



C.S.(Comm.Div).No.39 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 07.06.2023

PRONOUNCED ON : 16.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.S.(Comm.Div).No.39 of 2021

Ms.Divya M. Jain
D/o S. Mohankumar
No.51, Hunters Road
Choolai, Chennai 600 112.
Rep by its Power of Attorney,
Mr. Mohankumar,
S/o. Seshmal,
Having office at No.18, Hunters Road,
Choolai, Chennai – 112.

... Plaintiff

vs

1.M/s. 24AM STUDIOS PRIVATE LIMITED
Rep. by its Managing Director
Mr. R.D. Raja
Son of Deivendran
Having office at No. 9, Spring Field Apartments
Jagannathan Road, Nungambakkam
Chennai 600 034
Residing at
W-380/-, Hessonate Hemlet Flats
East Main Road
Anna Nagar West Extension
Chennai 600 101



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2.M/s. Sun TV Networks Limited

Rep. by its Authorized Signatories

Mr. C. Sembian Sivakumar

Mr. K. Shanmugam

Having office at Murasoli Maran Towers

No. 73, MRC Nagar Main Road

MRC Nagar, Chennai 600 028

Chennai 600 032

3.Mr. Sivakarthikeyan

Having Office at No.1/2,

Lakshmipuram Main Road,

Andavar Nagar, Vadapalani, Chennai – 600 026.

4.M/s. KJR STUDIOS

Rep. by its Managing Director

Mr.Kotapadi J. Rajesh,

Apartment No.9, Flat No.5, Ranga Prasad

No.5, Binny Road, Poes Garden

Chennai 600 086

... Defendants

Prayer: Civil Suit is filed under Order VII Rule 1 of C.P.C and Order IV Rule 1 of O.S.Rules read with Sections 55 and 62 of the Copyright Act, 1957,

(a) For an order of perpetual injunction restraining the defendants, their men, agents, servants or any other person or persons claiming through from releasing in any form in respect of Tamil Satellite Television Rights in India of the Film Production No.5 (Colour)-Ayalan without the consent and concurrence of the plaintiff and/or from doing any other act amount to infringement of the plaintiff's copyright pursuant to the Finance Agreement dated 09.08.2018 between the plaintiff and the 1st defendant.

(b) For the costs of the suit and



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(c) Pass such further or other order as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Plaintiff : Mr.Shiva.P

For D1, D3 and D4 : Mr.Dhanaram Ramachandran
for M/s.D.R.Law Chambers

For D2 : Mr.Jose John
M/s.King & Partridge

J U D G E M E N T

The plaintiff has come up with this suit seeking injunction restraining the defendants from releasing the Tamil Satellite Television Rights of the film Production No.5 (Colour) - 'Ayalan' without the consent and concurrence of the plaintiff or from doing any other act which would amount to infringement of plaintiff's copyright pursuant to the Finance Agreement dated 09.08.2018 entered between the plaintiff and the 1st defendant.

Averments found in the plaint:-

2. According to the plaintiff, the 1st defendant, was the Producer of the film 'Ayalan' and the 3rd defendant, who acted as a Hero in that film



approached the plaintiff with a request to finance for the production of the said film. After receiving a sum of Rs.7,00,00,000/-, both of them executed a Promissory Note on 09.08.2018 promising to repay the said amount with interest at the rate of 24%. On the very same date, the 1st defendant entered into a Finance Agreement with the plaintiff by pledging exclusive copyright of the film in respect of the Tamil Satellite Television Rights in India. As per the terms of agreement, it was agreed by the parties that the theatrical exploitation of the film shall be done only after obtaining No Objection Certificate from the financier namely the plaintiff. It was further averred that as per the Finance Agreement, the plaintiff paid a sum of Rs.3,00,00,000/- by way of NEFT on 09.08.2018, another sum of Rs.1,00,00,000/- by way of RTGS on 10.08.2018 and another sum of Rs.3,00,00,000/- by way of RTGS on 10.08.2018. Thus, the plaintiff paid the entire amount of Rs.7,00,00,000/- to the 1st respondent as agreed.

3. It was also averred by the plaintiff that prior to the Finance Agreement, the 1st defendant entered into an Assignment Agreement dated 02.02.2018 with the 2nd defendant assigning the satellite rights and other



exploitation rights in respect of the film for entire world for a perpetual period for a valuable consideration of Rs.20,00,00,000/- plus GST. The 2nd defendant paid a sum of Rs.10,00,00,000/- plus GST to the 1st defendant as an advance. Thereafter, by letter dated 29.05.2019, 1st defendant requested the 2nd defendant to pay a sum of Rs.4,35,00,000/- to the plaintiff. Thereafter, there was a Supplement Agreement dated 04.06.2019 entered between the 1st and 2nd defendants whereunder it was agreed by them that a sum of Rs.4,35,00,000/- shall be paid to the plaintiff directly after general theatrical release of the said film.

4. It was further agreed that the aforesaid amount shall be payable only after handing over of the certificate from Central Board of Film Certification with an endorsement 'Unrestricted Public Exhibition'. It was also agreed that a sum of Rs.2,65,00,000/- had to be paid by the 2nd defendant to the plaintiff at the request of the 1st defendant after satisfaction of various other condition. It was also agreed that amount paid to the plaintiff shall be treated as amount paid to the assignor.



5. It was also averred by the plaintiff that on the basis of the promise and assurance made by the defendants 1 and 3, the plaintiff paid a sum of Rs.7,00,00,000/- to them by holding the exclusive copyright of the film in respect of Tamil Satellite Television Rights in India and all the defendants have conspired together and tried to cheat the plaintiff by not repaying the amount availed by them inspite of several requests and demands made by the plaintiff. It was also averred that since the copyright of the said film vested with the plaintiff by pledging of the same with the plaintiff as envisaged under Copyright Act, 1957. The plaintiff has instituted the suit for infringement of the copyright based on Finance Agreement dated 09.08.2018. On these pleadings, the plaintiff sought for injunction as mentioned above.

Averment found in the written statement of the 1st defendant:-

6. The 1st defendant in his written statement contended that the suit filed by the plaintiff seeking injunction on the ground that she is owner/assignee of copyright is not maintainable. It was claimed by the 1st defendant that as per the averments found in the plaint, agreement can be treated only as a financial agreement. It was claimed by the 1st defendant



that the nature of the transaction between the plaintiff and 1st defendant was purely financial and the same cannot be equated with the assignment of copyright. The averment of the plaintiff that the 1st and 3rd defendants jointly executed a promissory note in favour of plaintiff was denied as false.

7. The 1st defendant admitted that he entered into an Assignment Agreement dated 02.02.2018 with the 2nd defendant even prior to the Finance Agreement dated 09.08.2018 with the plaintiff. It is also averred that the 1st defendant issued a letter dated 29.05.2019 instructing the 2nd defendant to pay the consideration to the plaintiff on behalf of the 1st defendant. The 1st defendant also admitted the Supplementary Agreement dated 04.06.2019 entered with the 2nd defendant. The 1st defendant contended that plaintiff is not a copyright owner of the film and her claim is purely based on the Finance Agreement and consequently, there is no cause of action to maintain the present suit. The plaintiff based on the averment found in her plaint can only maintain a suit for recovery of money and the present suit for injunction was not maintainable. On these pleadings, the 1st defendant sought dismissal of the suit.



Averment found in the written statement of the 2nd defendant:-

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8. The 2nd defendant in its written statement contended that the original producer of the film namely 1st defendant entered into a Finance Agreement dated 02.02.2018 with the 2nd defendant assigning all copyright for a consideration of Rs.20,00,00,000/- The 2nd defendant also admitted the letter dated 29.05.2019 issued by the 1st defendant directing the 2nd defendant to pay the plaintiff a sum of Rs.4,35,00,000/- and to pay M/s MSM Movie Traders a sum of Rs.2,65,00,000/-. The Supplementary Agreement dated 04.06.2019 entered between the 1st and 2nd defendants was also admitted by the 2nd defendant. It was specifically claimed by the 2nd defendant that after assigning copyright of the film in favour of the 2nd defendant, the 1st defendant could not have pledged the satellite rights with the plaintiffs on 09.08.2018. It was claimed by the 2nd defendant it got the assignment of the copyright of the film from the original producer/1st defendant and as per the agreement entered with the 1st defendant, 2nd defendant has to pay a sum of Rs.7,00,00,000/- to plaintiff out of consideration payable to 1st defendant on fulfilment of certain conditions. Hence, the 2nd defendant sought for dismissal of the suit.



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Averment found in the written statement of the 3rd defendant:-

9. The 3rd defendant in his written statement contended that he was only a lead actor in the film and hence, he had no role to play in the release of the film. The 3rd defendant denied the promissory note and finance agreement relied on by the plaintiff. The 3rd defendant raised a specific plea that the promissory note filed by the plaintiff was a forged one. It is also averred that the 3rd defendant had not received any consideration for the alleged promissory note. It was further averred that there was no cause of action for suit and hence, the suit was liable to be dismissed.

Averment found in the written statement of the 4th defendant:-

10. The 4th defendant also resisted the suit on the ground that the suit for injunction filed by the plaintiff on the pretext that he was copyright owner of the film Ayalan was not maintainable as she was only a financier even as per her own pleadings. It was averred that the 4th defendant was the distributor of the movie and hence, the suit filed by the plaintiff was not



maintainable against him. The 4th defendant also averred that plaintiff has no cause of action to maintain the suit.

11. After examining the pleadings, this Court framed the following issues on 23.03.2022:-

1. *Whether the copyright in the movie Production No.5 (Colour) Ayalan was assigned to the plaintiff under the finance agreement dated 09.08.2018?*
2. *Whether the finance agreement dated 09.08.2018 between the plaintiff and the first defendant is void or invalid in view of the prior assignment agreement dated 02.02.2018?*
3. *Whether the suit for infringement of copyright is maintainable on the basis of the finance agreement dated 09.08.2018?*
4. *Whether the plaintiff is entitled to restrain the defendants from releasing in any form the Tamil Satellite Television rights in India of the movie Production No.5 (Colour) Ayalan without the consent and concurrence of the plaintiff based on the finance agreement dated 09.08.2018?*
5. *Whether the parties are entitled to any other relief?*



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WEB COPY 12. During trial, the Power Agent of the plaintiff was examined as PW.1 and 6 documents were marked on behalf of the plaintiff as Exs.P1 to P6. On behalf of the 2nd defendant, its authorised signatory was examined as DW.1 and 6 documents were marked on its behalf as Ex.D1 to D6.

Argument of the learned counsel for the plaintiff:-

13. The learned counsel for the plaintiff by taking this Court to Finance Agreement entered between the plaintiff and 1st defendant namely Ex.P2, submitted that under the said document the original producer of the film Ayalan namely the 1st defendant pledged the copyright of the film and obtained financial assistance to the tune of Rs.7,00,00,000/- for meeting the production expenses. The learned counsel by relying on Ex.P4/bank statement, submitted that payment of Rs.7,00,00,000/- to 1st defendant was proved by the plaintiff by producing her bank statement. It was contended by the learned counsel for the plaintiff in order to defeat the rights of the plaintiff over the movie vide Finance Agreement dated 09.08.2018. The 1st defendant



had executed a pre-dated Assignment Agreement dated 02.02.2018 in favour of the 2nd defendant and consequently, the 2nd defendant would not acquire any copyright under the said Assignment Agreement. The learned counsel further submitted that there is no proof to substantiate the payment of consideration under the Assignment Agreement between the defendants 1 and 2 and consequently, the said agreement shall be treated as void and the same would not affect the rights of the plaintiff under the Finance Agreement relied on by her.

Argument of the learned counsel for the defendants 1, 3 and 4:-

14. The learned counsel appearing for the defendants 1, 3 and 4 submitted that the Assignment Deed between the defendants 1 and 2 under Ex.D2 and the Supplementary Agreement, Ex.D5 were admitted by the plaintiff even in her pleadings and therefore, it is not open to plaintiff to attack the same as pre-dated. The learned counsel submitted that even prior to the Finance Agreement between the plaintiff and 1st defendant under Ex.P2, the original producer of the film namely 1st defendant assigned the copyright



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in favour of the 2nd defendant under Ex.D2 dated 02.02.2018. Therefore, the allegation of pledging of copyright by 1st defendant in favour the plaintiff subsequent to valid assignment in favour of the 2nd defendant is not acceptable. The learned counsel further submitted that plaintiff is neither the owner of the copyright nor the assignee of the same and consequently, the present suit for injunction based on the alleged infringement of copyright is not maintainable. The learned counsel further submitted that there is no pleadings in the plaint as if, plaintiff got assignment of the copyright of the film. In support of his contention, the learned counsel for the defendants 1, 3 and 4 relied on the judgment of this Court in *Sree Gokulam Chit and Finance Company (P) Ltd., vs. Johny Sagariga Cinema Square and others* reported in *2011 (3) CTC 747*.

Argument of the learned counsel for the 2nd defendant:-

15. The learned counsel for the 2nd defendant also submitted that the plaintiff categorically admitted the assignment of the copyright of the film in favour of the 2nd defendant by the producer of the film 1st defendant under



Ex.D2 even in her pleadings and hence, the claim of the plaintiff as if, the copyright was pledged in her favour under Ex.P2, in a subsequent date, cannot be accepted. The learned counsel further submitted that in view of the letter issued by 1st defendant dated 29.05.2019 instructing the 2nd defendant to pay the amount mentioned therein to the plaintiff and the Supplementary Agreement dated 04.06.2019 entered between the defendants 1 and 2, the plaintiff had lost her rights under Clause-4 of Finance Agreement, which stipulated No Objection Certificate from plaintiff for theatrical release of the film. The learned counsel by taking this Court to the statement of admission and denial filed by the plaintiff, submitted that Ex.D4/letter by 1st defendant to 2nd defendant and Ex.D5/Supplementary Agreement between them were admitted by the plaintiff in her statement of admission. In support of his argument, learned counsel relied on the judgment of this Court in ***Sun TV Network Ltd. vs. Super Good Films Private Limited*** reported in ***2022 SCC Online Mad 125***.



Issues Nos.1 and 2:-

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16. It is the main contention of the plaintiff that under Ex.P2/Finance Agreement, 1st defendant, producer of the film, pledged the copyright of the film in favour of the plaintiff and received financial assistance to the tune of Rs.7,00,00,000/- and hence, the plaintiff has got right to maintain the suit for injunction as prayed for. It is also the contention of the learned counsel for the plaintiff that assignment deed entered between the 1st and 2nd defendants dated 02.02.2018 was a pre-dated one calculated to defeat the rights of the plaintiff under Finance Agreement/Ex.P2.

17. Before going into the evidence in this regard, it would be appropriate to refer to the pleadings of the plaintiff in this regard. A perusal of the plaint pleadings would make it clear that in Paragraph Nos.6 and 7 of the plaint, the plaintiff admitted Assignment Deed entered between the defendants 1 and 2 dated 02.02.2018 and Supplementary Agreement dated 04.06.2019 entered between the 1st and 2nd defendants.



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18. In her pleadings, the plaintiff specifically averred that the 1st defendant entered into an Assignment Deed dated 02.02.2018 with the 2nd defendant assigning the satellite rights and other exploitation rights for entire world for a valuable consideration of Rs.20,00,00,000/- plus GST and out of which, a sum of Rs.10,00,00,000/- plus GST had been paid to 1st defendant by the 2nd defendant as advance. She also admitted the letter dated 29.05.2019 marked as Ex.D4 whereunder the 1st defendant instructed 2nd defendant to pay amount mentioned therein to the plaintiff.

19. A reading of Paragraph Nos.6 and 7 of the plaint would make it very clear that the Assignment Deed in favour of 2nd defendant dated 02.02.2018 was admitted by the plaintiff even in her pleadings. In such case, the same is binding on her, it is not open to her to contend that assignment deed was pre-dated with a view to affect her rights that would flow to under Ex.P2/Finance Agreement.

20. As rightly contended by the learned counsel for the 2nd defendant Ex.D4/letter issued by the 1st defendant to 2nd defendant dated 29.05.2019 and



the Supplementary Agreement between the 1st and 2nd defendants dated 04.06.2019 were admitted by plaintiff in her statement of admission and denial. In her statement of admission and denial, it was stated by her that the above said two documents were admitted as the 1st and 2nd defendants admitted the liability of payment to be made to the plaintiff. In Ex.B4/letter there is a clear mention about the Assignment Deed entered between the defendants 1 and 2. Likewise, in Ex.D5/Supplementary Agreement also the earlier Assignment Deed between the defendants 1 and 2 was specifically referred to and certain terms therein were modified. In fact, the copies of Exs.D4 and D5 were produced by plaintiff as Exs.P5 and P6. In such circumstances, it is not open to the plaintiff to contend that the Assignment Deed by 1st defendant in favour of 2nd defendant was pre-dated in order to defeat her rights under Finance Agreement entered with 1st defendant under Ex.P2.

21. It is pertinent to note that Assignment Agreement under Ex.D2 was admitted by plaintiff in her pleadings itself. She also admitted Supplementary Agreement between the defendants 1 and 2 in her pleadings.



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Moreover, letter dated 29.05.2019 issued by 1st defendant in favour of 2nd defendant and Supplementary Agreements were produced by plaintiff as her Exhibits P5 and P6. These two documents which were produced by defendants as Exs.D4 and D5 were admitted by plaintiff in her proof affidavit. Therefore, this Court has no hesitation in rejecting the contention of the plaintiff that Assignment Deed by 1st defendant in favour of 2nd defendant was a pre-dated document calculated to defeat the right of the plaintiff. Once it is held Assignment Deed by 1st defendant in favour of 2nd defendant was valid, the copyright of the film got assigned in favour of 2nd defendant in the manner known to law as per the provisions of the Copyright Act, 1957. Therefore, on the date of entering into Finance Agreement with the plaintiff, 1st defendant did not possess any copyright over the film Ayalan as it was assigned in favour of the 2nd defendant even earlier under valid Assignment Deed.

22. The learned counsel for the plaintiff tried to attack the assignment deed in favour of 2nd defendant on the ground that there is no evidence available on record to support payment of consideration as mentioned therein. On the other hand, payment of Rs.10,00,00,000/- as advance under Ex.D2



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assignment deed was also admitted by the plaintiff in her pleadings.

Moreover, mere non-payment of consideration or portion of the consideration under the Assignment Deed would not affect the validity of the assignment but however, the unpaid assignor is entitled to recover the same from assignee in the manner known to law.

23. In the case on hand, payment of substantial consideration namely Rs.10,00,00,000/- was also admitted by the plaintiff in her pleadings. Therefore, the said contention of the learned counsel for the plaintiff is also rejected. In view of the discussions made above, this Court has no hesitation in coming to the conclusion that the Assignment Deed entered between defendants 1 and 2 is a valid document and consequently, Finance Agreement dated 09.08.2018 under Ex.P2 entered between plaintiff and 1st defendant would not confer any right to the plaintiff over the copyright of the movie Ayalan. Accordingly, the Issue Nos.1 and 2 are answered against the plaintiff and in favour of the defendants.



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Issues Nos.3 and 4:-

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24. The plaintiff herein sought for an injunction restraining the defendants from releasing satellite television rights of the film Ayalan without consent and concurrence of the plaintiff or from doing any other act amounting to infringement of the plaintiff's copyright pursuant to Finance Agreement dated 09.08.2018 entered between plaintiff and 1st defendant. This Court in Issues Nos.1 and 2 already concluded that the plaintiff would not acquire any copyright over the film Ayalan under Finance Agreement dated 09.08.2018 in view of the fact the copyright of the film was validly assigned in favour of the 2nd defendant by the 1st defendant even earlier. When plaintiff is neither the owner of the copyright nor the assignee of the same under valid agreement, it is not open to the plaintiff to maintain a suit for injunction restraining the defendants from infringing her alleged copyright. Further, the contention of the learned counsel for the plaintiff that release of the film without getting consent and concurrence of the plaintiff is not permissible in view of the Clause-4 of the Finance Agreement between the plaintiff and 1st defendant is not acceptable in law. As concluded earlier, the copyright of the



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film was assigned in favour of 2nd defendant even prior to Finance Agreement between the plaintiff and 1st defendant. In such circumstances, the agreement entered by 1st defendant with the plaintiff that the theatrical exploitation of the film cannot be done without obtaining No Objection Certificate from the plaintiff is not valid and binding on the 2nd defendant.

25. After parting with the copyright over the film under Ex.D2, it was not open to the 1st defendant to enter into such an agreement with the plaintiff restricting theatrical release. Therefore, this Court concludes that the plaintiff is not entitled to maintain a suit for injunction alleging infringement of copyright and she is also not entitled to take shelter under Clause-4 of the Finance Agreement and insist on obtaining No Objection Certificate from her so as to restrict the right of the prior assignee of the copyright. Therefore, the present prayer for injunction by the plaintiff is not maintainable and accordingly, the Issue Nos.3 and 4 are answered against the plaintiff and in favour of defendants.



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Issue No.5:-

WEB COPY 26. In view of the conclusion reached by this Court in Issue Nos.1 to 4, the plaintiff is not entitled to any other relief.

Conclusion:-

In view of the discussions made earlier, the suit is dismissed and the plaintiff is directed to pay the cost of the suit to the defendants.

16.06.2023

Index : Yes
NCC : Yes
dm

List of witness examined on the side of the plaintiff:-

1. P.W.1-Mr.Mohankumar – Power Agent of the Plaintiff

List of documents marked on the side of the plaintiff:-

Sl. No.	EXHIBITS	DESCRIPTION
1.	P1	The Original Power of Attorney dated 02.03.2021
2.	P2	The photocopy of Finance Agreement dated 09.08.2018 (Admitted by the 1 st defendant in the written statement)
3.	P3	The original Promissory Note dated 09.08.2018 by the defendants 1 to 3 to the plaintiff dated 09.08.2018.
4.	P4	The true copy of Statement of Accounts dated 10.08.2018. (Learned counsel for the 2 nd defendant objected to mark the document on the ground that document filed along with the plaint is different from document marked)



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Sl. No.	EXHIBITS	DESCRIPTION
5.	P5	The original of letter by 1 st defendant to the 2 nd defendant dated 29.05.2019.
6.	P6	The Photocopy of Supplementary agreement dated 04.06.2019 (Admitted in statement of admission and denial by the 2 nd defendant)

List of witness examined on the side of the 2nd Defendant:-

1. D.W.1-Mr.M.Jyothi Basu – Authorised Signatory of the 2nd Defendant

List of documents marked on the side of the 2nd Defendant:-

Sl. No.	EXHIBITS	DESCRIPTION
1.	D1	The Letter from the lab to the 2 nd defendant dated 01.02.2018 (Original seen verified and returned)
2.	D2	The Assignment Agreement between the 1 st defendant and 2 nd defendant dated 02.02.2018 (Original seen verified and returned)
3.	D3	The photocopy of the letter from the 1 st defendant to 2 nd defendant dated 29.05.2019 (Original seen verified and returned) (Learned counsel for the plaintiff objected mark the document)
4.	D4	The photocopy of the letter from the 1 st defendant to 2 nd defendant dated 29.05.2019. (Original seen verified and returned) (Learned counsel for the plaintiff objected mark the document)
5.	D5	The photocopy of the Supplementary Agreement between the 1 st and 2 nd defendant dated 04.06.2019 (Original seen verified and returned)
6.	D6	The photocopy of Deed of Rectification between the 1 st and 2 nd defendant dated 23.08.2021. (Original seen verified and returned)



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dm

Pre-delivery Judgment in
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