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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**APPEAL AGAINST ORDER NO. 16 OF 2020**  
**(Manish Ramdas Vatkar & Ors. Vs. Quadrant Softtech Pvt. Ltd.)**

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's Orders.

Court's or Judge's orders.

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Shri Kabir Jhamb, Counsel for the appellants.  
Shri Sanket Bhalariao, Counsel for the respondent.

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**CORAM : ANIL L. PANSARE, J.**  
**JANUARY 4, 2024.**

The challenge is to the order dated 16/1/2020 passed below Exhibit 5 in Trademark Civil Suit No. 7/2018. The learned trial Court, while allowing the application seeking injunction, has assigned the following reasons :

*“Having considered the submissions of both parties of their respective counsel, I have given thoughtful consideration to the documentary evidence and pleadings of the parties. It is seen from the record that the defendants have filed application before Copyright Office on 4.4.2018 and the Registrar of the Copyrights office issued certificate for registration of computer software. The learned Advocate for the defendants invited my attention towards the application filed by the plaintiff dated 26.4.2018 and submitted that still the application of plaintiff is not registered before the Registrar of Copyrights. Hence, plaintiffs are not entitled to seek any relief. On the contrary, learned Advocate for the plaintiff invited my attention towards the reasoned statement cum reply of the defendant wherein the defendants have in clear terms admitted that the defendants*

*have left the job of plaintiff company in the month of December, 2017 and started independent work from April, 2018. He has further invited my attention towards the application of defendants dated 4.4.2018 wherein in Sr.Nos. 8 and 9 it was mentioned that whether the work is published in which year and country of first publication name, address and nationality of the publisher is shown that the software work is published in the year 2017 when the defendants were employee of the plaintiff. Considering therefore, I find that the defendants have concealed the thing that they illegally applied for copyright stolen software. It is further seen from the record that the defendants have also admitted this fact in their "Kabulpatra" and thereby made promise and assured the plaintiff that they would neither sell, use the company's software or use the source code by changing colour or design nor cause loss to the company. The above conduct of the defendants itself goes to show that the defendants illegally infringing the copyright selling and exhibiting the imitation of original software particularly "sharp bank" and "service bank" made and published before the January, 2018 by the plaintiff company which is prejudicially affect the business as well as goodwill of the plaintiff company who is owner of copyright. For all these reasons, I find that the plaintiffs have proved prima facie case and balance of convenience also lies in their favour. On the other hand, if the injunction order is to be refused, the plaintiff would suffer irreparable loss. In the light of above discussion, I record my findings to point nos. 1 to 3 in the affirmative."*

2] Thus, it is evident that the appellants/defendants have left the job of the

respondent/plaintiff – Company in the year 2017. They have, in the month of April-2018, filed an application stating therein that the software products under question were published in the year 2017, the time when the appellants were in employment with the respondent – Company. It further appears that the appellants themselves have signed a document called ‘Kabulipatra’ by which the appellants have assured the respondent that they would neither sell, use Company’s Software or use source code by changing colour or design nor would they cause loss to the Company. Despite such status, it appears that the appellants have made an attempt to publish software products, namely, ‘Sharp Bank’ and ‘Service Bank’, which were published by the respondent – Company.

3] The learned Counsel for the appellants submits that the appellants were forced to sign Kabulipatra. However and when enquired, the learned Counsel submits that this Kabulipatra has been not challenged by the appellants in any proceedings. If that be so, upon own showing of the appellants, they have made an attempt to infringe the copyright by selling and exhibiting the software products, particularly, ‘Sharp Bank’ and ‘Service Bank’.

4] In the circumstances, I do not find any reason to interfere with the impugned order, which has been passed by the learned Court below by assigning sound reasons. There is no merit in the appeal.

5] At this stage, the learned Counsel for the appellants submits that the appellants were in employment till the year 2016. He submits that thereafter, in the year 2017, the appellants have developed and published the software products under question.

6] The learned Counsel for the appellants has drawn my attention to paragraph 2 of the written statement in support. However and to utter surprise, what has been stated by the appellants is that the appellant no.1 was employed since 2016. Thus, the stand of the appellants was that the appellants were in employment since 2016 and not till the year 2016. The learned Counsel for the appellants could not point out from the written statement that the appellants have left the job in the year 2016. It is thus apparent that an incorrect statement has been made by the learned Counsel and, therefore, the appeal will have to be dismissed with costs. Hence, the following order :

**ORDER**

The appeal is dismissed with costs of Rs.5,000/- to be paid to the Maharashtra State Legal Services Authority.

**(ANIL L. PANSARE, J.)**

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