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C.S.No.245 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.S. No.245 of 2008

SUN TV Network Ltd.,
rep. by its Manager (Programming),
L.Jotheeswaran

... Plaintiff

Vs.

1.M/s.Viswak Movies,
rep. by its Proprietor Y.Suresh

2.K.V.V.Satyanarayana

3.M/s.Shalimar Video Company,
rep. by its Partner Mohammed Asharaf

4.M/s.Ramanaidu Colour Laboratories

... Defendants

PRAYER: Plaintiff filed under Sections 55 and 62 of the Copyright Act, 1957 and Order IV Rule 1 of Original Side Rules 1956 read with Order VII Rule I of C.P.C. prays for a judgment and decree against the defendants:

(a)for a declaration declaring that the plaintiff is the exclusive copyright holder of the cinematography film “AADILAKSHMI” (Telugu colour), starring Mr.Srikanth, Vadde Naveen, Sridevi and others and directed by Mr.R.V.Suresh and other inclusive of the rights of Satellite Television Broadcast, Direct to Home Broadcast,Direct Satellite



Service, Terrestrial Television Broadcast and all other rights connected therewith including exhibition of the film by means of wireless diffusion and by wire for communication to the public through Television Broadcast for the entire world as assigned in the agreement dated 01.09.2006;

ii) for a permanent injunction restraining the defendants, their men, agents, assignees or any other person or persons claiming through them from in any manner infringing the plaintiff's copyrights in the cinematography film "AADILAKSHMI" (Telugu colour), starring Mr. Srikanth, Vadde Naveen, Sridevi and others and produced by Mr. K. V. Sathyanarayana inclusive of the rights of Satellite Television Broadcast, Direct to Home Broadcast, Direct Satellite Service, Terrestrial Television Broadcast and all other rights connected therewith including exhibition of the film by means of wireless diffusion and by wire for communication to the public through Television Broadcast for the entire world as assigned in the agreement dated 01.09.2006;

iii) Award damages of Rs.10,00,000/-; and

iv) directing the defendants to pay costs.

For Plaintiff : Mr. G. Rajkumar

JUDGMENT

This suit has been filed seeking for the following reliefs:

a) For a declaration declaring that the plaintiff is the exclusive copyright holder of the cinematography film "AADILAKSHMI" (Telugu colour), starring Mr. Srikanth, Vadde Naveen, Sridevi and others and



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directed by Mr.R.V.Suresh and other inclusive of the rights of Satellite Television Broadcast, Direct to Home Broadcast, Direct Satellite Service, Terrestrial Television Broadcast and all other rights connected therewith including exhibition of the film by means of wireless diffusion and by wire for communication to the public through Television Broadcast for the entire world as assigned in the agreement dated 01.09.2006;

ii) for a permanent injunction restraining the defendants, their men, agents, assignees or any other person or persons claiming through them from in any manner infringing the plaintiff's copyrights in the cinematography film "AADILAKSHMI" (Telugu colour), starring Mr.Srikanth, Vadde Naveen, Sridevi and others and produced by Mr.K.V.Sathyanarayana inclusive of the rights of Satellite Television Broadcast, Direct to Home Broadcast, Direct Satellite Service, Terrestrial Television Broadcast and all other rights connected therewith including exhibition of the film by means of wireless diffusion and by wire for communication to the public through Television Broadcast for the entire world as assigned in the agreement dated 01.09.2006;

iii) for awarding damages of Rs.10,00,000/-; and

iv) directing the defendants to pay costs.



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2.The plaintiff claims that earlier, the sole and exclusive copyright for broadcasting the film “AADILAKSHMI” (Telugu colour) was vested with Gemini TV Private Limited, which got amalgamated with the plaintiff's company by an amalgamation order dated 27.03.2007 passed by this Court in C.P. Nos.25 to 27 of 2007 with effect from 01.04.2006. According to the plaintiff, ever since the said amalgamation order, the plaintiff is vested with the exclusive copyright in respect of the film “AADILAKSHMI” (Telugu colour) to broadcast the same through all modes, including but not limited to the satellite system, by acquiring World Satellite Rights, Direct to-home Services, Terrestrial Digital Service, Cable Television Service, VCD, DVD, Laser Disc, Internet, Radio, FM, Broadband, Wire, Wireless and all other modes, without any restriction of geographical area. Originally, the copyright was vested with the first defendant, who, in turn, had assigned the copyright in favour of the second defendant, who, in turn, has assigned the copyright in favour of Gemini TV Private Ltd., which has got merged with the plaintiff under an amalgamation order dated 27.03.2007, referred to supra. The said amalgamation came into effect from 01.04.2006. According to the plaintiff, the third defendant has infringed the copyright of the plaintiff over the subject movie and has committed an act of piracy by selling



the movies through DVDs and CDs. The fourth defendant is the Laboratory, which was having possession of the negatives of the film “AADILAKSHMI” (Telugu colour) and only under those circumstances, the fourth defendant has been arrayed as party defendants in the suit. The plaintiff has sought for a declaration and permanent injunction and has also sought for granting Rs.10,00,000/- towards damages together with interest and costs. The defendants have been set exparte by this Court on 13.09.2021. Till date, no application has been filed by any of the defendants to set aside the exparte order.

3.The plaintiff's authorised representative M.Jyothi Basu (PW1) has been examined as a witness on behalf of the plaintiff before the learned Additional Master II. Through PW1, the following documents were marked as Exhibits:

<i>S.Nos.</i>	<i>Exhibits</i>	<i>Description</i>
1	Ex.P1	Ex.P1 is the True copy of the Board Resolution dated 29.05.2015
2	Ex.P2	Ex.P2 is the photocopy of Agreement dated 05.08.2006 between the first defendant and second defendant
3	Ex.P3	Ex.P3 is the Original DVD/CD released by the third defendant
4	Ex.P4	Ex.P4 is the photocopy of letter sent by the fourth defendant to the second defendant dated 07.08.2006
5	Ex.P5	Ex.P5 is the photocopy of reply sent by the second defendant



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<i>S.Nos.</i>	<i>Exhibits</i>	<i>Description</i>
		to the fourth defendant dated 31.08.2006
6	Ex.P6	Ex.P6 is the photocopy of the letter sent by the fourth defendant to the plaintiff dated 01.09.2006
7	Ex.P7	Ex.P7 is the photocopy of Agreement between the second defendant to the plaintiff dated 01.09.2006
8	Ex.P8	Ex.P8 is the certified copy of the Order passed by this Court in C.P. Nos.25 to 27 of 2007 dated 27.03.2007

4.M.Jyothi Basu, the plaintiff's representative (PW1) has filed proof affidavit reiterating the averments contained in the plaint before the learned Additional Master II. As seen from Ex.P2, which is an Assignment Agreement dated 05.08.2006 entered into between the first and second defendants, the first defendant has assigned the exclusive copyright of the suit film in favour of the second defendant. The second defendant has thereafter assigned the copyright for the said film in favour of Gemini TV Private Limited under an Assignment Agreement dated 01.09.2006 and the said Assignment Agreement has been marked as Ex.P7. Ex.P8 is the certified copy of the order dated 27.03.2007 passed by this Court in C.P. Nos.25 to 27 of 2007 sanctioning the scheme amalgamation by which Gemini TV Private Limited was amalgamated with the plaintiff. A pirated CD and DVD released by the third defendant in July 2007 was marked as Ex.P3 before the learned Additional Master II, which confirms that the third



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defendant has committed an act of piracy by making CDs and DVDs for the suit film without the permission of the plaintiff un-authorisedly and has made profits out of the same by selling it to various parties. A letter dated 07.08.2006 issued by the fourth defendant, which is the Laboratory, to the second defendant informing/acknowledging the transfer of copyright in respect of the suit film in favour of the second defendant, has been marked as Ex.P4. A photocopy of the reply letter dated 31.08.2006 sent by the second defendant to the fourth defendant with regard to the assignment of the exclusive copyright over the suit film in favour of Gemini TV Private Limited has been marked as Ex.P5. A letter dated 01.09.2006 issued by the fourth defendant to the plaintiff acknowledging the transfer of the exclusive copyright in favour of Gemini TV Private Limited has been marked as Ex.P6.

5.From the aforesaid documents, it is clear that the plaintiff is the exclusive owner of the suit film “AADILAKSHMI” (Telugu colour). The Assignment Agreement dated 01.09.2006 (Ex.P7) confirms that the plaintiff has acquired sole and exclusive copyright to broadcast the film “AADILAKSHMI” (Telugu colour) through all modes including but not



limited to the satellite system, by acquiring World Satellite Rights, Direct to-home Services, Terrestrial Digital Service, Cable Television Service, VCD, DVD, Laser Disc, Internet, Radio, FM, Broadband, Wire, Wireless and all other modes, without any restriction of geographical area. The relevant Assignment agreement dated 01.09.2006 (Ex.P7), which gives the plaintiff the aforesaid rights, is extracted hereunder:

'NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:-

1) The Assignor irrevocably assigns to the Assignee the sole and exclusive copyright for broadcasting the said Film through any Satellite System (Indian or Foreign), Exclusive World Satellite Rights, Satellite Broadcasting Service, Satellite Television Broadcasting Service, Satellite Radio Broadcasting, Public Service Broadcasting, Private Communication/ Broadcast, Terrestrial Broadcasting Service, Terrestrial Digital Service/Broadcasting, Cable Television Service, Station, Doordharshan, Direct to Home Service, Airborne Rights, Seaborne Rights, Railborne Rights, Pay TV Rights, VCD, DVD, Laser Disc, Internet, IP TV, D.V.B.T, Radio (All Dimension), FM Broadband Telephony, Audio, Video, Local Delivery Service, MMDS, Cable, Wire, Wireless, any forms of communication like signs, signals, writing, pictures, images and sounds of all kinds by transmission of electro-magnetic waves through space or through cables



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intended to be received by the general public either directly or indirectly through the medium of relay stations and all its grammatical variations and cognate expressions shall be construed accordingly or any other systems without restriction of geographical area.'

6.The plaintiff has also proved through Ex.P3 the priated CD and DVD released by the third defendant in July 2007 that the third defendant has committed the act of piracy in respect of the suit film. Since the plaintiff has proved through oral and documentary evidence that the third defendant has committed an act of piracy and the plaintiff is the exclusive owner of the copyright for the suit film, the relief of declaration and permanent injunction sought for by the plaintiff in the plaint has to be granted by this Court. Apart from the declaration and the injunction relief sought for in the plaint, the plaintiff has also sought for the relief of damages against the defendants seeking for payment of damages of Rs.10,00,000/-. As seen from the oral and documentary evidence available on record, the plaintiff has not produced any evidence to prove that they have suffered loss to the extent of Rs.10,00,000/- as claimed in the plaint on account of the piracy committed by the third defendant. However, in view of the fact that the third defendant



has committed an act of piracy, some amount of damages will have to be granted to the plaintiff though not for a sum of Rs.10,00,000/- as claimed in the plaint.

7.For the foregoing reasons, this Court is of the considered view that the suit claim has been proved based on the oral and documentary evidence produced on record by the plaintiff.

8.In the result, this Court quantifies the damages payable by the third defendant to the plaintiff at Rs.1,00,000/- instead of Rs.10,00,000/-, claimed in the plaint. Insofar as the remaining defendants are concerned, they are not liable to pay any damages to the plaintiff since they are the parties, who have not committed an act of piracy for the following reason:

"No evidence has been placed on record by the plaintiff to prove that with the connivance of defendants 1, 2 and 4, the third defendant had committed an act of piracy".

9.In the result, this suit is partly decreed by granting the following reliefs:



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(a) It is declared that the plaintiff is the exclusive copyright holder of the cinematographic film “AADILAKSHMI” (Telugu colour), starring Mr.Srikanth, Vadde Naveen, Sridevi and others and directed by Mr.R.V.Suresh and other inclusive of the rights of Satellite Television Broadcast, Direct to Home Broadcast, Direct Satellite Service, Terrestrial Television Broadcast and all other rights connected therewith including exhibition of the film by means of wireless diffusion and by wire for communication to the public through Television Broadcast for the entire world as assigned in the agreement dated 01.09.2006;

(b) A permanent injunction is granted restraining the defendants, their men, agents, assignees or any other person or persons claiming through them from in any manner infringing the plaintiff's copyrights in the cinematography film “AADILAKSHMI” (Telugu colour), starring Mr.Srikanth, Vadde Naveen, Sridevi and others and produced by Mr.K.V.Sathyanarayana inclusive of the rights of Satellite Television Broadcast, Direct to Home Broadcast, Direct Satellite Service, Terrestrial Television Broadcast and all other rights connected therewith including exhibition of the film by means of wireless diffusion and by wire for



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communication to the public through Television Broadcast for the entire world as assigned in the agreement dated 01.09.2006;

(c)The third defendant is directed to pay the damages to the plaintiff at Rs.1,00,000/- and

(d)The third defendant is directed to pay the costs of the suit to the plaintiff.

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List of Witness examined on the side of the Plaintiff:-

(PW1) Mr.Jyothi Basu

List of the Exhibits marked on the side of the Plaintiff:-

<i>S.Nos.</i>	<i>Exhibits</i>	<i>Description</i>
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6	Ex.P6	Ex.P6 is the photocopy of the letter sent by the fourth defendant to the plaintiff dated 01.09.2006
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