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OA.No.272 of 2023

OA.No.272 of 2023
in
CS.(Comm.Div).No.76 of 2023

S.SOUNTHAR , J.

The instant application in OA.No.272 of 2023 has been filed by the applicant/plaintiff seeking injunction restraining the respondents from releasing/distributing/exhibiting or exploiting the Tamil feature film titled 'Ayodhi', in any of the Internet, OTT Platforms, You Tube or other broadcasting or Television channels.

2. The applicant herein filed the present suit seeking declaration that the Tamil feature film titled 'Ayodhi' directed by the first respondent and produced by the second respondent is infringing the Copyrights of the script and screenplay registered by him under the title of 'YAADHUM OORE' in the name of the fourth respondent with the South Indian Film Writers Association. He also sought for permanent injunction restraining the defendants from releasing the film in OTT platform and other Internet platform.



OA.No.272 of 2023

3. According to the applicant, he is the original author of

the script and screenplay and the script is used by the respondents 1 & 2 in production of the film titled 'Ayodhi'. It was averred by the applicant in the affidavit that he was approached by one M/s.Akkaarai Productions during July 2019 with a proposal to develop a script for a Tamil feature film that was tentatively titled then as “YAADHUM OORE.” The proposal was put forth by M/s.Akkaarai Productions and the first respondent through the fourth respondent herein. It was further asserted by the applicant that he developed the script and screenplay for the film titled “ YAADHUM OORE” and it was agreed by the first respondent that he would direct the said film based on the script and screenplay written by the applicant.

4. It was asserted by the applicant that a draft of the script and screenplay were exchanged with the first respondent and fourth respondent through e-mails from August 2019 to October 2019. It was further stated that since the applicant is not a registered member of the South Indian Film Writers Association, the script developed by him was registered under the title “YAADHUM OORE” in the name of the fourth respondent with the



OA.No.272 of 2023

said association on 08.01.2020. It was further averred by the applicant that the Tamil feature film 'Ayodhi' directed by the first respondent and produced by the second respondent was released in theaters worldwide on 03.03.2023. The applicant on watching the said film came to know that the film produced by the second respondent is based on the script and screenplay developed by him for the film “YAADHUM OORE.” Claiming that the respondents infringed his Copyright in respect of the script and screenplay without any license and without any permission from him, the applicant has come up with the present suit seeking declaration and injunction as prayed for.

5. Apprehending that the film 'Ayodhi' would be released in OTT and other Internet platform by the respondents, the applicant has come up with this prayer. It was also asserted by him that the second respondent already entered into an arrangement with the third respondent for release of the film in OTT and digital platform.

6. When the matter was taken up for hearing on 30.03.2023, Mr.Vijayan Subramanian, learned counsel took notice for the



OA.No.272 of 2023

respondents 1 & 2 and notice were issued to the other respondents returnable by 05.04.2023.

7. Today, when the matter is taken up for hearing, the contesting respondents 1 & 2 filed their counter and opposed the interim prayer. The counsel for the applicant filed an Affidavit of Service in respect of the respondents 3 & 4. As per the tracking sheet filed along with Affidavit of Service, private notice taken to the third respondent was re-directed to some other address. The private notice taken to the fourth respondent appeared to be refused. However, the applicant has not filed any refused cover or postal acknowledgment card.

8. In view of the fact that the applicant pressed for interim order by submitting that the respondents 1 & 2 are trying to release the film 'Ayodhi' in OTT platform on 07.04.2023, this application was taken up for hearing and the arguments of the learned counsel for the applicant and that of the learned Senior Counsel for contesting respondents 1 & 2 were heard.



OA.No.272 of 2023

WEB COPY

9. The learned counsel for the applicant by taking this Court to the e-mail communication between the applicant and the first respondent, which are filed in the typed set of papers, submitted that it was established beyond doubt that the script of the film was developed by the applicant. The learned counsel also submitted by taking this Court to the agreement entered with M/s.Akkarai Productions dated 13.12.2019 and registration certificate issued by the South Indian Film Writers Association, dated 08.01.2020 that the film produced by the respondents 1 & 2 are based on the script and screenplay developed by the applicant. The learned counsel further submitted that if the respondents 1 & 2 are allowed to release the film in OTT platform, the applicant would be put to irreparable loss and hardships and loss to the applicant cannot be compensated otherwise.

10. The learned Senior Counsel appearing for the respondents 1 & 2 questioned the very *locus standi* of the applicant to maintain the suit as well as this application, on the ground that even as per his own case that he is not the owner of the script and screenplay, which are



OA.No.272 of 2023

alleged to be developed by him. The learned Senior Counsel by taking this Court to the plaint document No.13, agreement between the applicant and M/s.Akkarai Productions, dated 13.12.2019 submitted that as per the applicant's own documents, he assigned his Copyright in respect of the script and screenplay in favour of M/s.Akkarai Productions on 13.12.2019 and hence, he is not the present owner of the Copy right.

11. The learned counsel further submitted that as per the plaint doc.No.16 issued by the South Indian Film Writers Association, the script and screenplay were registered in the name of the fourth respondent and hence, the applicant is not entitled to file the present application. Further, the learned Senior Counsel by relying on the e-mail communication between the first respondent and applicant dated 14th July 2019 submitted that the entire script was sent by the first respondent to the applicant and the said submission was suppressed by the applicant in his affidavit.

12. A perusal of the documents filed by the applicant along with the plaint, more particularly, Doc.No.13, agreement between the



OA.No.272 of 2023

applicant and M/s.Akkarai Productions, dated 13.12.2019 would make it clear that the script developed by the applicant was assigned in favour of M/s.Akkarai Productions. Therefore, after assigning the Copyrights of the script allegedly developed by him, the applicant is not entitled to maintain the present application before this Court.

13. A cursory look at agreement dated 13.12.2019 would *prima facie* establish that the Copyrights of the script developed by him was assigned in favour of M/s.Akkarai Productions. Therefore, the applicant is not entitled to claim any right over the Copyright of the script and maintain the present prayer for interim injunction.

14. Further even as per the admitted case of the applicant, the script developed by him was registered in the name of the fourth respondent, but neither the fourth respondent nor M/s.Akkarai Productions joined with him to file present suit. Therefore, the applicant has not made out a *prima facie* case for grant of interim injunction.



OA.No.272 of 2023

15. The applicant in order to establish that the script and

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screenplay for the film were originally developed by him relied on various e-mail communications between him and the first respondent. The first of the communication filed by the applicant as Doc.No.1 of the plaint was dated 03.08.2019. The applicant relied on various e-mail communication from 03.08.2019 to 08.12.2019 in respect of his claim. However, the respondents herein along with his counter, filed typed set of papers wherein, he produced a copy of the e-mail communication sent by the first respondent to the applicant on 14.07.2019. It is the specific case of the first respondent that the script of the film was sent by the first respondent to the applicant for script editing. The applicant for the reason best known to him failed to file the previous e-mail communication between the first respondent and the applicant dated 14.07.2019, where under the script of the film appeared to have been sent to the applicant by the first respondent by way of attachment. In such circumstances, the applicant, who seeks equitable remedy of injunction, has not approached this Court with clean hands by producing all the material documents in support of his claim. Therefore, this Court is not inclined to entertain prayer for interim injunction restraining the respondents



OA.No.272 of 2023

1 & 2 from releasing the feature film 'Ayodhi' in OTT or other Internet platform. As admitted by applicant, the theatrical release of the film was already over.

16. However, in view of the contention raised by both the parties, it would be appropriate to direct the respondents 1 & 2 to file before this Court, the true account of the revenue generated by the release of film 'Ayodhi' before this Court. The account filed by the respondents 1 & 2 shall be duly certified by a qualified Auditor. The respondents 1 & 2 are directed to file the true account of the revenue generated by the film on or before 24.04.2023 before this Court. With these directions, the Original Application No.272 of 2023 is dismissed.

06.04.2023

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WEB COPY



OA.No.272 of 2023

S.SOUNTHAR, J.
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OA.No.272 of 2023
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CS.(Comm.Div).No.76 of 2023

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