



C.S. No.378 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.S. No.378 of 2014

M/s.Sun TV Network Ltd.

Rep. by its Authorised Signatory,

M. Jothi Basu

...

Plaintiff

vs.

M/s.Purpple7 Entertainments,

Rep. By its Proprietor,

Sajith V. Nambiar

Celestial Heights,

O Street,

O2A, Jawahar Nagar,

Trivandrum – 695 003,

Kerala. *

...

Defendant

* Amended as per order dated 27.07.2023
in A. No.3782 of 2023

Prayer : Plaintiff 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 judgement and Decree against the defendants and in favour of the plaintiff for the following :

a) For recovery of a sum of Rs.1,46,58,800/- (Rupees One Crore Forty Six Lakhs Fifty Eight Thousand and Eight Hundred only) [{the sum being the advance paid (Rs.10,35,000/-), interest at the rate of 24% from 08.03.2013 to 30.04.2014 (Rs.2,69,100/-), 2nd installment (Rs.51,75,000/-) interest at the rate of 24% from 17.09.2013 to 30.04.2014 (Rs.7,24,500/-) the 3rd installment (Rs.62,10,000/-) interest at



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the rate of 24% from 24.10.2013 to 30.04.2014 (Rs.7,45,200/-) and liquidated damages (Rs.5,00,000)}] with future interest at 24% per annum from date of filing of the suit and till date of realisation for the principal amount of Rs.1,24,20,000/- and to pay cost .

For Plaintiff : Mrs.T. Madhumitha
for
M/s.King & Patridge

JUDGEMENT

This suit has been filed for recovery of money. The plaintiff has entered into an Assignment Agreement, dated 28.02.2013 with the defendant. As per the Assignment Agreement, the plaintiff has been assigned the copyright in respect of the feature film “Kashi Thumbra”, which is going to be produced by the defendant. As per the Assignment Agreement, the total consideration will have to be paid in instalments by the plaintiff to the defendant in accordance with the stage of the production. The same is stipulated in the Clause 2 of the Assignment Agreement, dated 28.02.2013. The plaintiff has paid three instalments as per the terms and conditions of the Assignment Agreement, dated 28.02.2013 to the defendant. However, the defendant did not complete the production of the feature film and did not assign the copyright in favour of the plaintiff on completion of the feature film. Therefore, the plaintiff did not pay the remaining instalments as per the terms and



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conditions of the Assignment Agreement, dated 28.02.2013 to the defendant. As per Clause 20 of the Assignment Agreement, dated 28.02.2013, in case, the defendant commits breach of contract, the plaintiff is entitled to exercise the option of cancellation of the Assignment Agreement, dated 28.02.2013. In view of the non completion of the production of the feature film, the plaintiff has exercised the cancellation option as per Clause 20 of the Assignment Agreement dated 28.02.2013 by cancelling the agreement and seeking for refund of the advance amounts paid by them together with interest at 24% p.a. and also seeking for payment of liquidated damages at Rs.5,00,000/-. Since, the same has not been refunded in accordance with the terms and conditions of the Assignment Agreement, dated 28.02.2013, the present suit has been filed seeking for recovery of a sum of Rs.1,46,58,800/- together with interest and costs. The details of the claim are given in the prayer column(a) of the Plaint in Paragraph No.17.

2. The defendant has been served with the suit summons and they have chosen not to enter appearance in the suit. This Court had set them exparte and till date, no application has been filed by the defendant to set aside the exparte order.



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3. Before the learned Additional Master IV, the evidence of the plaintiff was recorded. The following documents are filed by the plaintiff which were marked as Exhibits P1 to P11 before the learned Additional Master – IV :

1. Ex.P1 is the original Board Resolution for Authorization dated 23.01.2013.
2. Ex.P2 is the photocopy of the offer letter from the defendant for Assignment Agreement, dated 22.02.2013.
3. Ex.P3 is the photocopy of the cheque given by the plaintiff to the defendant dated 08.03.2013.
4. E.P4 is the photocopy of the letter of the defendant for the 2nd installment dated 05.09.2013.
5. Ex.P5 is the photocopy of the cheque given by the plaintiff to the defendant dated 17.09.2013.
6. Ex.P6 is the photocopy of the letter of the defendant for 3rd installment.
7. Ex.P7 is the photocopy of the cheque given by the plaintiff to the defendant dated 24.10.2013.
8. Ex.P8 is the original bank statement dated 09.08.2023.
9. Ex.P9 is the office copy of the legal notice sent by the plaintiff to the defendant dated 21.02.2014.
10. Ex.P10 is the original legal notice cover returned as “Unclaimed”
11. Ex.P11 is the photocopy of the Assignment Agreement between the plaintiff and the defendant dated 28.02.2013.

4. Apart from the above Exhibits, pursuant to directions given by this Court, a Memo has been filed by the learned counsel for the plaintiff.

A bank statement has been filed from City Union Bank, Mandaveli



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branch, Chennai, where the plaintiff is maintaining its bank account to confirm that the amounts paid by the plaintiff to the defendant have been duly credited into the defendant's bank account. The Memo is dated 03.10.2023. The documents filed along with the same is marked as Ex.P12 series.

5. Mr.M.Jothi Basu, the Authorised Signatory of the plaintiff was examined as PW1. The documents filed by the plaintiff which have been marked as Exhibits makes it clear that the plaintiff has advanced a total sum of Rs.1,24,20,000/- to get the assignment rights in respect of the film “Kashi Thumba” as per the terms and conditions of the Assignment Agreement dated 28.02.2013(Ex.P11). The cheques issued by the plaintiff to the defendant towards the advance payments have also been marked as Exhibits P3, P5, and P7 respectively. A legal notice dated 21.02.2014 has also been filed by the plaintiff which has been marked as Ex.P9. As seen from the said legal notice, the plaintiff has informed the defendant about the breach of contract committed by them.

6. Clause 20 of the Assignment Agreement, dated 28.02.2013 entered into between the plaintiff and the defendant enables the plaintiff to cancel the contract in the event of non production of the feature film



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by the defendant and also enables the plaintiff to seek recovery of the advance payments together with interest at 24% p.a. and also seek payment of a sum of Rs.5,00,000/- towards liquidated damages.

7. Clause 20 of the Assignment Agreement, dated 28.02.2013 is extracted hereunder :-

20. 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., 30.10.2013, 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.5,00,000/-. 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.

8. Admittedly, the feature film for which the Assignment Agreement, dated 28.02.2013 was entered into between the plaintiff and the defendant has not been completed by the defendant. The defendant has also encashed the cheques issued by the plaintiff towards the advance payments which is evidenced by the bank statement produced by the plaintiff which has been marked as Ex.P12. The plaintiff is seeking



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recovery of the sums of money as per the terms and conditions of the

Assignment Agreement, dated 28.02.2013 which includes the following

:-

a) refund of advance payments made by the plaintiff to the defendant in terms of the Clause 2 of the Assignment Agreement, dated 28.02.2013;

b) payment of interest at the rate of 24% p.a. as per Clause 20 of the Assignment Agreement, dated 28.02.2013 and

c) payment of a sum of Rs.5,00,000/- towards liquidated damages as per Clause 20 of the Assignment Agreement, dated 28.02.2013.

9. As seen from the Exs.P1 to P12 marked on the side of the plaintiff, the plaintiff has proved the suit claim and therefore, the plaintiff is entitled for a decree as prayed for in the suit. Accordingly, the suit claim is proved and a decree is granted as prayed for by the plaintiff together with costs.

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Index: Yes/ No

Speaking order / Non speaking order

Neutral citation : Yes / No

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APPENDIX

List of Witness Examined on the side of the Plaintiff:

1. P.W.1 – Mr.M. Jyothi Basu

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

S. No.	Exhibits	Description of documents
1	P-1	Ex.P1 is the original Board Resolution for Authorization dated 23.01.2013.
2	P-2	The photocopy of the offer letter from the defendant for assignment agreement dated 22.02.2013.
3	P3	Ex.P3 is the photocopy of the cheque given by the plaintiff to the defendant dated 08.03.2013.
4	P4	Ex.P4 is the photocopy of the letter of the defendant for the 2 nd installment dated 05.0.2013
5	P5	Ex.P5 is the photocopy of the cheque given by the plaintiff to the defendant dated 17.09.2013.
6	P6	Ex.P6 is the photocopy of the letter of the defendant for 3 rd installment.
7	P7	E.P7 is the photocopy of the letter of the defendant for 3 rd installment.
8	P8	Ex.P8 is the original bank statement dated 09.08.2023.
9	P9	Ex.P9 is the office copy of the legal notice sent by the plaintiff to the defendant dated 21.02.2014.
10	P10	Ex.P10 is the original legal notice cover returned as “Unclaimed”
11	P11	Ex.P11 is the photocopy of the Assignment Agreement between the plaintiff and the defendant dated 28.02.2013.
12	P12	Ex.P12 is the Bank statement from City Union Bank, Mandaveli Branch, Chennai.



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ABDUL QUDDHOSE, J.

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