



C.S. No.975 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

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Sun TV Network Ltd.
Rep. by its Authorised Signatory
Mr.M.Jyothi Basu
Murasolimaran Towers
73, MRC Nagar Main Road,
MRC Nagar, Chennai - 600 028
(Amended as per order dated 25.03.2022
in A.No.1252 of 2022 and time extended
as per order dated 25.04.2022 & 17.06.2022)

... Plaintiff

Vs.

1. K.Bhagyalakshmi
Rep. by its Producer
New No.13, 1st Madley Street,
T.Nagar, Chennai - 600 017
2. M/s.Sree Samudra Silver Screens
Rep. by its Managing Partner
Mr.V.Samudra Rao



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G-12, Flat No.101, Sai Swarna Residency
Madhura Nagar, Yousufguda
Hyderabad - 500 038

3. Sri Balaji Video

Music World

Shop No.135 and 137

Babukhan Easte, Basheerbagh, Hyderabad - 1

4. Gemini Labs

3rd Floor, Padmalaya Studio

Film Nagar, Jubilee Hills

Hyderabad - 500 033

... Defendants

Prayer: This plaint filed under Section 55 & 62 of the Copy Right Act, 1957 and Order IV Rule 1 of O.S. Rules, 1956 read with Order VII Rule 1 C.P.C., praying to pass judgment and decree against the defendants as follows:

i) For a declaration declaring that the plaintiff is the exclusive copy right holder of the cinematography film "MALLE PUVVU" (Telugu Colour) starring Bhoomika, Kota, M.s.Narayana, L.B. Sriram, Brahmanandam and others directed by Mr.Ravipalli Rambabu and produced by K.Bhagyalakshmi inclusive of the rights of Satellite Television Broadcast, Direct to Home Broadcast, Direct Satellite Service, Terrestrial Television Broadcast and all other rights connected therewith including exhibition of the film by means of wireless diffusion and by wire for communication to the public through Television Broadcast



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for the entire world as assigned in the agreement dated 21.05.2008.

ii) For a permanent injunction restraining the defendants, their men, agents, assignees or any other person or persons claiming through them from in any manner infringing the plaintiff's copy rights in the cinematography film "MALLE PUVVU" (Telugu Colour) starring Bhoomika, Kota M.S.Narayana, L.B. Sriram, Brahmanandam and others directed by Mr.Ravipalli Rambabu and produced by K.Bhagyalakshmi inclusive of the rights of Satellite Television Broadcast, Direct to Home Broadcast, Direct Satellite Service, Terrestrial Television Broadcast CD, DVD and all other rights connected therewith including exhibition of the film by means of wireless diffusion and by wire for communication to the public through Television Broadcast CD, DVD for the entire world as assigned in the agreement dated 21.05.2008.

iii) Award damages of Rs.25,00,100/-; and

iv) Directing the defendants to pay cost.

For Plaintiff	: Mr.M.Narendran for M/s.King and Patridge
For D1	: Mr.B.Balachander for Mr.Ashok Menon
For D2	: Set ex-parte on 23.12.2021
For D3	: Mr.Ralph V.Manohar
For D4	: Set ex-parte on 06.01.2022



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JUDGMENT

This suit is filed by the plaintiff for (a). declaration declaring that the plaintiff is the exclusive copy right holder of the cinematography film "MALLE PUVVU" (Telugu Colour) inclusive of the rights of Satellite Television Broadcast, Direct to Home Broadcast, Direct Satellite Service, Terrestrial Television Broadcast and all other rights connected therewith including exhibition of the film by means of wireless diffusion and by wire for communication to the public through Television Broadcast for the entire world as assigned in the agreement dated 21.05.2008, (b). for a permanent injunction restraining the defendants and any other person or persons claiming through them from in any manner infringing the plaintiff's copy rights in the cinematography film "MALLE PUVVU" (Telugu Colour) as assigned in the agreement dated 21.05.2008, (c). to award damages of Rs.25,00,100/- and (d). directing the defendants to pay the costs.



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2. The brief averments made in the plaint are that the plaintiff/ M/s.Sun TV Network Ltd. is a popular world satellite TV Network which has a large number of viewer-ship for its Channels and having its registered office at Chennai. As a part of their business, copyrights of the movies are purchased from the producers or the copyright holders for exclusive copy right in respect of the world satellite television broadcast, direct to home broadcast, terrestrial television broadcast and all other rights connected therewith, including exhibition of the films by means of wireless diffusion and by wire for communication to the public through television broadcast and as such, the exclusive copyright vests with the plaintiff for broadcasting the film through satellite television broadcast, direct to home broadcast, internet, VCD, DVD, Inflight, Airborne, terrestrial television broadcast, through cable/via cable TV wire or wireless or through any other forms, means and modes, including all channels of Doordarshan, without restriction of geographical area. As per the terms and



conditions of the agreement, no one else other than the plaintiff has got any right over the film, either to telecast the same or any part of it.

2.1. As such, the plaintiff is the exclusive copyright holder of the cinematography Telugu feature film "MALLE PUVVU" (hereinafter referred to as the "Suit Film") which has been obtained from the Producer K.BHAGYALAKSHMI, the 1st defendant herein. Originally, the 2nd defendant was the copyright holder of the said film. The 2nd defendant, had transferred the copyright to the 1st defendant by a Deed of Transfer dated 01.04.2008. Thus, the 2nd defendant had assigned the copyright to the 1st defendant for the suit film for Terrestrial Television Broadcast and Satellite Television Broadcast rights and other broadcasting rights. The said K.BHAGYALAKSHMI, the 1st defendant, in turn had assigned the copy rights to the plaintiff by an agreement dated 21.05.2008. The 1st defendant, Producer, has authorized the 4th defendant Gemini Labs, Hydereabad to deliver the sound and picture negatives to the plaintiff and



accordingly, the 4th defendant has given a confirmation letter dated 04.06.2008 to the plaintiff in this regard.

2.2. While so, the DVD of the film "MALLE PUVVU" was released recently and is freely sold in the market by the 3rd defendant without any legal rights. Due to the illegal piracy of the suit film, the plaintiff's exclusive copyrights are infringed and illegal profits are made by the 1st, 2nd, 3rd and 4th defendants and the plaintiff has suffered substantial loss.

2.3. The 3rd defendant has pirated the DVD, CD of the suit film and thereby, have violated the copyright of the plaintiff by selling the DVD and CD in the market without any basic legal obligation and constraints. As the CD and DVD are freely available in the market, any further sale of DVD and CD by the defendant in the market, shall cause further losses to the plaintiff. Since the defendants 1 to 4 have committed the offences under Sections 51, 63, 69 & 70 of the Copyright Act, 1957, they are liable to be



punished.

2.4.The 3rd defendant has released the DVD and CD of the suit picture/film knowing fully well that the copyright vests with the plaintiff and the defendants do not have any right to release the same. The defendants 1 to 4 are jointly and severally liable for infringement of copyright and have committed an offence punishable under the provisions of Copy Right Act and also under the Indian Penal Code. The plaintiff is also contemplating to take criminal action against the defendants for violation of their copy rights in the suit film.

2.5.The 1st and 2nd defendants are the copy right holder and producer of the film "MALLE PUVVU". At the time of the commission of the offence, they were in-charge and responsible for the conduct of their business and hence, they have committed an offence punishable under Section 69 of the Copy Right Act.



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2.6. The plaintiff states that by releasing the DVD and CD of the suit film, the defendants 1 to 4 have infringed the plaintiff's exclusive copy rights in the suit film and have rendered themselves for criminal prosecution, besides other reliefs available to the plaintiff in law. The suit film was released in CD and DVD recently by the 3rd defendant. The defendants 1 to 4 have already caused enormous loss and damage to the plaintiff. If the defendants 1 to 4 are not restrained by a decree of injunction from further infringement and sale of DVD and CD of the suit film, enormous loss, hardship and damage would be caused to the plaintiff. The plaintiff therefore has approached this Court for decree of declaration and permanent injunction, restraining the defendants 1 to 4 from in any manner infringing the plaintiff's copy right over the suit film and for damages. The plaintiff reserves their right to alter, amend or seek further relief as and when found necessary at a later date.



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2.7. Further, the plaintiff has acquired the copyright of the suit film by paying valuable consideration of Rs.1,20,00,000/-. The piracy and infringement committed by the defendants 1 to 4, has resulted in huge pecuniary loss to the plaintiff. Though the exact pecuniary damages is more, yet the plaintiff restricts the damages at Rs.25,00,100/- .

3. The 1st defendant had filed written statement stating that the plaintiff is not entitled for any relief as prayed for against her, as the plaintiff themselves admitted that it is the 3rd defendant who had pirated the copyrights of the film "MALLE PUVVU". Further, the suit itself is barred for non-joinder of the 1st defendant as 2nd plaintiff, in view of Clause 15 of the agreement dated 21.05.2008 entered into between the 1st defendant and the plaintiff which reads as follow;

"15. The Assignor hereby undertakes to join the Assignee in defending all the legal proceedings that may be initiated by third parties against the assigned or proceedings that may be initiated by the assignee against



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third parties with regard to the rights assigned herein and further undertakes to do all acts that may be required to establish the rights of the Assignee to the film mentioned in the schedule to this agreement."

3.1. The 1st defendant denies that she was the producer of the suit film as alleged by the plaintiff in the plaint. The 1st defendant states that the 2nd defendant was the Producer of the said film and by a Deed of Transfer, dated 01.04.2008, they assigned the copyright in favour of the 1st defendant. In turn, the 1st defendant, by agreement dated 21.05.2008, assigned the copyrights to the plaintiff for consideration. Thereafter, by a letter dated 21.05.2008, the 1st defendant suitably instructed Gemini Labs/the 4th defendant herein to make available to the plaintiff the negatives, subject to payment of Rs.50 Lakhs to them. The 4th defendant, in turn, confirmed the same, by its letter dated 04.06.2008 to the plaintiff.



Therefore, the 1st defendant states that she is/was not the Producer of the suit film, as alleged by the plaintiff.

3.2. It is not in dispute that the plaintiff is the exclusive copyright holder of the suit film with effect from 25.01.2008. But the 1st defendant was not aware of any release of the DVD of the suit film by the 3rd defendant without any legal right. The plaintiff themselves have failed to mention any particular date of release of the film through DVD by the 3rd defendant. When the plaintiff themselves have admitted that the 3rd defendant illegally pirated the suit movie, it cannot be attributed that their exclusive copyrights were infringed and illegal profits were made by the defendants, in particular, by the 1st defendant, which caused substantial loss to the plaintiff.

3.3. The 1st defendant states that she has not violated the copyright of the plaintiff and denies having committed any offences under Sections 51, 63, 69 and 70 of the copy right Act, 1957. Therefore, she is not liable



for any punishment. The 1st defendant also states that she is not jointly or severally liable for infringement of the copyright as alleged by the plaintiff and hence, no criminal action will lie against her because it was the case of the plaintiff that the 3rd defendant pirated the suit movie.

3.4. It is further stated that the 1st defendant was not the Producer of the suit film and after the Deed of Transfer dated 01.04.2008, executed by the 2nd defendant in favour of the 1st defendant, the 1st defendant assigned the copyright by deed of agreement dated 21.05.2008 in favour of the plaintiff. Therefore, the plaintiff cannot attribute that the 1st and 2nd defendants were in charge and responsible at the time of the commission of the offence.

3.5. The 1st defendant did not cause any loss or damage to the plaintiff as alleged in the plaint. For the act of the 3rd defendant, the 1st defendant is not liable to pay pecuniary damages much less Rs.25,00,100/- as claimed by the plaintiff. Therefore, the plaintiff has no cause of action to



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file the present suit. The suit documents 1 to 6 filed by the plaintiff along with the plaint, are not in any way connected with the suit film "MALLE PUVVU". Therefore, the plaintiff is not entitled to any relief i.e. declaration, injunction and damages as prayed for.

4. The 3rd defendant has filed written statement specifically denying that the plaintiff had been assigned the video copyrights in all/any digital format eg: VCD, DVD, Blu Rays, Telephony rights, Promotion Posters/Images, Multimedia images, Simcard, Memory card, SD card, Pen Drives, Tapes, and other technological advancements/extensions in digital media (all aspects) and physical formats, for the movie "MALLE PUVVU" by the original copyright holder. The 3rd defendant further denies the exclusive copyright obtained by the plaintiff from the 2nd defendant and the 2nd defendant authorized the 4th defendant to deliver sound and picture negatives to the plaintiff, vide confirmation letter dated 04.06.2008.



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The 3rd defendant specifically denies that the plaintiff is the exclusive copyright holder of the suit film.

4.1. The 3rd defendant denies that he is selling the DVD of the suit film without any legal rights and the defendant's sale would cause losses to the plaintiff. The 3rd defendant also denies that he has committed any offences under Sections 51, 63, 69 & 70 of the Copyright Act 1957 and therefore, he is liable to be punished.

4.2 The 3rd defendant denies that the plaintiff has full copyrights for the suit film and the 3rd defendant is liable for the offences under the Copyright Act and Indian Penal Code. The 3rd defendant denies that by releasing the DVD and CD of the suit film, he has infringed the plaintiff's exclusive copy rights in the suit film and have rendered himself liable for criminal prosecution and had caused enormous loss and damage to the plaintiff. The 3rd defendant denies that the plaintiff has acquired the copy rights of the suit film by paying Rs. 1,20,00,000/-. The 3rd defendant



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denies that his actions have caused huge pecuniary loss to the plaintiff. The 3rd defendant denies that the plaintiff is the sole authorized copy right holder of the suit film "MALLE PUVVU". The 3rd defendant denies that the pecuniary damage to the plaintiff is Rs.25,00,100/- . The 3rd defendant states that no damage is caused to the plaintiff and the figures are quoted based on assumption.

4.3 The 3rd defendant states that the original copyright holder has assigned exclusive Video rights in all formats, VCD, DVD, IPTV, cable, T.V, Sim Card, Computer Discs, Tapes Video on Demand rights and pay per view including Internet rights as mentioned above in his favor by an Agreement dated 16.10.2008 for VCD's, DVD's & Internet rights for valuable consideration. The 3rd defendant vehemently denies the allegation that he has used pirated CD or having committed piracy in respect of the suit film. The 3rd defendant states that the original copyright holder being the Producer of the movie had assigned the rights to the 3rd



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defendant for valuable consideration. Hence, the question of committing piracy by him does not arise. The 3rd defendant states that his rights are restricted to the exclusive video copyrights in all/any digital format eg; VCD, DVD, IPTV, cable, T.V, Sim Card, Computer Discs, Tapes Video on Demand rights, pay per view including Internet rights. The 3rd defendant states that they are not claiming terrestrial/satellite broadcast rights, and has not broadcasted the movie on any satellite channel. The main business of the plaintiff is the satellite broadcast and not selling VCD or DVD or online broadcast. The 3rd defendant is a legal copyright holder for the suit movie and have paid valuable consideration of Rs.50,000/-. The 3rd defendant submits that he released the VCD and DVD of the schedule movie and also uploaded the same on YOU TUBE way back in 2015 and the plaintiff is very much aware of the same. Therefore, the plaintiff is not entitled for declaration that the plaintiff is the sole and absolute copyright holder.



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4.4 The 3rd defendant states that after payment of valuable consideration to original copy right holders as stated supra, the original copyright holder handed over the BETA Tape and HI 8 tapes along with other materials to the 3rd defendant. The plaintiff also sourced the BETA Tape and HI 8 tapes and other materials only from the original copy right holders and not from any third party. The original copy right holder can create multiple BETA Tape and HI 8 tapes to be given to various parties on the basis of the rights purchased by them. The 3rd Defendant is one such party, to whom the original BETA Tape and HI 8 tapes and other materials have been given. It is reiterated that BETA Tape and HI 8 tapes can only be obtained from the makers of the movie which is the original copy right holder.

4.5. The 3rd defendant further states that the rights of the suit movie assigned to him are in a segment, in which the plaintiff does not operate. The 3rd defendant is in the business of distribution of movies for the past



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15 years and has exclusive video copyrights for approximately 400 movies. The 3rd defendant is a law abiding citizen and that he has not committed any illegal act, let alone piracy. Even after coming to know of the fact that the 1st and 2nd defendants have assigned rights to multiple parties, the plaintiff has been conducting business as usual with the 1st and 2nd defendants and even after filing of this suit, the plaintiff has purchased movies from the 1st defendant.

4.6 It is reiterated that the primary business of the plaintiff is Satellite Broadcasting. The 3rd defendant submitted that their primary business is distribution of movies by all/any digital format eg; VCD, DVD, Blu Rays, Telephony rights, Promotion Posters/Images, Multimedia images, Simcard, Memory card, SD card, Pen Drives, Tapes, and other technological advancements/extensions in digital media (all aspects) and physical formats, INTERNET, IPTV, Video On Demand rights. The 3rd defendant operates in two different classes of business in the Entertainment



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Sector. There are limited viewers and reach in the mediums he operates, whereas the reach and viewership share of the plaintiff is far and wide. The segment of business that was being operated by the 3rd defendant, cannot infringe or exploit or dilute the earnings of the plaintiffs in any way.

4.7 The 3rd defendant further states that the balance of convenience is also in his favour. The present suit is neither maintainable in facts nor in law. The rights assigned to the 3rd defendant are prior in date to the rights of the plaintiff for the suit movie. The 3rd defendant states that it is the original copy right holder who seems to have cheated the plaintiff and has made unjust gains and not the 3rd defendant. When the original copy right holder themselves have given the rights to the 3rd defendant for a valuable consideration, the question of the 3rd defendant using pirated VCD/DVD does not arise. Therefore, the 3rd defendant has got legal rights to exploit the suit movie and the question of infringement against him does not arise.

4.8 The 3rd defendant states that the plaintiffs cannot suffer any



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irreparable loss and any alleged loss suffered by the plaintiff is only repairable and can be compensated by way of damages. Hence damages and loss of Revenue can be ascertained and compensated. The 3rd defendant further stated that similar cases in C.S.Nos.974 of 2015, [C.S.No. 705 of 2019](#) and 210 of 2020 have been filed by the plaintiff against this defendant for various other movies, in which also, similar allegations were raised against the 3rd defendant.

4.9 The 3rd defendant further states that this Court has no jurisdiction to entertain the present suit. The assignment of copy rights took place in Hyderabad. The 3rd defendant released the VCD and DVD of the suit movie in Hyderabad and also uploaded the suit movie in Hyderabad and that, no part of cause of action against the 3rd defendant has arisen in Chennai. Hence, this defendant prays that this Court has no jurisdiction to try the present suit and the same is liable to be dismissed.



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5. Initially, the defendants 1, 2 and 4 were set ex-parte by this Court on 10.02.2016 and 25.09.2019 and upon considering the pleadings of the plaintiff and the 3rd defendant, this Court had framed the following issues on 22.07.2022:

(i) Whether the Assignment Agreement dated 21.05.2008, which was executed by the 1st defendant in favour of the plaintiff, is valid?

(ii) Whether copyright over video rights in all formates such as VCDs, DVDs, IPTV, Cable, Video on Demand, etc. were validly assigned in favour of the 3rd defendant by agreement dated 16.10.2008?

(iii) Whether the plaintiff is entitled to a declaration that it is the sole and exclusive copyright holder of the Telugu movie "Malle Puvvu"?

(iv) Whether the plaintiff is entitled to restrain the defendants from directly or indirectly broadcasting, re-producing, publishing or telecasting or creating any derivative works of the Telugu movie "malle Puvvu"?



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(v) Whether the 2nd defendant was estopped from entering into any agreement or assignment of copyrights in respect of VCD, DVD, Laser Disc or any other similar form of communication in respect of the Telugu movie "Malle Puvvu" in light of the Assignment Agreement executed by the 2nd defendant in favour of the 1st defendant dated 01.04.2008?

(vi) Whether the plaintiff is entitled to the relief as prayed for?

(vii) Whether the plaintiff is entitled to damages of Rs.25,00,100/- or any other sum? and

(viii) Whether the parties are entitled to any other relief?

6. After framing of issues, in order to substantiate their claim, on the side of the plaintiff, one Mr.Jyothy Basu, the authorised signatory of the plaintiff was examined as P.W.1 and marked 6 documents as Ex.P.1 to



Ex.P.6. The third defendant neither cross examined P.W.1, nor produced any oral and documentary evidence on their side.

7. Subsequently, after taking the written statement of the 1st defendant on file, the following additional issues were framed by this Court on 09.11.2023;

(i) Whether the suit is bad for not arraying the 1st defendant as 2nd plaintiff in view of Clause 15 of the agreement dated 21.05.2008 entered between the 1st defendant and the plaintiff?

(ii) Is it not right to say that the 1st defendant is not the producer of the suit film as alleged by the plaintiff?

(iii) Whether the plaintiff can maintain the suit as the film "Malle Puvvu" had been telecasted on numerous occasions and is available on OTT platform even today?



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8. The learned counsel for the plaintiff argued the matter stating that the plaintiff is a leading television network in South India. It runs television channels and is in the business of production, acquisition and distribution of movies. In course of its business, the plaintiff had obtained the exclusive copyrights to the suit film from the 1st defendant through Assignment Agreement dated 21.05.2008 (Ex.P2) for a valuable consideration of Rs.1,20,00,000/-. The suit film was produced under the banner of Sree Samudra Silver Screens by Sree Mohan Vadlapatla, the Applicant to the CBFC Certificate. The 1st defendant herself had obtained the assignment from the 2nd defendant (M/s.Sree Samudra Silver Screens) vide Deed of Transfer dated 01.04.2008 (Ex.P3). The CBFC Certificate dated 17.09.2008 is marked as Ex.P4. The 1st defendant had requested the 4th defendant/Lab to make available the negatives of the suit film to the plaintiff as and when required. The Lab accordingly confirmed to act as instructed vide its letter dated 04.06.2008 (Ex.P5) addressed to the plaintiff



with a copy marked to the 1st defendant. Thus, effectively the plaintiff and the 1st, 2nd and the 4th defendants alone had access to the contents of the suit film. That being so, the plaintiff had subsequently come across that the DVDs of the suit film being freely sold in the market by the 3rd defendant without any legal rights to the same. The same is a clear infringement of the plaintiff's rights resulting in loss to the plaintiff. The pirated DVDs have been produced as material evidence (Ex.P6).

8.1. The learned counsel further submitted that the copyright of the plaintiff stems from Ex.P2 which explicitly states that the assignor (1st defendant) are desirous of assigning the world satellite TV rights and all other rights pertaining to the suit film including VCD and DVD rights as part of the rights assigned to the 1st defendant. Further, the rights assigned in favour of the plaintiff and the indemnity obligations of the 1st defendant are set out in Clauses 2 and 5 respectively in page 3 of the Assignment Agreement marked as Ex.P2.



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8.2.The 1st defendant in her written statement has categorically admitted that the plaintiff is the exclusive copyright holder of the suit film in terms of the Assignment Agreement dated 21.05.2008. However, to the contrary, the 3rd defendant claims to have acquired the exclusive video rights vide Agreement dated 16.10.2008 from the 2nd defendant and not the terrestrial/satellite broadcast rights of the suit film. It is the further case of the 3rd defendant that the rights assigned in their favour and to the plaintiff are different and that no injury is meted out to the plaintiff by the 3rd defendant.

8.3 It is also to be noted that the 3rd defendant claims to have obtained the assignment vide Agreement dated 16.10.2008, while the plaintiff received their rights much earlier on 21.05.2008. Further, the Deed of Transfer by which the plaintiff's assignor, i.e. the 1st defendant acquired rights, is dated 01.04.2008 (Ex.P3). As such, the 2nd defendant could not have assigned any of the rights set out in the Deed of Transfer



dated 01.04.2008 to any other party including the 3rd defendant and the claims to the contrary, are evidently fallacious and an after-thought. The 2nd defendant having assigned rights relating to satellite, DVD/VCD, internet, etc. vide Deed of Transfer dated 01.04.2008 in favour of the 1st defendant, no longer they owned the said rights and as such, any subsequent purported assignment is of no importance.

8.4. The 3rd defendant claims that the 2nd defendant handed over the BETA Tape and HI 8 tapes while having made no attempt to produce any evidence in this regard. The lack of any evidence to substantiate the claims set out in the 3rd defendant's written statement, reflects that the entire claims are an after-thought and an attempt to avoid liability.

8.5. The 3rd defendant also avers that this Court does not have jurisdiction over this suit as the assignment to the 3rd defendant, as well as the DVD sales by the 3rd defendant, were in Hyderabad. The averment on jurisdiction is flimsy and liable to be rejected, in view of the accrued cause



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of action and the provisions of the Copyright Act, 1957.

8.6. The rights in favour of the 3rd defendant and the alleged assignment in its favour ought to be summarily rejected for the sole reason that the 3rd defendant has chosen not to tender any of its documents into evidence and as such, this Court ought to draw an adverse inference in this regard.

8.7. Based on the Assignment Agreement as stated above, the plaintiff has derived their rights and it further contains warranties and representations in favour of the plaintiff. Therefore the plaintiff is entitled to declaratory relief. The 3rd defendant holds no valid right over the suit film and has illegally infringed the copyright of the plaintiff. Thus, with the circulation of pirated DVDs, the 3rd defendant has enriched itself and has to be permanently enjoined. Since the plaintiff has suffered damages on account of illegal and unauthorized exploitation by pirated versions of the suit film, the plaintiff is entitled to be indemnified by way of damages and



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therefore prayed that the suit may be decreed as prayed for.

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9. The learned counsel for the 1st defendant submitted that the suit itself is barred for non-joinder of the 1st defendant as 2nd plaintiff, in view of Clause 15 of the agreement dated 21.05.2008 entered into between the 1st defendant and the plaintiff wherein it has stated that;

"15. The Assignor hereby undertakes to join the Assignee in defending all the legal proceedings that may be initiated by third parties against the assigned or proceedings that may be initiated by the assignee against third parties with regard to the rights assigned herein and further undertakes to do all acts that may be required to establish the rights of the Assignee to the film mentioned in the schedule to this agreement."



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9.1. Further, the 1st defendant is not the producer of the suit film as alleged by the plaintiff in the plaint. The 2nd defendant was the Producer of the said film and by a deed of transfer dated 01.04.2008, they assigned the copyright in favour of the 1st defendant. In turn, the 1st defendant, by agreement dated 21.05.2008, assigned the copyrights to the plaintiff for consideration. Thereafter, by a letter dated 21.05.2008, the 1st defendant suitably instructed Gemini Labs/the 4th defendant herein to make available to the plaintiff the negatives subject to payment of Rs.50 Lakhs to them. The 4th defendant, in turn confirmed the same by their letter dated 04.06.2008 to the plaintiff. After the assignment agreement to the plaintiff, the 1st defendant has not violated any of the conditions of the assignment agreement. Therefore, the plaintiff is not entitled for any relief as prayed for against the 1st defendant. When the plaintiff/company themselves had admitted that the 3rd defendant had pirated the suit-film, the 1st defendant is neither jointly nor severally liable for infringement of the copyright.



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9.2. The 1st defendant did not cause any loss or damage to the plaintiff as alleged in the plaint. For the act of the 3rd defendant, the 1st defendant is not liable to pay pecuniary damages much less Rs.25,00,100/- as claimed by the plaintiff. Therefore, the plaintiff has no cause of action to file the present suit as against the 1st defendant. Therefore, the plaintiff is not entitled to any relief of declaration, injunction and damages as prayed for.

10. This suit is pending from 2010. Though the 3rd defendant filed written statement, after hearing the arguments of the learned counsel for the plaintiff and the learned counsel for the 1st defendant, the learned counsel for the 3rd defendant was not ready to argue the matter. Further, they neither cross examined P.W.1, nor produced any oral and documentary evidence on their side. Despite giving sufficient opportunities, the learned counsel for the 3rd defendant was neither ready to argue the matter, nor filed the written submission. The trial was already



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over and the defendants 2 and 4 remained ex-parte. Therefore, this Court, after hearing the learned counsel for the plaintiff, learned counsel for the 1st defendant and after going through the entire materials available on record, decides to dispose of the suit on merits.

11. The case of the plaintiff is that the plaintiff is a leading television network in South India. It runs television channels and is in the business of production, acquisition and distribution of movies. In course of its business, the plaintiff had obtained the exclusive copyrights to the suit film from the 1st defendant through Assignment Agreement dated 21.05.2008 (Ex.P2) for a valuable consideration of Rs.1,20,00,000/-. The suit film was produced under the banner of Sree Samudra Silver Screens by Sree Mohan Vadlapatla, the Applicant to the CBFC Certificate. The 1st defendant herself had obtained the assignment from the 2nd Defendant (M/s.Sree Samudra Silver Screens) vide Deed of Transfer dated 01.04.2008 (Ex.P3). The CBFC Certificate dated 17.09.2008 is marked as



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Ex.P4. The 1st defendant had requested the 4th defendant-Laboratory to make available the negatives of the suit film to the plaintiff as and when required. The 4th defendant-Laboratory accordingly, confirmed to act as instructed, vide its letter dated 04.06.2008 (Ex.P5) addressed to the plaintiff with a copy marked to the 1st defendant. Thus, effectively the plaintiff, the 1st, 2nd and the 4th defendants alone had access to the contents of the suit film. That being so, the plaintiff had subsequently come across DVDs of the suit film being freely sold in the market by the 3rd defendant without any legal right to the same. The same is a clear infringement of the plaintiff's rights resulting in loss to the plaintiff. The pirated DVDs have been produced as material evidence (Ex.P6). According to the plaintiff, the copyright of the plaintiff stems from Ex.P2 which explicitly states that the assignor (1st defendant) is desirous of assigning the world satellite TV rights and all other rights pertaining to the suit film including VCD and DVD rights as part of the rights assigned to



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the 1st defendant. Further, the rights assigned in favour of the plaintiff and the indemnity obligations of the 1st defendant are set out in Clauses 2 and 5 respectively in page 3 of the Assignment Agreement marked as Ex.P2.

12. The case of the 1st defendant is that she is not disputing that the plaintiff is the exclusive copyright holder of the suit film in terms of the assignment agreement dated 25.01.2008 between the plaintiff and the 1st defendant. Her contention is that except the plaintiff, she had not assigned the rights to anybody else and she had not violated any of the conditions mentioned in said agreement and therefore, the suit against the 1st defendant is liable to be dismissed. The 1st defendant filed written statement stating that the plaintiff is not entitled for any relief as prayed for against her as the plaintiff themselves admitted that the 3rd defendant had pirated the copyrights of the film "MALLE PUVVU". Further, the suit itself is barred for non-joinder of the 1st defendant as 2nd plaintiff in view of Clause 15 of the agreement dated 21.05.2008 entered into between the



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plaintiff and the 1st defendant.

13. As per the written statement of the 3rd defendant, the 3rd defendant acquired the exclusive video copyrights of the suit film in all/any digital format eg; VCD, DVD, IPTV, cable, T.V, Sim Card, Computer Discs, Tapes Video on Demand rights, pay per view including Internet rights vide Agreement dated 16.10.2008 from the original copyright holder/the 2nd defendant and they are not claiming any terrestrial/satellite broadcast rights of the suit movie and therefore, the 3rd defendant is a legal copyright holder and that they have not committed any fraudulent act or piracy as alleged by the plaintiff. The rights assigned in their favour is different from that of the plaintiff and no injury is meted out to the plaintiff by the 3rd defendant. Further, the original copyright holder can create multiple BETA Tape and HI 8 tapes to be given to various parties on the basis of the rights purchased by them and that the 3rd defendant is one such party to whom the original BETA Tape and HI 8



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tapes and other materials have been given. Therefore, the present plaint is neither maintainable in fact nor on law. Further, the rights assigned to the 3rd defendant is prior in date to the rights of the plaintiff and hence, it is the plaintiff who is illegally exploiting the internet rights of the 3rd defendant. Moreover, this Court has no jurisdiction to entertain the present suit since the assignment of copyrights took place in Hyderabad and that the 3rd defendant released the VCD and DVD of the suit film in Hyderabad. Further, the 3rd defendant uploaded the suit movie only in Hyderabad. Therefore, no part of cause of action against the 3rd defendant has arisen in Chennai. Hence, this Court has no jurisdiction to try the present suit and the same is liable to be dismissed.

14. On a perusal of the pleadings, oral and documentary evidence and the submissions of the learned counsel for the plaintiff and the 1st defendant, the issues are answered as follows:

15. Since the issue Nos.1 and 3 are similar and related, they are



being dealt together as follows:

ISSUE NO.1: Whether the Assignment Agreement dated 21.05.2008, which was executed by the 1st defendant in favour of the plaintiff, is valid? and

ISSUE NO.3: Whether the plaintiff is entitled to a declaration that it is the sole and exclusive copyright holder of the Telugu movie "Malle Puvvu"?

15.1 The claim of the plaintiff is that they are the absolute copyright holder of the suit film namely "MALLE PUVVU". The 1st defendant who had obtained the assignment for the suit film from the 2nd defendant/the original copyright holder, vide Deed of Transfer dated 01.04.2008, in turn assigned the rights to the plaintiff vide Assignment Agreement dated 21.05.2008. The suit film was produced under the banner of Sree Samudra Silver Screens by Sree Mohan Vadlapatla/the applicant to the CBFC Certificate. While so, the plaintiff came to know that the DVD of the suit



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film "MALLE PUVVU" was released and was freely sold in the market by the 3rd defendant without any legal rights and thereby, the plaintiff's exclusive copyrights were infringed and illegal profits were made by the defendants 1 to 4 and that the plaintiff suffered substantial loss.

15.2. According to the 1st defendant, she has clearly admitted the execution of assignment deed in favour of the plaintiff vide agreement dated 21.05.2008, which she had obtained from the 2nd defendant. The contention of the 1st defendant is that except the plaintiff, she has not assigned the rights to anyone else and therefore, she has not violated any of the conditions assigned in the agreement dated 21.05.2008. Subsequent to the assignment given to the plaintiff, the 1st defendant by letter dated 21.05.2008, instructed Gemini Labs/the 4th defendant herein to make available to the plaintiff the negatives, subject to payment of Rs.50 Lakhs to them. The 4th defendant in turn has sent confirmation by letter dated 04.06.2008 to the plaintiff. The main contention of the 1st defendant is that



the present suit itself is bad for non-joinder of the 1st defendant as 2nd plaintiff in view of Clause 15 of the agreement dated 21.05.2008 entered into between the plaintiff and the 1st defendant.

15.3 In order to substantiate the case of the plaintiff, the authorized signatory of the plaintiff was examined as P.W.1 and he has reiterated the averments made in the plaint. On the side of the plaintiff, 6 documents have been marked in which, Ex.P.3 is the Deed of Transfer dated 01.04.2008 which shows that the 2nd defendant has assigned the exclusive copyrights of the suit film in favour of the 1st defendant. Subsequently, the 1st defendant has executed the Assignment Agreement dated 21.05.2008 (Ex.P2) in favour of the plaintiff, assigning the copyrights of the suit film in respect of world satellite TV rights and other rights including VCD and DVD rights.

15.4 According to the 3rd defendant, the original copyright holder/2nd defendant, assigned the exclusive video rights for the suit film



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in their favour in all formats viz., VCD, DVD, IPTV, cable, T.V, Sim Card, Computer Discs, Tapes Video on Demand rights, pay per view including Internet rights, except the satellite broadcast, in their favour by an Agreement dated 16.10.2008 for valuable consideration. However, in order to substantiate their contention, the 3rd defendant neither produced any witness nor marked any documents. Though the 3rd defendant has stated in their written statement that the original copyright holder had handed over the BETA Tape and HI 8 tapes along with other materials to them and they have not used any pirated CD of the suit film, the 3rd defendant has not come to the witness box and also not produced those TAPES in order to substantiate their contention.

15.5 A perusal of the documents marked on the side of the plaintiff, viz., Ex.P.3/the Deed of Transfer dated 01.04.2008 shows that the 2nd defendant has assigned the exclusive rights of the suit film in favour of the 1st defendant. Subsequently, the 1st defendant has executed the



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Assignment Agreement dated 21.05.2008 (Ex.P2) assigning the exclusive copyrights for the said film in favour of the plaintiff. Ex.P.4 is the CBFC certificate which shows the rights of the 2nd defendant. Ex.P.5 is the confirmation letter dated 04.06.2008 issued by the 4th defendant/Lab, to the plaintiff confirming the transfer of copyright in respect of the suit film in favour of the plaintiff. Ex.P6 is the pirated CDs of the suit film released by the 3rd defendant. Further, the 1st defendant has clearly admitted the execution of assignment agreement dated 21.05.2008 in favour of the plaintiff in respect of the suit film.

15.6 Therefore, on a perusal of the documentary evidence viz., Exs.P.2 to P6, this Court finds that the Assignment Agreement dated 21.05.2008, executed by the 1st defendant in favour of the plaintiff, is valid and the plaintiff has got exclusive copyright over the suit film namely "MALLE PUVU" and therefore, the plaintiff is entitled for declaration.



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15.7 The issue Nos.1 and 3 are answered accordingly.

16. ISSUE NO.2: Whether copyright over video rights in all formats such as VCDs, DVDs, IPTV, Cable, Video on Demand, etc. were validly assigned in favour of the 3rd defendant by agreement dated 16.10.2008?

16.1 As stated above, though the 3rd defendant has taken the stand that the original copyright holder/2nd defendant, assigned the exclusive video rights of the suit film in all formats such as, VCD, DVD, IPTV, cable, T.V, Sim Card, Computer Discs, Tapes Video on Demand rights, pay per view including Internet rights, except the terrestrial/satellite broadcast rights, in their favour by an Agreement dated 16.10.2008 for valuable consideration, except filing of written statement, the 3rd defendant has not produced any witness or marked any documents on their side in order to substantiate their contentions. Therefore, the 3rd defendant had failed to prove their claim. Even otherwise, Ex.P3/the Deed of Transfer executed by the 2nd defendant in favour of the 1st defendant is dated 01.04.2008



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and Ex.P3/Assignment Agreement, assigning the copyrights in favour of the plaintiff by the 1st defendant is dated 21.05.2008 and that the Agreement said to have been executed in favour of the 3rd defendant by the 2nd defendant is dated 16.10.2008 which is subsequent to the assignments executed by the 2nd defendant in favour of the 1st defendant dated 01.04.2008 and the agreement executed by the 1st defendant in favour of the plaintiff is dated 21.05.2008. Therefore, the video rights alleged to have been assigned infavour of the 3rd defendant by agreement dated 16.10.2008 is not valid. **This issue is answered accordingly.**

17. ISSUE NO.4: Whether the plaintiff is entitled to restrain the defendants from directly or indirectly broadcasting, re-producing, publishing or telecasting or creating any derivative works of the Telugu movie "malle Puvvu"?

17.1 It has been already held in the issue No.1 that the Assignment agreement dated 21.05.2008 executed by the 1st defendant in favour of the



plaintiff, is valid. Therefore, the plaintiff is entitled to seek an order restraining the defendants. **This issue is answered accordingly.**

18. ISSUE NO.5: Whether the 2nd defendant was estopped from entering into any agreement or assignment of copyrights in respect of VCD, DVD, Laser Disc or any other similar form of communication in respect of the Telugu movie "Malle Puvvu" in the light of the Assignment Agreement executed by the 2nd defendant in favour of the 1st defendant dated 01.04.2008?

18.1 A perusal of the Deed of Transfer dated 01.04.2008/Ex.P3, executed by the 2nd defendant in favour of the 1st defendant clearly shows that the 2nd defendant has assigned the exclusive copyright of the suit film in favour of the 1st defendant and Clause 6 of the said deed clearly states that the assignor should not sell VCD, DVD rights to any other party in future, as follows;

"6. the Assignor hereby confirm that they will not



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violate this agreement and the Assignor permits the Assignee to telecast the film without any liability and the Assignor should not sell VCD, DVD Rights to any other party in future."

18.2 Further, the 2nd defendant remained ex-parte and as such, the oral and documentary evidence let in by the plaintiff is not disputed.

Therefore, this issue is answered accordingly.

19. ISSUE NO.9: Whether the suit is bad for not arraying the 1st defendant as 2nd plaintiff in view of Clause 15 of the agreement dated 21.05.2008 entered into between the 1st defendant and the plaintiff?

19.1 According to the 1st defendant, the suit itself is bad for non-joinder of the 1st defendant as 2nd plaintiff in view of Clause 15 of the agreement dated 21.05.2008 entered into between the 1st defendant and the plaintiff. The 1st defendant states that they had not infringed the right of the plaintiff and after executing the agreement under Ex.P2 in favour of the



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plaintiff, they had not assigned the rights to anyone else. Even the 3rd defendant had admitted in their written statement that they got the video copy rights in respect of the suit film only from the original copyright holder/2nd defendant and therefore the 1st defendant is not liable for any punishment, whereas, the plaintiff's claim is against all the defendants.

19.2 As already held, though the 3rd defendant claimed that they obtained the video rights from the 2nd defendant vide agreement dated 16.10.2008, the 3rd defendant has not proved their claim by letting in oral or documentary evidence.

19.3 Since there is allegation against the 1st defendant also, the plaintiff cannot be expected to show the 1st defendant as 2nd plaintiff. Under these circumstances, the 1st defendant need not be added as 2nd plaintiff. **This issue is answered accordingly.**

20. ISSUE NO.10: Is it not right to say that the 1st defendant is not



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the producer of the suit film as alleged by the plaintiff?

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20.1 The dispute is not that who is the producer of the suit film. The plaintiff claims right from the 1st defendant. The 1st defendant and the 3rd defendants claim right from the 2nd defendant. Ex.P.3 shows that the 1st defendant has got the assignment from the 2nd defendant. Ex.P.2 shows that the 1st defendant has assigned the rights in favour of the plaintiff. Therefore, it is clear that the 1st defendant is not a Producer of the suit film and she is the assignor to the plaintiff. **This issue is answered accordingly.**

21. ISSUE NO.11: Whether the plaintiff can maintain the suit as the film "Malle Puvvu" had been telecasted on numerous occasions and is available on OTT platform even today?

21.1 The 3rd defendant has not denied that they have not sold the VCD/CDs of the suit film. However, their contention is that they got the



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video rights for the suit film under agreement dated 16.10.2008 from the 2nd defendant from whom the plaintiff also claims to have got the assignment through the 1st defendant. As already held in the earlier issues, the 3rd defendant has not substantiated their claim for having obtained the video rights for the suit film from the 2nd defendant by way of any oral or documentary evidence. Therefore, it is a clear infringement of copyright of the plaintiff.

21.2 Once the 2nd defendant has assigned the rights of the suit film in favour of the 1st defendant including the rights of VCD, DVD, Laser disc, Internet by way of Deed of Transfer dated 01.04.2008 (Ex.P3), the 2nd defendant is no longer the holder of the said rights and as such any subsequent broadcasting assignments relating to the suit film, are also not valid. Even assuming that the 2nd defendant has given the exclusive video rights to the 3rd defendant vide agreement dated 16.10.2008 as alleged by the 3rd defendant, the same is only subsequent to the assignment to the



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plaintiff from the 1st defendant and therefore, the said agreement dated 16.10.2008 cannot be taken as valid agreement.

21.3 A perusal of Exs.P2, P3 and P4 shows that the plaintiff has got the exclusive rights over the suti film. The 3rd defendant neither produced any oral evidence nor documentary evidence to substantiate their defence. Merely because the suit film has been telecasted on numerous occasions or the availability of the suit film in the OTT Platform, it cannot be stated that the plaintiff cannot maintain the suit or the plaintiff lost their rights. Under these circumstances, this Court finds that the suit is maintainable. **This issue is answered accordingly.**

22. Since issue Nos.6, 7 and 8 are similar and related to each other, they are being dealt with together as follows:

ISSUE NO.6: Whether the plaintiff is entitled to the relief prayed for?

ISSUE NO.7: Whether the plaintiff is entitled to damages of



Rs.25,00,100/- or any other sum? and

ISSUE NO.8: Whether the parties are entitled to any other relief?

22.1 As already held that the plaintiff has got the assignment from the 1st defendant by way of valid assignment agreement (Ex.P2) and though the 1st defendant denied that subsequent to the assignment to the plaintiff, they did not assign the rights to anyone else, the plaintiff has not proved that the 1st defendant breached the assignment agreement (EX.P2) executed in their favour. Even the 3rd defendant claims to have obtained the video copyrights of the suit film only from the 2nd defendant. Under these circumstances, the suit is dismissed as against the 1st defendant.

22.2 Though the 3rd defendant filed written statement, they have not proved their claim by way of oral and documentary evidence and the defendants 2 and 4 remained ex-parte. As already held that the plaintiff had substantiated their claim as against the defendants 2 to 4 by way of oral and documentary evidence, the suit is decreed as against the defendants 2



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to 4 only and they are hereby restrained from in any manner infringing the plaintiff's copyrights.

22.3 The 3rd defendant claims to have acquired the exclusive video copyrights of the suit film from the original owner from whom they have got the original BETA Tape and HI 8 tapes. Though the same has not been proved by the 3rd defendant, the same has not been denied by the defendant 2 and 4 who are the original copyright holder of the suit film and Laboratory. Moreover, without the knowledge of the original copyright holder and the Laboratory, the 3rd defendant could not have accessed over the suit film. Therefore, the 2nd and 3rd defendants are directed to pay a sum of Rs.25,00,100/- (Rupees Twenty Five lakhs and One Hundred Only) to the plaintiff towards damages, within 3 months from the date of receipt of copy of this judgment.

22.4 The defendants 3 and 4/Laboratory are directed to pay the costs of the suit.



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23. With the above observations and directions, the suit is dismissed as against the 1st defendant and the suit is decreed as against the defendants 2 to 4. No costs.

22.04.2024
(1/2)

List of Witness Examined on the side of the Plaintiff:

Mr.Jyothibasu - P.W.1

List of Exhibits marked on the side of the plaintiff:

S.No.	Exhibits	Description of Documents
1	P.1	The original board resolution dated 29.05.2015.
2	P.2	The photocopy of Assignment Agreement between the 1st defendant and the plaintiff dated 21.05.2008 (compared with original and the original will be produced at the time of argument).
3	P.3	The photocopy of deed of transfer by the 2nd defendant to the 1st defendant dated 01.04.2008



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S.No.	Exhibits	Description of Documents
		(compared with original and the original will be produced at the time of argument).
4	P.4	The photocopy of Censor Certificate dated 17.09.2008 as per orders passed in A.No.4699 of 2022 dated 19.12.2022 (this document is marked as secondary evidence)
5	P.5	The photocopy of the confirmation letter sent by the 4th defendant to the plaintiff dated 04.06.2008 (compared with original and the original will be produced at the time of argument)
6	P.6	The original CD's along with 65B Certificate

List of Witness Examined on the side of the defendants: **Nil**

List of Exhibits marked on the side of the defendants: **Nil**

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Index : Yes / No

Speaking Order : Yes / No

Neutral Case Citation : Yes/No

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