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C.S. No.192 of 2014

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.S. No.192 of 2014

M/s.Sun TV Network Ltd.,
Rep. by its Authorised Signatory,
M.Jothi Basu.

.... Plaintiff

VS

M/s.Jass Multimedia,
Rep. By its Proprietor,
G. Jayachandran
No.18, Rosary Church Road,
Santhome,
Chennai – 600 004.

... Defendant

Prayer : PLAINT FILED UNDER ORDER VII RULE 1 OF C.P.C. AND ORDER IV RULE 1 OF THE RULES OF THE HIGH COURT OF MADRAS, ORIGINAL SIDE, 1956 prays for a decree and judgement against the defendant in favour of the plaintiff for the following reliefs :

a) For recovery of a sum of Rs.1,01,50,349/- (Rupees One Crore One Lakh Fifty Thousand and Three Hundred Forty Nine only) (the sum being the advance paid (Rs.28.37.440/-), interest at the rate of 24% p.a. from 23/10/2007 to 26/02/2014 (Rs.43,12,909/-) and liquidated damages (Rs.30,00,000/-) as against the defendant with future interest at 24% per annum from date of filing of the suit and till date of realization and

b) to pay cost

For Plaintiff

: Mr.M. Narendran
for M/s.King & Patridge



C.S. No.192 of 2014

JUDGEMENT

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This suit has been filed for recovery of a sum of 1,01,50,349/- (Rupees One Crore One Lakh Fifty Thousand and Three Hundred Forty Nine only) together with interest at the rate of 24% p.a. from 23.10.2007 to 26.02.2014 and liquidated damages at Rs.30,00,000/- with future interest at 24% per annum from the date of filing of the suit and till the date of realization.

2. The plaintiff has entered into an Assignment Agreement, dated 18.10.2007 with the defendant. As per the Assignment Agreement, the defendant has agreed to assign the copyright to the plaintiff in respect of the film “KADHAL SAATHI”. As per the Assignment Agreement, dated 18.10.2007, the plaintiff had to pay a total consideration of Rs.52,00,000/- to the defendant in two tranches. Clause 2 of the Assignment Agreement, dated 18.10.2007 confirms that the plaintiff has paid a sum of Rs.32,00,000/- to the defendant by way of advance. The balance amount of Rs.20,00,000/ will have to be paid by the plaintiff to the defendant once the defendant obtains the Censor Board Certificate and one day prior to the date of theatrical release of the film “KADHAL SAATHI”. However, according to the plaintiff as seen from the plaint



C.S. No.192 of 2014

averments, despite having received an advance of Rs.32,00,000/- from the plaintiff as per the Assignment Agreement, the defendant has not completed the film till date and has been unable to get the documents which he has to produce as per the Assignment Agreement, dated 18.10.2007. Since the defendant has committed breach of contract of the Assignment Agreement dated 18.10.2007, the plaintiff has filed the suit seeking for refund of the advance amount of Rs.32,00,000/- paid by the plaintiff to the defendant together with interest as stipulated under Clause 17 of the Assignment Agreement, dated 18.10.2007. As per Clause 17 of the Assignment Agreement, dated 18.10.2007, the plaintiff is entitled to seek refund of the advance amount in case of breach of contract committed by the defendant together with interest at 24% p.a. and is also entitled for another sum of Rs.30,00,000/- towards liquidated damages. The plaintiff has also sent a legal notice to the defendant on 13.01.2014 seeking for refund of the advance amount together with interest as well as for payment of liquidated damages. The said notice has also been duly acknowledged by the defendant and a reply has also been sent by the defendant on 04.02.2014. In the said reply, the defendant has sought time to complete the film. Since the film has not been completed and the defendant has also not refunded the advance amount together with



C.S. No.192 of 2014

interest and has also not paid the liquidated damages, the plaintiff has filed the suit. The suit claim comprises of the following :-

- a) Towards refund of Rs.28,37,440/- after deduction of TDS;
- b) Towards interest at 24% p.a. on Rs.28,37,440/- from 23.10.2007, being the date of the payment of the advance amount to 26.02.2014, being the date of filing of the suit; and
- c) Towards liquidated damages at Rs.30,00,000/- as per the terms and conditions of the Assignment Agreement.

3. The defendant was set exparte by this Court on 12.06.2018 itself. Till date, no one has entered appearance on their behalf nor have they filed any application to set aside the exparte order.

4. Before the learned Additional Master – I, the plaintiff was represented by its authorised representative Mr.M. Jyothi Basu, who was examined as PW1. A proof affidavit has also been filed by PW1 reiterating the contents of the plaint. Before the learned Additional Master I, the following documents were filed and marked as Exhibits :-



Ex.P1 is the original Authorisation dated 14.11.2011.
Ex.P2 is the original Agreement between plaintiff and the defendant dated 18.10.2007.
Ex.P3 is the photocopy of the cheque given by the plaintiff to the defendant dated 23.07.2007.
Ex.P4 is the office copy of the legal notice dated 13.01.2014 sent by the plaintiff to the defendant along with acknowledgement card.
Ex.P5 is the original reply notice by the defendant to the plaintiff dated 04.02.2014.

5. As seen from the Assignment Agreement, dated 18.10.2007, which has been marked as Ex.P2, it is clear that the defendant has agreed to assign the copyright in respect of the film “KADHAL SAATHI” in favour of the plaintiff. It is also evident from Clause 2(a) of the Assignment Agreement dated 18.10.2007(Ex.P2) that the plaintiff has advanced a sum of Rs.32,00,000/- to the defendant towards assignment of the copyright of the aforesaid film in their favour. The advance payment made by the plaintiff to the defendant is also confirmed by the cheque issued by the plaintiff dated 23.07.2007 in favour of the defendant which has been marked as Ex.P3. The same confirms that a sum of Rs.28,37,440/-, after deducting TDS out of the sum of Rs.32,00,000/- was paid as advance by the plaintiff to the defendant. A legal notice has also been sent by the plaintiff to the defendant on



13.01.2014, which confirms that the defendant has committed breach of contract by not completing the film. The defendant has neither refunded the advance amount to the plaintiff nor have they completed the film as per the terms and conditions of the Assignment Agreement, dated 18.10.2007. The reply notice dated 04.02.2014 sent by the defendant to the plaintiff confirms that the defendant has acknowledged that they have not fulfilled the terms and conditions of the Assignment Agreement, dated 18.10.2007(Ex.P2). In the reply dated 04.02.2014 which has been marked as Ex.P5, they have only sought further time for completion of the film. This clearly proves that the defendant has committed breach of contract. It is also submitted by the learned counsel for the plaintiff that till date, the defendant has not completed the film, which is the subject matter of the Assignment Agreement, dated 18.10.2007.

6. The relevant clauses in the Assignment Agreement pertaining to the suit claim are extracted hereunder :

2. In consideration of the above, the “ASSIGNEE” agrees to pay the “ASSIGNOR” a sum of Rs.52,00,000/- (Rupees Fifty Two Lakhs only). The Assignee agrees to pay the said consideration in the following manner :



C.S. No.192 of 2014

WEB COPY

a) Rs.32,00,000/- (Rupees Thirty Two Lakhs only) as advance on signing of this agreement. The Assignee has paid the said sum after deducting TDS on the same, the receipt of which sum the "ASSIGNOR" hereby accepts, admits and acknowledges.

b) The balance sum of Rs.20,00,000/- (Rupees Twenty Lakhs only), shall be paid as full and final payment one day prior to the date of general theatrical release and only on handing over to the "ASSIGNEE", the duly confirmed lab letter by the concerned lab in favour of the "ASSIGNEE" along with the Censor Certificate of the said film duly certified by the Central Board of Film Certification, Government of India as fit for "Unrestricted Public Exhibition". The said sum shall be paid after deducting TDS on the same.

.....

"17. In case of delay in the release of the film for a period more than 90 days from the tentative date of release, i.e.,14.12.2007, the "ASSIGNEE" may exercise their option to cancel this agreement. In case of such option being exercised by the "ASSIGNEE", the "ASSIGNOR" undertakes to repay all advances paid by the "ASSIGNEE" along with the interest at the rate of 24% per annum from the date of payment and shall further pay liquidated damages of Rs.30,00,000/-. It is agreed between the parties hereto that the above shall be without prejudice to the rights of the "ASSIGNEE" to compel performance through the court of Law. "



C.S. No.192 of 2014

WEB COPY

7. As seen from the aforementioned clauses, it is clear that if the defendant does not complete the film and does not assign the copyright in favour of the plaintiff, the plaintiff is having the right to terminate the contract and seek for refund of the advance amount together with interest at 24% p.a. from the date of payment and is also entitled to claim liquidated damages of Rs.30,00,000/-. The suit claim has been filed only in accordance with the terms and conditions of the Assignment Agreement, dated 18.10.2007 (Ex.P2). Having proved that the plaintiff has advanced a sum of Rs.32,00,000/- in accordance with the Assignment Agreement, dated 18.10.2007(Ex.P2) and having proved that the defendant has committed breach of contract by not completing the film and assigning the copyright in favour of the plaintiff, the suit claim has to be decreed as prayed for.

8. The amount payable by the defendant to the plaintiff as on the date of the plaint is Rs.1,01,50,349/- and the details are set out hereunder :-

Towards refund of Advance Amount	:	Rs.28,37,440/-
b) Towards interest at the rate of 24% p.a. from 23.10.2007 to 26.02.2014	:	Rs.43,12,909/-
c) Towards liquidated damages as per the contract	:	



C.S. No.192 of 2014

Rs.30,00,000/-

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Total

Rs.1,01,50,349/-

9. Accordingly, the suit claim is proved and the suit is decreed as prayed for and this Court grants the following reliefs in favour of the plaintiff as prayed for in the plaint :

a) The defendant is directed to pay the plaintiff a sum of Rs.1,01,50,349/- (Rupees One Crore One Lakh Fifty Thousand and three Hundred and Forty Nine only) together with interest at the rate of 24% p.a. on Rs.28,37,440/- from the date of filing of the suit till the date of the realisation.

b) The defendant is directed to pay the plaintiff the costs of the suit.

11.12.2023

Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
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C.S. No.192 of 2014



C.S. No.192 of 2014

APPENDIX

List of Witness Examined on the side of the Plaintiff:

1. P.W.1 – Mr.M. Jyothi Basu

S. No.	Exhibits	Description of documents
1.	P1	Ex.P1 is the original Authorisation dated 14.11.2011.
2.	P2	Ex.P2 is the original Agreement between plaintiff and the defendant dated 18.10.2007.
3.	P3	Ex.P3 is the photocopy of the cheque given by the plaintiff to the defendant dated 23.07.2007.
4.	P4	Ex.P4 is the office copy of the legal notice dated 13.01.2014 sent by the plaintiff to the defendant along with acknowledgement card.
5.	P5	Ex.P5 is the original reply notice by the defendant to the plaintiff dated 04.02.2014.

11.12.2023

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C.S. No.192 of 2014

ABDUL QUDDHOSE, J.

vsi2

C.S. No.192 of 2014

11.12.2023