



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.04.2023

PRONOUNCED ON : 13.06.2023

CORAM:

THE HON'BLE Mr. JUSTICE S.SOUNTHAR
A.Nos.5922 and 5923 of 2022
in C.S (COMM DIV) Nos.362 of 2016 and 237 of 2022

Mr.R.Kishore Kumar,
Proprietor,
Annai Therasa International Films,
Any Time Money Films,
both having office at No.6/36,
Arunachalam Road,
Saligramam, Chennai – 600 093.

... Applicant in both Application

Vs.

1.Durairajan @ R.D.Ragan

2.M/s.R.R.Cine Production,
Rep. By its Managing Partner,
Durairajan @ R.D.Ragan,
No.6, School 3rd Street,
Virugambakkam,
Chennai – 600 092.

3. Film and Television Producers'
Guild of South India,
Rep by its Secretary, No.B1-Rams Flat,
New No.19, Old No.5, Jagatheeswaran Street,
T.Nagar, Chennai – 600 017.



4. Tamil Film Producers Council,
Rep. By its Secretary,
South Indian Film Chambers Compound, 4th Floor,
No.606, Anna Salai,
Chennai – 600 006.

5. Central Board of Film Certification,
Regional Office, Shastri Bhavan,
26, Haddows Road,
Chennai – 600 006.

6. Qube,
No.42, Dr.Ranga Road,
Mylapore, Chennai – 600 004.

7. UPO,
No.33/1, Walaja Road,
Chepauk, Chennai – 600 002.

8. PXD Prasad Lab,
Arunachalam Road,
Saligramam,
Chennai – 600 093.

... Respondents in both Applications

Common Prayer: Application is filed, praying to vacate the interim order dated 06.12.2022 made in O.A.No.768 of 2022 in C.S.No.237 of 2022.

For Applicant in all



Application

:M/s.Waraon and Sai Rams
Mr.T.Thiageswaran
Mr.P.Neethikumar

For Respondents in
all Application

:Mr.Krishna Ravindran
RK Law for R1
M/s.V.Kulanthaivel
Sr. Panel counsel for D4

ORDER

Application No.5922 has been filed by the applicant/first defendant with a prayer to vacate the interim order dated 06.12.2022 made in O.A.No.768 of 2022, restraining the applicant and respondents 3 to 8 from releasing the movie “DHADHA”.

2. Application No.5923 has been filed by the applicant/first defendant, seeking rejection of the plaint in C.S.No.237 of 2022.

3. The respondents 1 and 2/plaintiffs filed a suit in C.S.No.237 of 2022, seeking declaration that the Tamil feature film “DHADHA” produced by the first applicant is the replica of second respondent's Tamil feature film “MANI @ MONEY and also for permanent injunction restraining the applicant from releasing the film “DHADHA”. It is the specific case of the



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respondents 1 and 2 that the film “DHADHA” and film “MANI” are one and the same. The film “MANI” produced by the second respondent, which is the subject matter of the suit in C.S.No.362 of 2016 has been renamed by the applicant as “DHADHA” and he claimed to have obtained a fresh censor certificate for the said film in the name of his another proprietary concern **“Any Time MONEY Films”**. It is also claimed by the respondents 1 and 2 that the film “MANI” was produced by the second respondent and the applicant herein filed a suit in C.S.No.362 of 2016 seeking a declaration that he was the owner of the film “MANI” which was censored as MONEY and for injunction restraining the respondents therein (who are the respondents 1 and 2 herein) from infringing the film allegedly produced by him by releasing the same under the title “MANI” and censored as “MONEY”. It appears the applicant also got an interim injunction restraining the respondents 1 and 2 from releasing the film “MANI” in his suit C.S.No.362 of 2016.

4. When the above suit filed by the applicant in C.S.No.362 of 2016 was pending, applicant claimed to have advertised that the film "DHADHA" produced by him would be released. Immediately, the respondents 1 and 2



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filed the present suit in C.S.No.327 of 2022 seeking the above said reliefs.

The suit was filed by the respondents 1 and 2 mainly on the ground that the film "MONEY and DHADHA" are one and the same.

5. The respondents 1 and 2 also obtained an interim order against the applicant from releasing the film "DHADHA".

6. Now the applicant has come up with the Application No.5923 of 2022 seeking rejection of the plaint.

7. The learned counsel for the applicant in Application No.5923 of 2022 submitted that the second respondent/second plaintiff firm is not a registered one and hence under Section 69 of Partnership Act, the suit filed by the second respondent firm is not maintainable. The learned counsel further submitted that as per the certificate issued by the Central Board of Film Certification, one Meeran Malu Mohammed Rafeek was shown as the producer of the film "MANI", but, however, he has not filed any suit. The present suit filed by the respondents 1 and 2 is not maintainable when they



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are not the producers of the film "MANI" as per certificate issued by the Central Board of Film Certification. Further, the learned counsel submitted that as per the adoption memo filed by the second respondent in O.A.No.824 of 2017 in C.S.No.362 of 2016 (produced in page No.36 to typed set of papers filed by the applicant), the second respondent was described as a Proprietary concern represented by Meeran Malu Mohammed Rafeek. However, the present suit has been filed describing the second respondent as a partnership concern. Therefore, the learned counsel further submitted the suit is not maintainable and consequently the plaint is liable to be rejected.

8. The learned counsel further submitted that since the producer of the film "MANI" as per the certificate is not before this Court, the present suit filed by the respondents 1 and 2, complaining infringement of the copyright is not at all maintainable and consequently, the interim injunction granted in their favour is liable to be vacated.

9. Per contra, the learned counsel appearing for the contesting



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respondents 1 and 2 submitted that the second respondent firm is a registered firm and the Registration Certificate is a *prima facie* proof of registration.

The learned counsel for the contesting respondent has also taken this Court to the registered partnership deed dated 04.03.2016 entered between first respondent and one Rafeek, S/o.Meeran Malik Mohammed. The learned counsel further submitted that originally Meeran Malu Mohammed Rafeek had started production company in the name and style of RR Cine Production as a proprietary concern and later on, the first respondent and said Meeran Malu Mohammed Rafeek entered into a partnership and the same was duly registered. In such circumstances, based on the film certificate issued in the name of Meeran Malu Mohammed Rafeek, the respondents 1 and 2 are entitled to maintain the present suit and consequently, prayed for dismissal of the petition for rejection of plaint and vacate the interim injunction.

10. The first and foremost ground urged by the applicant is that the second respondent firm is not a registered one and consequently, under Section 69 of Partnership Act, the suit by second respondent firm is not maintainable. The learned counsel for the respondents relied on the



registered partnership deed produced in *page 189* of the typed set of papers filed by the plaintiff and submitted that the second respondent firm is a registered one.

11. A perusal of the said documents would suggest that the partnership deed entered between the first respondent and Rafeek, S/o.Meeran Malik Mohammed was registered with Sub Registrar of Purasaivakkam. Mere Registration of the partnership deed with the Sub Registrar Office would not amount to registration of the partnership firm. There is no evidence available on record to suggest that the second respondent firm was registered with Registrar of Firms. No extract from the Registrar of the Firms duly certified by the Registrar is produced before the Court to prove that the second respondent firm was registered one.

12. Section 69(2) of Partnership Act reads as follows:

“No suit to enforce a right arising from a contract shall be instituted in any Court by or on behalf of a firm against any third party unless the firm



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is registered and the persons suing are or have been shown in the Register of Firms as partners in the firm.”

13. The present suit is filed by the respondents 1 and 2 complaining infringement of copyright based on the film certificate. Therefore, it is not a suit filed by the firm for enforcement of any right arising from a contract and therefore, the bar under Section 69(2) of the Partnership Act, will not get attracted.

14. Secondly, the learned counsel for the applicant contended that as per the film certificate issued in favour of the film "MANI", the producer of the film is shown as Meeran Malu Mohammed Rafeek. However, he is not before this Court and the present suit filed by the respondents 1 and 2 in whose name the film certificate was not issued is not maintainable.

15. A perusal of the film certificate issued by the Central Board of film Certification for Film "MANI" produced in page 122 of typed set of papers filed by the respondents 1 and 2/plaintiffs would suggest that the name of the applicant was shown as RR Cine Productions. The name of the producer was



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shown as the Meeran Malu Mohammed Rafeek. Under provisions of the Copyright Act, the producer of the film is the owner of the copyright and hence he also can maintain a suit complaining infringement of the Copyright.

16. In the case on hand, the above said Meeran Malu Mohammed Rafeek is not before this Court. However, RR Cine Productions is arrayed as a second respondent and it was represented by its Managing Partner/first respondent. It is a very well settled law, the firm is not a legal personality and it is only a collective name given to the association of individuals who formed an association to carry out the business. In fact, even as per the definition of the “word” partnership under Section 4 of Partnership Act, the Partnership is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all. Therefore, when partnership firm is made as a party, it is deemed the individual partners are also before this Court. Any decree passed in favour of the firm or against the firm shall bind individual partners. Therefore, the objection made by the learned counsel for the applicant that the producer of the film Mr.Meeran Malu Mohammed Rafeek is not before this Court, is not acceptable as he is



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one of the partners of the firm and consequently, he is deemed to be before this Court. Therefore, the said submission of the learned counsel for the applicant is liable to be rejected.

17. According to the plaint averment originally Meeran Malu Mohammed Rafeek started the film production company as a proprietary concern in the name and style of RR Cine Production. Subsequently, he entered into partnership with first respondent. The correctness or otherwise of the said averment is a matter for trial and the same cannot be decided conveniently in an application for rejection of plaint.

18. The learned counsel for the applicant by taking this Court to the memo filed by the second respondent in C.S.No.362 of 2016, admitting second respondent was a proprietary concern submitted that the description of second respondent as a partnership firm cannot be accepted.

19. It is settled law in an application for rejection of plaint, the Court



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shall go by the averment contained in the plaint and it cannot look into the documents produced by the defendant. In such circumstances, the legal status and constitution of the second respondent can be agitated at the time of final disposal of the suit by both the parties and this Court is not inclined to reject the plaint on the basis of the document now produced by the applicant.

20. In view of the discussions made earlier, the application for rejection of the plaint filed by the applicant in A.No.5923 of 2022 is dismissed.

21. This Court has already come to a conclusion, the applicant has not made out a case for rejection of the plaint and producer of the film "MANI" as per the film certificate namely Meeran Malu Mohammed Rafeek is deemed to be before this Court, in view of the fact, the firm in which he is a partner is arrayed as second respondent/second plaintiff. When that be the case, the contention of the applicant that the 3rd party other than the producer of the film is not entitled to complain infringement of the Copyright cannot



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be accepted and consequently, the applicant has not made out a case for vacating the interim injunction already granted. The applicant herein already filed a suit and obtained an order of interim injunction against the respondents 1 and 2 from releasing the film "MANI". The present suit has been filed by the respondents 1 and 2 claiming that the film "DHADHA" is a new name given to the film "MANI" which was subject matter of C.S.No.362 of 2016 and obtained an interim order in the present case. The present suit is nothing but an off shoot of the earlier litigation initiated by the applicant.

22. In these circumstances, the applicant has not made out a case for vacating the interim injunction already granted and as a result, the application for vacating the interim injunction in A.No.5922 of 2022 is dismissed. Consequently, interim injunction granted by this Court in O.A.No.768 of 2022 is made absolute.

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S.SOUNTHAR, J.

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