



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 26.02.2025

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

A.No.858 of 2025
in C.S.(Comm.Div.) No.108 of 2024

Wall Watcher Films
Represented by its Partner
No. 16/7 A, 1st Avenue, Harrington Road,
Chetpet, Chennai 600 031 and 2 Others
-VS-

... Applicants

J.Parthiban
Son of Mr.Jayaraman
No.24 M, Kurinji Flats
Alagar Perumal Koil Street,
Vadapalani, Chennai 600 026 and another

... Respondents

For Applicants : Mr.K.Harishankar

For Respondents : Mr.V.Prakash, Senior Advocate
for M/s.K.Sudalai Kannu for R1
Mr.Rahul Balaji for R2



ORDER

WEB COPY In a suit for permanent injunction restraining the release of the web series “SUZHAL” Season 2, defendants 1 to 3 have applied for rejection of plaint. Such application is filed on two grounds, namely, alleged non-compliance with Section 12A of the Commercial Courts Act, 2015; and alleged non-disclosure of cause of action.

2. By referring to the plaint, learned counsel for the applicants / defendants 1 to 3 submits that the plaintiff stated therein that he viewed Season 1 of the web series “SUZHAL” at the end of July 2022. He further submits that the plaint refers to the rejection of the complaint lodged by the plaintiff with the South Indian Film Writers Association (SWAN) in July 2023 and to lawyer's notice dated 17.02.2024. Learned counsel submits that the suit was filed thereafter in April 2024 without an application seeking interim relief. The application for interim relief was filed later in June 2024. He also submitted that no averments regarding compliance with Section 12A were contained in the plaint as served on learned counsel for the plaintiff.



WEB COPY 3. He also submits that the plaintiff's story is not described in the plaintiff. The alleged infringing aspects of the defendant's web series are also not detailed therein. Consequently, he submits that even evidence cannot be adduced to establish the suit claim on the basis of averments in the plaintiff.

4. In support of these contentions, learned counsel referred to and relied upon the following Judgments:

“1. K.Varathan, Proprietor, Cinetekk v. Prakash Babu Nakundhi Reddy 2023(1) CTC 201.

2. Yamini Manohar v. TKD Keerthi 2023(6) CTC 302.

3. Chemco Plastic Industries Pvt Ltd. V Chemco Plase 2024 SCC Online Bom 1607.”

5. In response, Mr.V.Prakash, learned Senior Advocate, referred to paragraph 23 of the plaintiff and submitted that the suit contemplates urgent interim relief inasmuch as the suit was filed after becoming aware that the fourth defendant is likely to release the second season of the web series “SUZHAL”. Since the plaintiff has no means to know exactly when such



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second series would be released, he states that an interim application was not filed when the plaint was presented. Immediately upon coming to know about the approximate date of release, he states that the interim application was filed. In support of the contention that the suit contemplates urgent interim relief as per Section 12A of the Commercial Courts Act, he referred to paragraphs 10 and 11 of the Judgment of the Supreme Court in *Yamini Manohar* to contend that the test is whether the application for interim relief was intended as a guise to circumvent the requirement of pre-institution mediation. By contending that the second season is due for release shortly, he submits that it cannot be concluded that the suit does not contemplate urgent interim relief.

6. As regards the contention that the plaint does not disclose a cause of action, learned senior counsel submitted that it is not necessary to plead evidence.

7. The plaint discloses that the plaintiff became aware about season 1 of the web series “SUZHAL” by the end of July 2022. After issuing



lawyer's notice dated 17.02.2024, the plaint was presented in April 2024.

WEB COPY The admitted position is that the plaint was presented without an application for interim relief and that such application was filed in June 2024.

8. On examining the plaint, it is noticeable that the plaintiff has set out reasons for not initiating pre institution mediation in paragraphs 22 and 23 thereof. In relevant part, the said paragraphs are as under:

“22. In the reply notice, the defendants have stated that they are not ready to settle the issue but they will face the consequences in the Court. Now, the web series season 2 is likely to be released any date by the defendants and there is huge urgency in the matter. Therefore, in view of the urgency and the aforesaid reason the pre-institution mediation in accordance with Section 12 A of the Commercial Courts Act has not initiated. The present suit contemplates urgent interim order.

23. It is respectfully submitted that the plaintiff is given to understand the web series “Suzhal” Season 2 is likely to be released any date by the 4th defendant and hence he knows the urgency the plaintiff is moving his suit.”

9. In a suit alleging infringement in relation to intellectual property rights, every act of infringement gives right to a fresh cause of action. As noticed above, the plaintiff asserted that he is given to understand that Season 2 is likely to be released soon. This apprehension has been proven



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to be true. Ordinarily, if a suit is not accompanied by an application for interim relief, the plaintiff would have an uphill task to establish that the suit contemplates urgent interim relief. In this case, however, given the nature of the suit alleging infringement of copyright, the averments in paragraphs 22 and 23 of the plaint, and the presentation of the application for interim injunction in the factual context of the imminent release of Season 2 of the web series, I conclude that the interim application is not intended to circumvent Section 12A of the Commercial Courts Act.

10. The contention regarding alleged non disclosure of cause of action is considered next. In paragraph 13 of the plaint, in relevant part, it is stated as under:

“13. The entire story of the “Suzhal” most of the scenes, characters and even the dialogues were taken from the plaintiff’s story “Nizhal”. If one would read the story “Nizhal” and watch the web series “Suzhal”, one could have definite impression would that the “Suzhal” web series has been shot from the story “Nizhal” written by the plaintiff.”

11. While learned counsel for the applicants / defendants is correct in



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stating that details regarding the plaintiff's story "NIZHAL" are not set out in the plaint and this may pose a problem for the plaintiff while adducing evidence, in view of the above extract from paragraph 13, it cannot be concluded that the plaint does not disclose a cause of action. In this regard, it is critical to recognize the distinction between non-disclosure of cause of action and establishment of all elements of a cause of action so as to succeed in a suit.

12. Consequently, the application to reject the plaint is dismissed without any order as to costs.

26.02.2025
(1/3)

rna

SENTHILKUMAR RAMAMOORTHY,J



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