



CRP. No. 4513 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 4513 of 2023
& CMP No. 27056 of 2023

S.R.Prabhu

...Petitioner

Vs.

1.M.Duraisamy
2.Muthukrishnan @ Muthaiyah
3.2D Entertainment Private Limited,
Rep by its Chief Executive Officer,
Apartment Adkshya Suriya,
43/20, 2nd Floor, Besant Avenue Road,
Adyar, Chennai 600 020.
4.S.Karthi
5.South Indian Film Writers Association,
Rep by its President K.Bagyaraj,
L33, Flat 1, 2nd Floor,
LIG Bharathidasan Colony,
K.K.Nagar, Chennai 600 078.

....Respondents

PRAYER : This petition filed under Article 227 of the Constitution of India, to revise and set aside the order dated 21.11.2023 passed in IA No. 3 of 2023 in C.O.S No. 1499 of 2022 by the learned District Judge,



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Commercial Court, Chennai.

For Petitioner : Mr.S.S.Swaminathan

For Respondent: Mr. M.Duraisamy appeared in person

ORDER

This petition has been filed to revise and set aside the order dated 21.11.2023 passed in IA No. 3 of 2023 in C.O.S No. 1499 of 2022 by the learned District Judge, Commercial Court, Chennai.

2. The learned counsel for the revision petitioner submits that the Revision petitioner herein is the third defendants in the commercial suit in C.O.S No. 1499 of 2022 preferred by the first respondent herein and other respondents herein are the defendants in the said suit, in the said suit the first respondent herein filed I.A No. 3 of 2023 for restraining the release of Tamil Film 'Japan' and the same was posted on 10.11.2023 for counter without serving notice to the petitioner herein. Thereafter, on 10.11.2023 the Court below permitted the first respondent to serve notice to the petitioner immediately the petitioner contacted his counsel with regard to the notice. Subsequently, the petitioner came to know that he was set exparte on 15.11.2023 in the above petition and the case was posted on



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21.11.2023 for enquiry. Thereafter, the petitioner filed the petition under

Order 9 Rule 7 CPC to set aside the exparte order dated 15.11.2023. Even

after receipt of the above petition and submission by the petitioner counsel,

the Court below without affording opportunity to the petitioner proceeded

with the enquiry and posted same for orders on 24.11.2023. In the

meanwhile, the said movie Japan was released in OTT platform on

10.11.2023 itself. if the petition for interim injunction is decided without

affording opportunity to the petitioner, it will be put to irreparable loss and

hardships to the petitioner. Hence, he prays to allow this petition.

3. The first respondent appeared in person submits that the revision petitioner is not cooperate with the Court. Hence, the court passed the order.

4. On considering the submissions on either side, it reveals that the first respondent herein filed commercial suit to restrain the defendants 1 and 2 from describing, depicting or displaying the name of Muthukrishnan @ Muthaiah as Story, Screenplay & Dialogue write at all places either by way of theatrical exhibition, in satellite or digital exhibition throughout the world in any of the world languages, in any way either by satellite relay, online relay, Digital relay of original, dubbing or in remake version except that of the defendants name M.Duraichamy, B.Sc., FCA (AICTE) and for



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compensation and thereafter the first respondent herein/plainntiff filed petition for interim injunction restraining the 3rd defendant and fourth defendants from the release of Tamil Film JAPPAN in any languages, worldwide theatres, OTT and in TV satellites till paying any compensation and to add the petitioner's name in the title of Viruman and Komban Tamil film in COS No. 1499 of 2022, the first respondent appeared in person stated that story of films Komban and Viruman was written by him along with screen play and dialogue, instead of displaying his name they used Muthaiah's name and cheated the first respondent by not paying them film benefits and also the third respondent received the story script from the first respondent. Considering the facts of the case, if the opportunity is not given to the petitioner his valuable right to defend the case will be defeated. Hence, the Order passed by the Trial Court dated 21.11.2023 is set aside. Further, the Trial Court is directed to dispose of the I.A No. 3 of 2023 within a period of four weeks from the date of receipt of a copy of this order.



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5. In the result, this Civil Revision petition is disposed of. No cost.

Consequentially connected miscellaneous petition is closed.

20.12.2023

pbl

To

The District Judge, Commercial Court, Chennai.



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T.V.THAMILSELVI,J.

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