



C.S. No.49 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.S. No.49 of 2020

Ulka Shah

Rep. by her Power of Attorney Agent,

Mr.Aakash Kavedia *

...

Plaintiff

* Amended as per order dated 07.12.2021
in A. No.4477 of 2021.

vs.

1. Handmade Films,

Rep. by its Managing Partner,

Mr.N.Santhanam,

No.27/5, Twinkle Roof Apartments,

SBI Colony,

2nd Street,

Virugambakkam,

Chennai - 600 092.

2. N. Ramasamy,

Proprietor,

Sri Thenandal Films,

No.8, 80 Feet road,

Thevar Thottam,

Saligramam,

Chennai - 600 093.

...

Defendants

Prayer : Complaint has been filed under Order IV Rule 1 of the O.S. Rules
r/w Order VII Rule 1 of C.P.C. read with Secs.51, 55, 62 of the
Copyrights Act, 1957 praying for the following judgment and decree :-



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A. Permanent injunction restraining the Defendants, their principal officers, directors, agents, franchisees, servants and all others acting for and on their behalf, from directly or indirectly, from in any manner infringing the plaintiff's copyright, especially rights in prequel, sequel, prefix and suffix, remake, adaptation, as well as the other underlying rights in the film "Dhilluku Dhuddu", and any like abbreviations, including by producing, directing, advertising, distributing or communicating to the public art work pertaining to the film "Dhilluku Dhuddu 3", or doing such acts in relation to any other cinematograph film that infringes the plaintiff's rights;

B. Permanent injunction restraining the Defendants, their principal officers, directors, agents, franchisees, servants and all others acting for and on their behalf, from directly or indirectly, from in any manner infringing the plaintiff's trademark or other intellectual property rights, especially rights in title, brand, prequel, sequel, prefix and suffix, remake, adaptation, as well as the order underlying rights in the film "Dhilluku Dhuddu", and any like abbreviation, including by producing, directing, advertising, distributing or communicating to the public, the proposed movie "Dhilluku Dhuddu 3" or in any other manner infringing the plaintiff's rights :

C. Costs of the suit.

For Plaintiff	: Mr.Vigneshwar Elango for Mr.S.R. Raghunathan
For Defendants	: D1 - Exparte M/s.S. Karthikei Balan - D2



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JUDGMENT

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The suit has been filed for a bare injunction to restrain the respondents / defendants from infringing the plaintiff's copy right over the movie "**Dhillukku Dhuddu - 3**". The plaintiff claims copyright over the film "**Dhillukku Dhuddu - 3**" based on compromise decrees passed by this Court under which the defendants have agreed to pay certain sums of money together with interest to the plaintiff for assignment of copyright of the subject film in their favour.

2. According to the plaintiff, the defendants have committed breach of the compromise decrees as they have not paid the sums of money to the plaintiff as per the compromise decrees. In such circumstances, the present suit has been filed seeking for permanent injunction to restrain the defendants from infringing the plaintiff's copyright and from preventing him from releasing the movie "**Dhillukku Dhuddu - 3**".

3. A written statement has been filed by the defendants denying the contentions of the plaintiff. They would state that the principal



amount has been paid as per the compromise decree and the interest portion alone has not been paid. They would also state that the plaintiff cannot claim copyright over the title of the subject movie as per law. According to the defendants the plaintiff has not satisfied the statutory requirement of Section 12A of the Commercial Courts Act 2015 by going for pre-suit mediation.

4. This Court based on the pleadings of the respective parties framed the following issues :-

1. Whether the plaintiff has the exclusive right to produce any prequel or sequel of the film title with "Dhilluku Dhuddu"?

2. Whether the plaintiff has received a sum of Rs.3.50 Crores of total due for reassigning / transfer the right over the films mentioned therein as per the compromise memo dated 06.02.2019 recorded by the Hon'ble High Court in C.S. No.326 of 2018?

3. Whether the Defendants have infringed the copyrights vested with the plaintiff?

4. Whether the 2nd defendant has complied with the terms of the Memorandum of Compromise dated 18.07.2018 and 06.02.2019?

5. Whether the plaintiff is entitled for grant of permanent injunction as prayed for ?

6. What other reliefs the plaintiff is entitled to ?



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5. The plaintiff has let in oral and documentary evidence before the learned Additional Master IV. The Power of Attorney agent of the plaintiff was examined as a witness (PW1). The plaintiff's witness (PW1) filed his proof affidavit reiterating the contents of the plaint.

The plaintiff's witness (PW1) was also cross examined by the 2nd defendant's counsel. The 1st defendant was set exparte by this Court on 11.03.2020. The 2nd defendant did not let in any oral or documentary evidence. The details of the documents filed by the plaintiff through PW1, which have been marked as Exhibits before the learned Additional Master IV, High Court, Madras are as follows :-

Ex.P1 is the Power of Attorney executed by Aakash Kavedia, dated 25.10.2021
Ex.P2 is the Deed of Assignment executed by Sri Thenandal Films in favour of Ulka Shah, dated 26.04.2017
Ex.P3 is the plaint in C.S. No.326 of 2018, dated 15.05.2018
Ex.P4 is the Memorandum of Compromise recorded in C.S. No.326 of 2018, dated 18.07.2018
Ex.P5 is the letter from Gemini FX to the plaintiff Ex.P5, dated 26.07.2018
Ex.P6 is the plaint in C.S. No.70 of 2019, dated 19.01.2019
Ex.P7 is the Memorandum of Compromise in C.S. No.70 of 2019, dated 06.02.2019
Ex.P8 is the Undertaking Affidavit of N.Santhanam, dated 06.02.2019
Ex.P9 is the Judgment and Decree in C.S. No.70 of 2019, dated 06.02.2019
Ex.P10 is the Wikipedia page of Dhilluku Dhuddu
Ex.P11 is the Advertisement of the release of movie Dhilluku Dhuddu - 3
Ex.P12 is the Plaintiff's legal notice to Defendants, dated 10.09.2019



6. The learned counsel for the plaintiff reiterated the contents of the plaint during the course of his arguments. He also drew the attention of this Court to the compromise decrees passed by this Court under which the defendants have agreed to pay the plaintiff certain sums of money together with interest in consideration for the assignment of the copyright for the subject movie in plaintiff's favour. He would submit that the defendants have committed breach of the compromise decrees by not paying the entire sum of money as stipulated in the compromise decrees. Therefore, he would submit that the copyright over the subject movie continues to vest only with the plaintiff and the defendants do not have any right to release the movie in any of the platforms.

7. He also drew the attention of this Court to the compromise decrees passed by this Court and would point out that the title over the subject movie is exclusively vested with the plaintiff. However, he would submit that the plaintiff restricts its right over the title only as against the defendants and not against the public at large. He would also submit that the present action is an action in REM and is not an action in personam.



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8. The learned counsel for the 2nd defendant would reiterate the contents of the written statement filed by the 2nd defendant during the course of his arguments. He would also submit that the principal amount as per the compromise decrees has been paid to the plaintiff and only due to the fact that the plaintiff is claiming exorbitant interest, the defendants are unable to comply with the payment of interest as per the compromise decrees. He also relied upon the judgement of the Hon'ble Supreme Court in the case of ***Krishika Lulla and Others vs. Shyam Vithalrao Devkatta and another reported in 2016 2 SCC 521*** and would submit that the plaintiff cannot claim copyright over the title of the subject movie as held in the said decision.

9. Admittedly, the defendants have not paid the sums of money to the plaintiff as stipulated under the compromise decrees dated 18.07.2018 and 06.02.2019 marked as Exs. P4 and P7 respectively. The same has also been admitted by the learned counsel for the 2nd defendant during the course of his arguments.

10. The learned counsel for the 2nd defendant during the course of his arguments would submit that only due to the exorbitant interest



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stipulated under the compromise decrees, the defendants are not in a position to pay the entire dues as stipulated under the compromise decrees. However, when there are compromise decrees passed by this Court, necessarily the defendants will have to abide by the same and they cannot excuse themselves from paying the money on account of the alleged levy of exorbitant interest. Being a Court decree, the defendants are bound by the same. When it is an admitted fact that the defendants have not paid the dues as per the compromise decrees passed by this Court, the defendants have no right to claim copyright of the subject movie, which admittedly is now vested with the plaintiff in view of the fact that the sum mentioned in the compromise decrees has not been paid to the plaintiff. The plaintiff has also made necessary averments in the plaint that the defendants are attempting to release the movie without the permission of the plaintiff though the plaintiff is vested with the copyright over the subject movie. When adequate averments have been made and that too when admittedly the defendants are defaulters under the compromise decrees, necessarily the permanent injunction relief sought for by the plaintiff in this suit has to be granted by this Court.



11. Insofar as the other defence raised by the defendant that the plaintiff cannot claim copyright over the title of the subject movie is concerned, the same also does not hold water, in view of the fact that the defendants under the compromise decrees have recognised that the plaintiff is having the copyright over the title of the subject movie viz.

"Dhillukku Dhuddu – 3". The same is also extracted hereunder :-

The Plaintiff confirms that all the rights mentioned in Clause 5 herein above of DD-2 are vested with the 1st defendant. The defendants further confirms, affirms and reconfirms that other than the above mentioned rights mentioned in clause 5 herein above of DD-2 all other rights of the film "Dhillukku Dhuddu" are vested with the plaintiff more particularly

- a) Title of the said film*
- b) Right to remake the said film in any other language*
- c) Right to make prequel, sequel of the said film.*

12. The decision relied upon by the learned counsel for the defendants in **Krishika Lulla's** case referred to supra does not have any bearing for the facts of the instant case. In the instant case, the suit is an action in personam i.e., against the defendants and is not a suit in REM i.e. against the world at large. The Hon'ble Supreme Court in **Krishika Lulla's** case referred to supra has held that copyright cannot be claimed over title of a film and the said proposition pertains only to an action in



REM. In the instant case when the defendants have themselves agreed that the copyright over the title of the film will continue to vest with the plaintiff, if the defendants do not fulfill the terms and conditions of the compromise decrees and the plaintiff is also claiming exclusive copyright over the title of the subject movie only as against the defendants alone, the decision relied upon by the learned counsel for the defendants in **Krishika Lulla's** case, referred to supra which pertains to an action in REM has no bearing for the facts of the instant case. However, it is made clear that the relief granted by this Court in favour of the plaintiff with regard to the copyright over the title for the subject movie is only granted against the defendants alone and not against the world at large.

13. In view of the findings rendered by this Court, the issues framed by this Court are answered in the following manner :-

Issue No.1: Whether the plaintiff has the exclusive right to produce any prequel or sequel of the film title with "Dhilluku Dhuddu"?

Yes, the plaintiff is having the exclusive right to produce any prequel or sequel of the film title with "Dhilluku Dhuddu".

Issue No.2 : Whether the plaintiff has received a sum of Rs.3.50 Crores of total due for reassigning / transfer the right over the films mentioned therein as per the compromise memo dated 06.02.2019 recorded by the Hon'ble High Court in C.S. No.326 of 2018?



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The plaintiff has not received the entire sum of Rs.3.50 crores of total due for reassigning / transferring the right over the films mentioned therein as per the compromise memo dated 06.02.2019 recorded by this Court in C.S. No.326 of 2018.

Issue No.3 ∴ Whether the Defendants have infringed the copyrights vested with the plaintiff?

Yes, the Defendants have infringed the copyrights vested with the plaintiff.

Issue No.4. Whether the 2nd defendant has complied with the terms of the Memorandum of Compromise dated 18.07.2018 and 06.02.2019?.

No, the 2nd defendant has not complied with the terms of the Memorandum of Compromise dated 18.07.2018 and 06.02.2019.

Issue No.5. Whether the plaintiff is entitled for grant of permanent injunction as prayed for ?

Yes, the plaintiff is entitled for grant of permanent injunction as prayed for.

14. For the foregoing reasons, the suit will have to be necessarily decreed as prayed for. Accordingly this Court passes a judgment and



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decree by granting the following reliefs :

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A) permanent injunction restraining the defendants from directly or indirectly, from in any manner infringing the plaintiff's copyright, especially rights in prequel, sequel, prefix and suffix, remake, adaptation, as well as the other underlying rights in the film "Dhilluku Dhuddu", and any like abbreviations, including by producing, directing, advertising, distributing or communicating to the public art work pertaining to the film "Dhilluku Dhuddu 3", or doing such acts in relation to any other cinematograph film that infringes the plaintiff's rights; and

B) Permanent injunction restraining the Defendants from in any manner infringing the plaintiff's trademark or other intellectual property rights, especially rights in title, brand, prequel, sequel, prefix and suffix, remake, adaptation, as well as the order underlying rights in the film "Dhilluku Dhuddu", and any like abbreviation, including by producing, directing, advertising, distributing or communicating to the public, the proposed movie "Dhilluku Dhuddu 3" or in any other manner infringing the plaintiff's rights. However it is made clear the copyright over the title for the subject movie "Dhillukku Dhuddu - 3" is granted in favour of the plaintiff only insofar as the defendants alone are concerned.



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15. The learned counsel for the plaintiff on instructions would submit that there is no necessity to impose costs on the defendants. Therefore, no costs is imposed on the defendants.

01.02.2024

Index: Yes/ No

Speaking order / Non speaking order

Neutral citation : Yes / No

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APPENDIX

List of Witness Examined on the side of the Plaintiff:

1. P.W.1 – Mr. Aakash Kavedia

S. No.	Exhibits	Description of documents
1.	P1	Ex.P1 is the Power of Attorney executed by Aakash Kavedia, dated 25.10.2021
2.	P2	Ex.P2 is the Deed of Assignment executed by Sri Thenandal Films in favour of Ulka Shah, dated 26.04.2017
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ABDUL QUDDHOSE, J.



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