafter 'said movie' for the sake of convenience and clarity] which is scheduled for theatrical release besides release on OTT platforms tomorrow i.e., 18.11.2022. To be noted, captioned suit has been moved by way of Lunch Motion today.



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4. Mr.R.Abdul Mubeen along with Mr.S.Jerome, learned counsel on record for plaintiff advert to the plaint submitted that plaintiff is a cinema Director-cum-writer having wide exposure / experience in film making and direction; that the plaintiff is in the cinema field from 1983, he has scripted and directed a Tamil film, worked in more than 25 films and is a member of various Cine field Associations in Tamil Nadu besides being a recipient of several awards such as Kalaimamani Award, Ezhuthu Selvam Award and Nimay Ghosh Award for contribution to the cinema field; that the first defendant is in the trade of producing and releasing films and that Defendants 2 to 6 are film producers qua a production house called 'UAN Film House' and the 8th defendant is in the business of purchasing distribution rights of the films in Tamil, Telugu, Malayalam and other languages under the name '11:11 Production/Distribution Company'; that the plaintiff in the course of his business had acquired story rights to remake and dub a Malayalam feature film i.e., suit movie; that the plaintiff got such rights by way of a Letter of Assignment dated 14.06.1990 (Plaint Document No.1); that the plaintiff acquired such rights from the first defendant by paying Rs.2,00,000/- [Rupees Two Lakhs only] as royalty; that the story in suit movie pertains to



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Surrogacy, surrogate mother and a legal tussle in this regard; that the plaintiff came to know about suit movie from trailer and audio format of suit movie, which were advertised in social media platform; that the plaintiff has reliably learnt from authentic sources that dialogues, scene sequences and characters in suit move are such that it violates plaintiff's copyright; that the plaintiff caused a public notice in Tamil daily 'Malai Malar' to be issued on 14.11.2022 mentioning about plaintiff's copyright in said movie; that the release of said movie is in the anvil; that captioned applications have been taken out with prayers for interim injunction restraining release of suit movie and appointment of Advocate Commissioner for a private exhibition.

5. As the date of presentation of plaint and institution of suit are post 20.08.2022, this Commercial Division deems it appropriate to examine the captioned suit in the light of Section 12A of 'The Commercial Courts Act, 2015 (Act 4 of 2016)' [hereinafter 'CCA' for the sake of brevity, convenience and clarity] as elucidated by Hon'ble Supreme Court in ***Patil Automation*** case law [***Patil Automation Private Limited and Ors. Vs. Rakheja Engineers Private Limited*** reported in ***2022 SCC OnLine SC 1028***].



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6. Section 12A was not in the statute book when CCA kicked in on 23.10.2015 but it was introduced in CCA in and by an amendment on and from 03.05.2018. Sub-sections (2) and (1) of Section 12A of CCA provide for a Notification and Rules for pre-institution mediation. This Notification and Rules have to be made by Central Government and the same have been made and they kicked in on and from 03.07.2018. Thereafter, several High Courts took several views regarding the question as to whether Section 12A is mandatory or directory. This led to a conundrum of sorts but in ***Patil Automation*** case law Hon'ble Supreme Court put to rest the debate as to whether Section 12A of CCA is directory or mandatory by holding that Section 12A is mandatory. It was also made clear that this pronouncement of law in ***Patil Automation*** case law will operate prospectively and the date is 20.08.2022. ***Patil Automation*** case law also makes it clear that the date of institution of suit is the reckoning and it was also made clear that a Commercial Division can *suo motu* reject a plaint for non-compliance with Section 12A of CCA. Most relevant paragraphs are paragraphs 75 and 76{to be noted, paragraph numbers are as in SCC Online report and it has become necessary to mention this as paragraph numbers vary qua official website



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owing to paragraph breaks being given numbers while reporting} (relevant paragraphs dealing with *suo motu* rejection) and the same read as follows:

'75. Order VII Rule 11 declares that the plaint can be rejected on 6 grounds. They include failure to disclose the cause of action, and where the suit appears from the statement in the plaint to be barred. We are concerned in these cases with the latter. Order VII Rule 12 provides that when a plaint is rejected, an order to that effect with reasons must be recorded. Order VII Rule 13 provides that rejection of the plaint mentioned in Order VII Rule 11 does not by itself preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action. Order VII deals with various aspects about what is to be pleaded in a plaint, the documents that should accompany and other details. Order IV Rule 1 provides that a suit is instituted by presentation of the plaint to the court or such officer as the court appoints. By virtue of Order IV Rule 1(3), a plaint is to be deemed as duly instituted only when it complies with the requirements under Order VI and Order VII. Order V Rule 1 declares that when a suit has been duly instituted, a summon may be issued to the defendant to answer the claim on a date specified therein. There are other details in the Order with which we are not to be detained. We have referred to these rules to prepare the stage for considering the question as to whether the power under Order VII Rule 11 is to be exercised only on an application by the defendant and the stage at which it can be exercised. In Patasibai v. Ratanlal, one of the specific contentions was that there was no specific objection for rejecting of the plaint taken earlier. In the facts of the case, the Court observed as under:



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“13. On the admitted facts appearing from the record itself, learned counsel for the respondent, was unable to show that all or any of these averments in the plaint disclose a cause of action giving rise to a triable issue. In fact, Shri Salve was unable to dispute the inevitable consequence that the plaint was liable to be rejected under Order VII Rule 11, CPC on these averments. All that Shri Salve contended was that the court did not in fact reject the plaint under Order VII Rule 11, CPC and summons having been issued, the trial must proceed. In our opinion, it makes no difference that the trial court failed to perform its duty and proceeded to issue summons without carefully reading the plaint and the High Court also overlooked this fatal defect. Since the plaint suffers from this fatal defect, the mere issuance of summons by the trial court does not require that the trial should proceed even when no triable issue is shown to arise. Permitting the continuance of such a suit is tantamount to licensing frivolous and vexatious litigation. This cannot be done.”

(Emphasis supplied)

76. On a consideration of the scheme of the Orders IV, V and VII of the CPC, we arrive at the following conclusions:

(A) A suit is commenced by presentation of a plaint. The date of the presentation in terms of Section 3(2) of the Limitation Act is the date of presentation for the purpose of the said Act. By virtue of Order IV Rule 1 (3), institution of the plaint, however, is complete only when



the plaint is in conformity with the requirement of Order VI and Order VII.

(B) When the court decides the question as to issue of summons under Order V Rule 1, what the court must consider is whether a suit has been duly instituted.

(C) Order VII Rule 11 does not provide that the court is to discharge its duty of rejecting the plaint only on an application. Order VII Rule 11 is, in fact, silent about any such requirement. Since summon is to be issued in a duly instituted suit, in a case where the plaint is barred under Order VII Rule 11(d), the stage begins at that time when the court can reject the plaint under Order VII Rule 11. No doubt it would take a clear case where the court is satisfied. The Court has to hear the plaintiff before it invokes its power besides giving reasons under Order VII Rule 12. In a clear case, where on allegations in the suit, it is found that the suit is barred by any law, as would be the case, where the plaintiff in a suit under the Act does not plead circumstances to take his case out of the requirement of Section 12A, the plaint should be rejected without issuing summons. Undoubtedly, on issuing summons it will be always open to the defendant to make an application as well under Order VII Rule 11. In other words, the power under Order VII Rule 11 is available to the court to be exercised suo motu.(See in this regard, the judgment of this Court in Madiraju Venkata Ramana Raju (supra)'



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7. Post **Patil Automation** case law, this Commercial Division while respectfully following the law laid down by Hon'ble Supreme Court in **Patil Automation** case law had explained the term '*contemplate*' and expression '*urgent interim relief*' occurring in Section 12A of CCA vide judgments / orders dated 27.09.2022 in C.S (Comm.Div.) No.208 of 2022 [**Mohamed Aboobacker Chank Lungi Pvt. Ltd., Vs. Revathy Textiles and Others**] / applications therein and judgment / order dated 13.10.2022 in C.S. (Comm.Div.) No. 202 of 2022 [**K. Varathan Vs. Mr.Prakash Babu Nakundhi Reddy**] along with applications therein. Relevant paragraphs are, sub-paragraph Nos.(xxiv) and (xxv) of paragraph No.6 in **Chank Lungi** case and Paragraphs 14 to 16 in **K. Varathan** case, which read as follows:

'Sub-paragraph Nos.(xxiv) and (xxv) of paragraph No.6 in **Chank Lungi** case:

'(xxiv) In **Patil Automation**, more particularly paragraph 76 (extracted and reproduced elsewhere in this order / judgment) Hon'ble Supreme Court has made it clear that rejection of plaint can be done suo motu by the court concerned. This means that ultimate prerogative to examine '*contemplation*' within the meaning of the term '*contemplate*' occurring in sub section (1) of section 12-A vests in this Commercial Division. To be noted, the expression used in sub section (1) of section 12-A is not merely '*interim relief*', it is '*urgent interim relief*'. This takes this Commercial Division to the term '*contemplate*' deployed in sub section (1) of section 12-A. This term has not been defined in said Act. It has not been defined in The General Clauses Act, 1897. Therefore, this Commercial Division resorts to dictionary meaning of the term '*contemplate*'. Scanned reproduction of New 9th Edition Oxford Dictionary' is as follows:



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con-tem-plate /ˌkɒntəmpleɪ/; Noun / Noun 1 [T] to think about whether you should do sth, or how you should do sth **CON**sider, think about/of: ~sth You're too young to be contemplating retirement. ~ doing sth I have never contemplated being abroad. ~ how/what, etc... He contemplated while she contemplated how to answer. 2 [T] to think carefully about and accept the possibility of sth happening ~ with The thought of war is too awful to contemplate. ~ how/what, etc... I can't contemplate what it would be like to be alone. ~ that... She contemplated that things might get even worse. 3 [T, I] ~ (sth) (verb) to think deeply about sth for a long time: to contemplate your future. ~ sb/sth in bed, contemplating. 4 [T] ~ sb/sth (verb) to look at sb/sth in a careful way for a long time **CON**stare at: She contemplated him in silence.

(xxv) *A careful perusal of the meaning of the term 'contemplate' makes it clear that a thoughtful look and a profound thought at length would essentially be the determinants qua 'contemplate'. Therefore it is not for the asking qua plaintiff to say that urgent interim orders are required. When the plaintiff makes such a plea, it is open to this Commercial Division to examine the contemplation determinant i.e., the term 'contemplate' occurring in Section 12A of CCA. In the case on hand, inter alia owing to there being no cease and desist notice, no notice at all and more particularly plaintiff going into slumber for nearly two months, this Commercial Division has no hesitation in coming to the conclusion that it cannot be gainsaid by the plaintiff that there is contemplation of urgent interim orders in the case on hand. Though obvious, it is made clear that this Commercial Division has referred to judgments rendered by Hon'ble single Judges of Hon'ble Delhi High Court in **Bolt Technology** and **Retail Royalty** only for the purpose of completion of not only the narrative but the discussion and dispositive reasoning also. Those being orders of other single benches of another High Court have only persuasive value and this Commercial Division as of now does not express any opinion on the persuasive value as far as **Bolt Technology** and **Retail Royalty** are concerned. Suffice to say that they do not come to the aid of the plaintiff in the case on hand. To put it differently, **Bolt Technology** and **Retail Royalty** are factually distinguishable, not applicable to case on hand. Therefore, this order is not to be understood as following the same.'*

Paragraphs 14 to 16 of **K. Varathan** case

'14. Before embarking upon the above exercise, it is made



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clear that this Commercial Division is of the view that the four terms and the expression 'contemplation of urgent interim relief' constituted by these four terms can be described but not defined. It is also made clear that when a term or expression is defined, the meaning is confined (constricted) whereas a term or expression stands explained and / or elucidated when described. Let me now go to Lexicons and dictionaries. To be noted, from the Lexicons and dictionaries those of the meanings which are contextually most relevant to our exercise on hand have been culled out and the same are set out infra as a tabulation.

Term / Expression	Name of Lexicon / Dictionary	Meaning
Contemplate	New 9 th Edition of Oxford Dictionary	to think carefully about and accept the possibility of happening
	Concise Oxford English Dictionary	look at thoughtfully; think about, think profoundly and at length
Urgent	New 9 th Edition of Oxford Dictionary	that needs to be dealt with or happen immediately
	Concise Oxford English Dictionary	requiring immediate action or attention
	P.Ramanatha Aiyar's Advanced Law Lexicon (5 th Edition)	Demanding prompt action
	Stroud's Judicial Dictionary of Words and Phrases (Ninth Edition)	A high standard is required to satisfy the court of the urgency Urgency – The “urgency” exemption from the duty to consult contained in this section does not apply to any urgency arising as a



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		<i>result of the minister's own failure to reach a decision until the last moment.</i>
Interim	<i>New 9th Edition of Oxford Dictionary</i>	<i>intended to last for only a short time until more permanent is found; in the interim - during the period of time between two events; until a particular event happens</i>
	<i>Concise Oxford English Dictionary</i>	<i>the intervening time; provisional; meanwhile</i>
	<i>P.Ramanatha Aiyar – The Law Lexicon</i>	<i>Meanwhile; in the meantime</i>
	<i>P.Ramanatha Aiyar's Advanced Law Lexicon (5th Edition)</i>	<i>Meanwhile; in the meantime; The word “interim” when used as a noun means “intervening” and when used as an adjective, it means “temporary” or “provisional”</i>
	<i>Black's Law Dictionary (Tenth Edition)</i>	<i>Done, made, or occurring for an intervening time; temporary or provisional.</i>
	<i>Stroud's Judicial Dictionary of Words and Phrases (Ninth Edition)</i>	<i>For the time being</i>
Relief	<i>Concise Oxford English Dictionary</i>	<i>The alleviation or removal of pain, anxiety or distress</i>



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<i>P.Ramanatha Aiyar's Advanced Law Lexicon (5th Edition)</i>	<i>Relief arising out of a cause of action which had accrued at the date of suit and on which the suit was brought and did not include relief accruing after the date of suit.</i>
<i>P.Ramanatha Aiyar – The Law Lexicon</i>	<i>The remedy which a Court of Justice may afford in relation to some actual or apprehended wrong or injury; It is a maxim in our law that a plaintiff must show that he stands on a fair ground when he calls on a Court of justice to administer relief to him.</i>
<i>Stroud's Judicial Dictionary of Words and Phrases (Ninth Edition)</i>	<i>'Relief' and 'relieve' are appropriate terms to describe the remedial action of the court in cases where a penalty or forfeiture has been incurred, and which the court thinks it equitable that the complainant should not lie under or suffer.</i>

15. A careful perusal of the aforementioned definitions / descriptions bring to light that a plaintiff should think carefully about possibility of a thing happening. The thinking process should be profound and thoughtful, such thinking process should lead the plaintiff to believe that prompt action (not attributable to plaintiff's



own doing) is demanded or the matter requires immediate attention and needs to be dealt with immediately and that it is so immediate that time consumed in exhausting the remedy of pre institution mediation that will lead to wrong or injury which the plaintiff in law and equity should not be made to stand and suffer. To put it differently, a relief for the time being which is temporary or provisional is so imperative that possible wrong or injury will overtake the process of exhausting remedy of pre institution mediation.

16. This Commercial Division having explained the expression 'contemplation of urgent interim relief' deems it appropriate to make an adumbration of parameters / tests and they are as follows:

(a)whether the prayer for interim relief is a product of profound thinking carefully about the possibility of the happening;

(b)whether the matter demands prompt action and that promptitude is of such nature that exhausting the remedy of pre institution mediation without any intervention in the mean time can lead to a irreversible situation, i.e., a situation where one cannot put the clock back;

(c)where the urgency is of plaintiff's own doing, if that be so the plaintiff cannot take advantage of its own doing;

(d)high standard is required to establish the requirement of this prompt action (urgency);

(e)plaintiff should be on fair ground in urging urgency and an interim measure;



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(f) actual or apprehended wrong or injury should be so imminent that the plaintiff should be able to satisfy the court that plaintiff should not be made to stand and suffer the same.'

8. In the case on hand, the most important parameter that needs to be examined is whether the urgency is plaintiff's own doing and whether the plaintiff meets the high standard required to establish prompt action (urgency). On a careful examination of the plaint in the light of submissions made by learned counsel for plaintiff, this Commercial Division has no hesitation in coming to the conclusion that this is a case where the urgency is the plaintiff's own doing. Plaintiff cannot take advantage of his own doing and therefore the plaintiff does not meet the high standard required to establish requirement for prompt action (urgency) [see paragraph 16 of **K. Varathan** case which is an adumbration of parameters/tests]. To be noted, further reasons are set out infra. In other words, the discussion and dispositive reasoning is as follows:

a) The plaintiff has not mentioned when he came to know about the story in the suit movie. In paragraph 9 of the plaint, it is merely averred that the plaintiff came to know about the suit movie through the trailer and audio format of the suit movie that was advertised in the



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social media platform. Paragraph 9 of the plaint reads as follows:

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'9. The Plaintiff further submits that 2nd to 6th Defendants are producing a film named as "YUGI" being directed by Mr.ZacHarriss, the 7th defendant herein, starring Kathir as hero of the film. The plaintiff submits that he came to know about the story in the film through the trailer and audio format of the said film advertised in social media platforms. It appears that post production work is completed and film "YUGI" is slated to release on 18th November 2022. The Plaintiff submits that the 8th Defendant has purchased distribution rights to release it in Tamil and Telugu.'

(underlining made by this Court for ease of reference)

There is no disputation that trailer / audio format were released more than a fortnight ago. Notwithstanding this, the plaintiff did nothing other than causing a public notice to be issued in a Tamil daily on 14.11.2022 (Plaint Document No.4), a scanned reproduction of which is as follows:



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பொது அறிவிப்பு

சென்னை-78 கே.கே.நகர், 4-வது செக்டர், 18-வது தெரு, பிளாட் எண். 501-ல் வசிக்கும் என்னுடைய கட்சிக்காரர், திரைப்பட எழுத்தாளர், இயக்குநர் வி.பிரபாகர் அறிவறுத்தியபடி இந்த பொது அறிவிப்பு வெளியிடப்படுகிறது. என்னுடைய கட்சிக்காரர் M/s. SAGA FILMS PULLEPADY ROAD COCHIN-682018 என்னும், கேரளாவில் உள்ள நிறுவனத்தின் உரிமையாளர் திரைப்பட தயாரிப்பாளர் திரு. அப்பச்சன் (எ) V.C.ஜார்ஜ் அவர்களிடமிருந்து மோகன்லால், ரேகா, முரளி ஆகியோர் நடித்து சிபி மலயில் இயக்கிய “தசரதம்” என்னும் மலையாளத் திரைப்படத்தின் தமிழ் மற்றும் தெலுங்கு மொழிகள் REMAKING AND DUBBING செய்யும் உரிமை வாங்கியுள்ளார். எனவே மேற்கண்ட திரைப்படத்தின் கருவையோ, காட்சிகளையோ, கதையையோ, வசனத்தையோ, கதாபாத்திரங்களின் தோற்றங்களையோ தழுவி யாரேனும் தமிழ் மற்றும் தெலுங்கு மொழிகளில் திரைப்படமோ, தொலைக்காட்சி தொடரோ, WEBSERIES மற்றும் SOCIAL MEDIA தொடரோ எடுத்தால் அல்லது எடுக்க முற்பட்டால் அல்லது வேறு வகையில் பயன்படுத்தினால் சம்பந்தப்பட்டவர்கள் மீது சட்டப்படி கிரிமினல் மற்றும் சிவில் வழக்கு உட்பட அனைத்து நடவடிக்கைகளும் எடுக்கப்படும் என்பதை தெரிவித்துக் கொள்கிறேன்.

ச.செந்தில்நாதன், B.A.,B.L., வழக்கறிஞர்,
உயர்நீதிமன்றம், 162, தம்புச்செட்டி தெரு, சென்னை-1.
Contact : 7299955533

Nothing prevented the plaintiff from issuing a notice to the defendants

i.e., a suit notice *inter alia* calling upon the defendants to sit for



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mediation. Even this had not been done. Plaintiff has straight away rushed to this Court at the eleventh hour nay 59th minute of the eleventh hour as theatrical release and release on OTT platforms of suit movie is scheduled for tomorrow i.e., 18.11.2022 (Friday). Hon'ble Bombay High Court in *Akashaditya Harishchandra Lama an adult Indian Inhabitant Vs. Ahutosh Gowarikar Adult Indian inhabitant and others* reported in *2016 SCC OnLine Bom 5207* deprecated such eleventh hour attempt. This Commercial Division has no hesitation in coming to the conclusion that urgency is the plaintiff's own doing and therefore, plaintiff cannot take advantage of his own doing. As a sequitur, this Commercial Division has no hesitation in saying that the high standard required to be established qua requirement of prompt action (urgency) is certainly not met. It also follows that the plaintiff is not on fair ground in urging urgency and interim measure. The parameters set out in sub-paragraphs (c),(d) and (e) of paragraph No.16 of *K. Varathan* case draws the curtains on the captioned suit.



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b) The scene now shifts to the alleged infringement. The crux and gravamen of the plaint averments regarding alleged infringement is set out in paragraph 10 of the plaint and the same reads as follows:

'10. The Plaintiff has reliably learnt from authentic sources that the story line, dialogues, scene sequences and characters casted in the Malayalam feature Film “DESHARADHAM” to which the plaintiff holds copyright have been infringed, adapted and/or copies violating the prevailing law by the 2nd to 7th and 8th defendants and they have knowingly adapted the main story base of the Malayalam film “DESHARADHAM” and have also casted characters, scripted and arranged scene sequences of the film “DESHARADHAM” in the 2nd to 7th defendants film “YUGI”.'

The above is clearly not just lacking in specificity but is extremely vague and can hardly pass muster qua pleadings required for a copyright infringement action, that too in the eleventh hour on the anvil of release of suit movie.

c) As would be evident from the plaint narrative captured



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supra, while setting out the short facts, the plaintiff is no stranger to the film industry. Plaintiff is a veteran in the field even according to plaintiff averments and therefore, it cannot be gainsaid that the plaintiff had no clue about the suit movie or making of the same at an earlier point of time. It is not necessary to dilate further on this aspect of the matter. It will suffice to say that the pleadings in the plaint are extremely vague and do not pass muster much less for a copyright infringement action. To be noted, this Commercial Division is not going into the merits of the matter. This is mentioned only in the context of saying that the plaintiff has not made out a case for urgent interim relief within the meaning of Section 12A of CCA.

9. The sequitur is, plaint in the captioned suit is liable to be rejected for non-adherence of Section 12A of CCA. As discussion and dispositive reasoning in this judgment / decree and common order is only for the limited purpose of testing the captioned suit qua Section 12A of CCA, it is well open to the plaintiff to issue a notice to the defendants, exhaust the Section 12A mechanism and if the same does not culminate in a settlement, it is open to



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the plaintiff to come to this Court with the same/similar relief/s or any other suitable relief such as damages on the same cause action. To this extent, the rights and contentions of the plaintiff are preserved. If such a scenario arises, the discussion and dispositive reasoning in this judgment / common order will neither impede nor serve as an impetus qua the next suit if that be so post Section 12A legal drill.

10. To conclude, curtains are down on the captioned matter and plaint stands rejected. Consequently, captioned applications are closed. There shall be no order as to costs.

17.11.2022

Speaking Order/Non-speaking Order
Index: Yes/No
gpa



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M. SUNDAR,J.

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