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O.A.Nos.430 & 431 of 2024
in
C.S.(Comm Div) No.110 of 2024

ORDERS RESERVED ON: 02.07.2024

ORDERS PRONOUNCED ON: 19.07.2024

P.VELMURUGAN, J.,

The suit has been filed seeking

(i) for a permanent injunction restraining defendants 2 and 3 or their men and agents, servants or anybody acting on behalf of defendants 2 and 3 from using the title “Vanangaan” in any manner or version thereby unauthorizedly broadcasting, telecasting, transmitting or communicating to the general public by making it available through video or audio video format in any theatrical form or on OTT (Over-the-top media) service platform and

(ii) for a permanent injunction restraining defendants 2 and 3 or their men and agents, servants or anybody acting on behalf of defendants 2 and 3 from releasing or exhibiting the Tamil feature film “Vanangaan” in any dimension or cinematic, electric, electronic, social media and OTT platforms or through theaters on ensuring their release date or on any other subsequent dates.



2. O.A.No.430 of 2024 has been filed by the applicant/plaintiff to grant ad-interim injunction restraining defendants 2 and 3 or their men and agents, servants or anybody acting on behalf of defendants 2 and 3 from using the title “Vanangaan” in any manner or version, thereby unauthorizedly broadcasting, telecasting, transmitting or communicating to the general public by making it available through video or audio video format in any theatrical form or on OTT platform, pending disposal of the above suit.

3. O.A.No.431 of 2024 has also been filed by the applicant/plaintiff to grant ad-interim injunction restraining defendants 2 and 3 or their men and agents, servants or anybody acting on behalf of defendants 2 and 3 from releasing or exhibiting the Tamil feature film “Vanangaan” in any dimension or cinematic, electric, electronic, social media and OTT platforms or through theaters on ensuring their release date or on any other subsequent dates, pending disposal of the above suit.

4. Learned counsel for the applicant/plaintiff has made the following submissions :

(i) The applicant/ plaintiff registered the title “Vanangaan” on the file of the first respondent in the year 2020. Thereafter, he is renewing the title



periodically once in six months till today. On 12.07.2022, the applicant/plaintiff has seen the advertisement, wherein, the registered film title was used by respondents 2 and 3 herein. Hence, he issued notice to respondents 1 to 3 and they also received the same. The first respondent did not send any reply. However, respondents 2 and 3 have sent a reply stating that they are ready to negotiate with the applicant and requested to abstain from initiating any legal action.

(ii) Thereafter, they did not come forward as mentioned in the reply notice. Further, respondents 1 and 2 tried to release the said movie. Hence, the applicant/plaintiff invoked the provisions of Section 12-A of the Commercial Courts Act, 2015. Though notice was sent to the respondents, the first respondent did not object the same. However, respondents 2 and 3 appeared through counsel and they are prolonging the matter. Due to non-co-operation of the respondents for settlement, the Legal Services Authority closed the application for non-starter. Hence, the applicant/plaintiff has filed the present applications, stating that, at any time, respondents 2 and 3 may release the said movie, the title of which was registered by the applicant/plaintiff.

5. Per contra, the learned counsel for the second respondent submitted as follows :



(i) The above commercial suit was filed under Section 7 of the Commercial Courts Act read with Section 62 of the Copyrights Act 1957 against respondents 2 and 3 for permanent injunction restraining the respondents from using the title “Vanangaan” and also restraining them from releasing the said movie “Vanangaan”.

(ii) The applicant/plaintiff stated in para 7 of the plaint that the title “Vanangaan” is a registered mark, that he is the sole proprietor of the trademark “Vanangaan” and that he applied for trademark registration of the title “Vanangaan” under Class 41 of the Fourth Schedule of the Trademark Rules, 1991 on 03.08.2022 before the Competent Authority where as the application dated 03.08.2022 is still pending.

(iii) The only question that arises is whether the copyright exists in the title “Vanangaan”. A title of work has been considered to be not fit to be the subject of copyright law. In India, copyright is a statutory right recognized and protected by the Copyrights Act, 1957. It must be seen that the title “Vanangaan” is the subject of copyright. The title in question “Vanangaan” could not be considered to be a literary work and hence, no copyright could be said to subsist in it vide Section 13 of the Copyrights Act, 1957. As per Section 13 of the Copyrights Act, title alone is not a copyright, but the entire work. The copyright does not subsist in a title of work. The provisions of the Copyrights



Act more particularly Section 62 of the Copyrights Act would get attracted to the facts of the present case as the above suit is not for copyright infringement and only for the title of a film.

(iv) The above dispute is with regard to production of the film by the second respondent under the title “Vanangaan”. The “Vanangaan” is common name in Tamilnadu. The name “Vanangaan” could not be said to have anything original in it and the claim of the applicant that he coined the word “Vanangaan” is not true. The famous writer Mr.Jeyamohan has written a book under the title “Vanangaan”(Sirugathai-1) and the said book was published during 10th February 2011. The mere use of the common name such as “Vanangaan” could not qualify exclusivity of the applicant.

(v) The second respondent is a renowned film production and distribution company based in Chennai. The second respondent produced the film under the title “Vanangaan” starring Arunvijay and others. The music director of the film is a national award winner. The pooja ceremony of the film “Vanangaan” originally happened under the production house of M/s.2D Entertainment during 28.03.2022. Subsequently, the second respondent had taken over the film under his production house and the shooting of the film “Vanangaan” started during 11.03.2023. The shooting got completed on 13.04.2024. The post projection work like dubbing, VFX, sync work, sound effects got



completed in the month of June 2024. The film “Vanangaan” is proposed to be released in July 2024.

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(vi) The applicant was well aware about the title of the film “Vanangaan” being used by the erstwhile producer namely M/s.2D Entertainment Films on 12.07.2022. The applicant himself admitted that on 12.07.2022, the applicant saw an advertisement made by the said M/s.2D Entertainment Films using the title “Vanangaan”. Further, the applicant was aware that the second respondent is producing the film title “Vanangaan” from 2023 onwards. The applicant kept quiet from 12.07.2023 onwards and silently watching the second respondent from the commencement of production till completion of the film “Vanangaan” for almost 2 years and after completion of post-production of the film and after announcement of the release of the film, the applicant approached this Court seeking interim reliefs.

(vii) The second respondent filed an application for registration of the title “Vanangaan” before the Tamil Film Active Producers Association, which issued a letter dated 30.10.2023 registering the title in the name of the second respondent. The claim of the applicant that his title was already registered before the first respondent does not hold good, as the first respondent is not the exclusive authority for the Tamil film producers title registration. The applicant himself admitted in para 9 of the plaint that the teaser of the film title



“Vanangaan” was released on 23.02.2024 and the Central Board of Film Certification (CBFC) issued censor certificate for the film “Vanangaan” produced by the second respondent. The second respondent also filed the registration of the trademark “Vanangaan”.

(viii) The applicant issued a legal notice dated 24.02.2024, to which, the second respondent gave an interim reply dated 13.03.2024 stating that the detailed reply would be given after collecting all the necessary documents. Subsequently, the applicant approached the State Legal Services Authority and the learned counsel for the second respondent appeared before the Authority and informed the Authority that the second respondent was not willing to change the name of the title “Vanangaan” produced by him. He sought for dismissal of the applications and the earlier order dated 01.07.2024 passed by this Court in both the applications is sought to be vacated.

6. Heard the learned counsel for the applicant/plaintiff and the learned counsel appearing for respondents 2 and 3.

7. The respective learned counsel reiterated the averments made in both the affidavits and the common counter affidavit.



8. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record.

9. Admittedly, the applicant/plaintiff has filed the suit under Section 62 of the Copyrights Act seeking for permanent injunction.

10. Section 62 of the Copyrights Act is extracted hereunder:

"62. Jurisdiction of court over matters arising under this Chapter:-

(1) Every suit or other civil proceeding arising under this Chapter in respect of the infringement of copyright in any work or the infringement of any other right conferred by this Act shall be instituted in the district court having jurisdiction.

(2) For the purpose of sub-section (1), a "district court having jurisdiction" shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law for the time being in force, include a district court within the local limits of whose jurisdiction, at the time of the institution of the suit or other proceeding, the person instituting the suit or other proceeding or, where there are more than one such persons, any of them actually and voluntarily resides or carries on



business or personally works for gain."

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11. In support of his contentions, the learned counsel for the applicant has placed reliance on the following judgments:

(i) of the First Bench of this Court in the case of M/s.Lyca Productions Vs Manimaran [O.S.A.No.63 of 2018 dated 22.07.2018];

(ii) of the First Bench of this Court in the case of M.Viyan Aarman Vs. Etecetra Entertainment [O.S.A.(CAD) No.48 of 2023 dated 10.10.2023];

(iii) of the Supreme Court in the case of Krishka Lulla and others Vs. Shyam Vithalrao Devkatta [reported in 2016 (2) SCC 521]; and

(iv) a learned Single Judge of the Delhi High Court in the case of Kanungo Media Private Limited Vs. RGV Film Factory [reported in ILR 2007 Delhi 1122].

12. Though the applicant/plaintiff stated in para 7 of the plaint that the trademark “Vanangaan” is a registered trademark and that he is the sole proprietor of the trademark “Vanangaan”, no document has been produced by the applicant as on date with regard to the same. Even the document produced by the applicant dated 03.08.2022 shows that the application is still pending. The applicant/plaintiff has filed the suit not for infringement of trademark whereas he has filed the suit under Section 62 of the Copyrights Act.



13. It is a settled proposition of law that the copyright does not subsist in a title of work. The provisions of the Copyrights Act more particularly, Section 62 of the Copyrights Act would not get attracted to the facts of the present case . The present suit has been filed not for copyright infringement and it is only for title of the film.

14. As stated by the learned counsel for respondents 2 and 3, the First Bench of this Court, in the case of ***M.Vijyan Aarman (cited supra)***, held as follows:

4. Learned counsel for the first respondent submits that the appellant cannot claim copyright over the title as it is not a literary work. The suit filed under Sections 51, 55 and 62 of the Copyright Act, 1957 for the protection of the title is not maintainable. Reliance is placed on the decision of the Apex Court in the case of Krishika Lulla Vs. Shyam Vithalrao Devekatta [(2016) 2 SCC 521].

5. We have considered the submissions of learned counsel for the parties. We have also gone through the order passed by the learned Single Judge.

6. Prima facie, the applellant is not alleging violation of copyright or otherwise in respect of the contents of the film. The appellant only alleges the



infringement of copyright qua title. At this prima facie stage, the first respondent is justified in relying upon the judgement of the Apex Court in Krishika Lulla (supra). The learned Single Judge has considered the prima facie case and has passed the plausible order.

15. In Paragraphs 10 and 11 of the decision in the case of **Krishika Lulla** (*cited supra*), the Apex Court held as follows:

"10. The question that arises is whether copyright exists in the title "Desi Boys". A title of a work has been considered to be not fit to be the subject of copyright law as will be apparent from the cases considered later. A title by itself is in the nature of a name of a work and is not completed by itself, without the work. No instance of a title having been held to be the subject of copyright has been pointed out to us.

11. It must be noted that in India, copyright is a statutory right recognized and protected by the Copyright Act, 1957. It must, therefore, be first seen, if the title "Desi Boys" can be the subject of Copyright. On a plain reading of Section 13, copyright subsists in, inter alia, an original literary work. In the first place, a title does not qualify for being described as "work". It is incomplete in itself and refers to the work that follows. Secondly, the combination of the two words "Desi" and "Boys" cannot be said to have anything original in it. They are extremely commonplace words in India. It is



obvious, therefore that the title “Desi Boys”, assuming it to be a work, has nothing original in it in the sense that its origin cannot be attributed to the respondent1. In fact these words do not even qualify for being described as “literary work”. Oxford English Dictionary gives the meaning of the word “literary” as “concerning the writing, study or content of literature, especially of the kind valued for quality of form”. The mere use of common words, such as those used here, cannot qualify for being described as “literary”. In the present case, the title of a mere synopsis of a story is said to have been used for the title of the film. The title in question cannot, therefore, be considered to be a “literary work” and hence, no copyright can be said to subsists in it, vide Section 13, nor can a criminal complaint for infringement be said to be tenable on such basis.”

16. Paragraph 12 of the decision of the Delhi High Court in the case of

Kanungo Media (P) Ltd. (cited supra) reads as follows:

"12. American Courts have taken uniform view that title alone of a literary work cannot be protected by Copyright Law. Copying of a title alone, and not the plot, characterization, dialogue, song etc., is not the subject of Copyright Law. Thus a copyright on a literary work would not include exclusive right to use the title on any other work."



17. A reading of the affidavits of the applicant/plaintiff and the common counter affidavit of the second respondent and on considering the submissions made by both the parties, this Court finds that admittedly, the suit has been filed under Section 7 of the Commercial Courts Act read with Section 62 of the Copyrights Act. The applicant has not filed the suit for infringement of copyright. He is also not claiming the entire work. Rather, he is claiming only the title of the movie. The applicant has also not proved that the trademark “Vanangaan” has been registered. The suit is not filed alleging infringement of the copyright. The applicant has filed these applications only to restrain the respondents/defendants from using the title “Vanangaan” and releasing the tamil feature film “Vanangaan”.

18. As held by the Hon'ble Supreme Court and this Court in various decisions, the title in question “Vanangaan” cannot be considered to be literary work and hence, no copyright can be said to be subsisting. As per Section 13 of the Copyrights Act, title is not a copyright. In this case, the applicant is not claiming the right for the entire work, he is claiming only for the right in the title. As relied upon by respondents 2 and 3 in the decisions cited supra, the applicant has not made out a prima facie case.



19. Under the above facts and circumstances, the applicant is not entitled to get the order of interim injunction as sought for in these applications.

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20. Hence the applications are dismissed. The order of ad-interim injunction granted by this Court vide order dated 01.07.2024 shall stand vacated.

19.07.2024

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