



2024:DHC:7767



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision: 1st October, 2024***

+ **CS(COMM) 174/2022 & I.A. 4429/2022**

SAGA MUSIC PRIVATE LIMITED

.....Plaintiff

Through: **Mr Sagar Chandra, Mr Srijan Uppal
and Mr Aditya Talwar, Advocates**

versus

KARMA ENTERTAINMENT THROUGH ITS

PROPRIETOR MR. UMESH KUMAR YADAVDefendant

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. The present suit has been filed on behalf of the plaintiff seeking relief of permanent injunction restraining the defendant from infringing the copyright of the plaintiff in respect of two sound recordings titled '*Black Suit*' and '*Suit Lahore Da*' [hereinafter 'Sound Recordings'], along with other ancillary reliefs.

PROCEEDINGS IN THE SUIT

2. *Vide* order dated 22nd March, 2022, an *ex-parte ad-interim* injunction was passed in favour of the plaintiff restraining the defendant from:

- a) Making a copy, selling or licensing the Sound Recordings.
- b) Offering for sale or licensing any copy of the Sound Recordings to third parties.
- c) Communicating or making available to the public any copy or

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substantially similar copy of the Sound Recordings in any manner.

3. On 13th September, 2022, the defendant was proceeded against *ex-parte*, as the defendant failed to enter appearance despite being served.
4. On 16th February, 2023 and 4th May, 2023, the plaintiff led *ex-parte* evidence and filed evidence of Mr. Ashish Sharma. The evidence affidavit of Mr. Ashish Sharma has been exhibited as Ex. PW-1/A and the additional affidavit of Mr. Ashish Sharma has been exhibited as Ex. PW-1/B.
5. On 30th October, 2023, the exhibits in the suit were marked and *ex-parte* evidence of the plaintiff was concluded.
6. In view of the above, the counsel for the plaintiff prays for a decree of permanent injunction and damages, along with costs in the suit.

BRIEF FACTS

7. The plaintiff company is a premiere indie music label, popularly known as 'Saga Music'. The plaintiff is engaged in the business of production, procurement and exploitation of films, audio and audio-visual content., sourcing; acquiring; aggregating; developing and distributing audio and video content; creating and managing music labels on digital platforms.
8. The defendant is a sole proprietorship firm 'M/s Karma Entertainment' operated by its proprietor, Mr. Umesh Kumar Yadav.
9. In June, 2019, the defendant approached the plaintiff stating to be the sole and exclusive copyright holder and owner of all proprietary interest in the aforesaid Sound Recordings. The defendant was desirous of transferring all rights, ownership and interest, including copyright in the said Sound Recordings to the plaintiff.
10. On 9th August, 2019, the defendant executed two Content Assignment Agreements [hereinafter 'Assignment Agreements'] and transferred the

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rights in the Sound Recordings to the plaintiff. Both the aforesaid Assignment Agreements are identical. In terms of Clause 1 of the said Assignment Agreements, the defendant assigned all rights and interests, including the copyright ownership of the Sound Recordings in favour of the plaintiff. The total consideration amount towards the Assignment Agreements was Rs. 24,50,000/- and Rs. 16,50,000/-, respectively. The aforesaid Assignment Agreements are exhibited as Ex. PW1/4 and Ex. PW1/5, respectively.

11. *Vide* email dated 9th August, 2019, the defendant emailed to the plaintiff, invoices requesting payment of amount of Rs.17,70,000/- (Rupees Seventeen Lakhs Seventy Thousand Only) and Rs.11,80,000/- (Rupees Eleven Lakhs Eighty Thousand Only) towards advance royalty for the Sound Recordings. The aforesaid email has been exhibited as Ex.PW1/8.

12. On 13th August, 2019, the plaintiff made a payment of Rs.10,97,600 (Rupees Ten Lakh Ninety Seven Thousand Six Hundred) out of a total of Rs.24,50,000 for the Song '*Black Suit*' and a payment of Rs.14,78,400 (Rupees Fourteen Lakhs Seventy-Eight Thousand) out of a total of Rs.16,50,000 for the song '*Suit Lahore Da*'. In this regard, the plaintiff has placed on record its bank statement, evidencing the aforesaid payments as well as TDS certificate. The TDS Certificate is exhibited as Ex.PW1/9.

13. The defendant failed to deliver the content to the plaintiff in terms of Clause 4(h) of the aforesaid Assignment Agreements, in spite of the aforementioned payments being made by the plaintiff.

14. On 4th February, 2020 and 17th February, 2020, the plaintiff sent reminder emails to the defendant regarding the pending delivery of the content. The said emails are exhibited as Ex.PW1/10 and Ex.PW1/11,

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respectively. However, the defendant failed to respond to the same.

15. In the aforesaid background, the present suit was filed on behalf of the plaintiff.

16. Mr. Sagar Chandra, learned counsel appearing on behalf of the plaintiff submits that the defendant, despite having received payments of Rs.25,76,000/- in the form of advance royalty under the Assignment Agreements, failed to deliver the content as stipulated under Clause 4(h) of the Assignment Agreements. Hence, the defendant has breached the terms of the aforesaid Assignment Agreements.

ANALYSIS AND FINDINGS

17. I have heard the submissions of Mr. Sagar Chandra, learned counsel appearing on behalf of the plaintiff and perused the material on record.

18. In terms of the Content Consignment Agreements, the defendant had clearly assigned all rights including Copyright in respect of the Sound Recordings of the songs '*Black Suit*' and '*Suit Lahore Da*' in favour of the plaintiff for valuable consideration. Further, the defendant had received a substantial amount of that consideration as an advance. Despite the same, the defendant failed to deliver the contents to the plaintiff in terms of Clause 4(h) of the agreements. Clearly, the defendant has acted in breach of the aforesaid Assignment Agreements.

19. In view of Clause 1 of the Assignment Agreements, the plaintiff became the owner of the copyright of the Sound Recordings. Therefore, the defendant has infringed upon the copyright of the plaintiff.

20. We also note that since the defendant has failed to enter appearance or even take any requisite steps to contest the present suit, despite having suffered an *ad interim* injunction order, it is evident that they have no



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defence to put forth on merits.

21. Accordingly, the plaintiffs are entitled to reliefs claimed in the suit.

RELIEF

22. A decree of permanent injunction is passed in favour of the plaintiff and against the defendant in terms of the prayer Clause 30(a) of the suit.

23. Insofar as the relief of damages is concerned, admittedly, the plaintiff has paid Rs.25,76,000/- to the defendant on 13th August, 2019 and is entitled to recover the same from the defendant. Accordingly, the defendant is directed to refund Rs.25,76,000 to the plaintiff since the defendant failed to honour its commitment in terms of the aforesaid agreement. The plaintiff is also entitled to *pendente-lite* and future interest at the rate of 12 per cent per annum.

24. The plaintiff is also entitled to costs of Rs.3,00,000/-.

25. Therefore, the present suit is decreed in terms of prayer Clauses 30(a), (d) and (e) of the plaint in the aforesaid terms.

26. Pending application is disposed of.

27. Counsel for the plaintiff does not press for the reliefs claimed in paragraphs 30(b) and 30(c) of the plaint.

28. The decree sheet be drawn up accordingly.

AMIT BANSAL, J

OCTOBER 1, 2024

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