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OSA (CAD) No.41 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2025

CORAM

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

OSA(CAD) No. 41 of 2024

and

CMP Nos.8908, 8910 of 2024

1.S.Muthu Balaji

2.S.Manoj

: Appellants

versus

1.Samuel Godson

2.Rajesh Ramachandran

: Respondents

Prayer: Appeal filed against the Judgment passed in Commercial Division (Original Side) of this Court in A.No.5928 of 2023 in O.A.No.232 of 2023 in C.S.(Comm.Div) No.66 of 2023, dated 05.04.2024.

For Appellants : Mr.K.Harishankar

For Respondents : Mr.T.Jayaramaraj
for the first respondent
(change of vakalath given on 15.04.2025)

R2-No appearance



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JUDGMENT

(Judgment of the Court was delivered by the Hon'ble Chief Justice)

At the outset, Mr.T.Jayaramaraj, appearing for first respondent, states that first respondent has given him a discharge and he had handed over the papers on 15.04.2025. Though more than six weeks have passed thereon, no other advocate has entered appearance.

2. Be that as it may, since it is an appeal against an order holding first appellant guilty of contempt and first appellant has been sentenced to one month imprisonment, we decided to hear the appeal.

3. The relevant portion of the impugned order, viz. paragraph 4 and 5, read as under :

“4. Today (05.04.2024), when the matter is taken up for hearing, the 1st respondent/ 1st defendant alone appeared before this Court and he accepted that he knew about the order of this Court dated 05.04.2024 and despite the same, he has violated the order of this Court.

5. Therefore, this Court is inclined to award punishment of one month civil prison to the first respondent/first defendant and the 1st



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respondent/1st defendant is directed to undergo Civil Prison on payment of appropriate allowance. The applicant/ plaintiff is directed to pay the Batta in respect of the first respondent/ first defendant.”

4. In the affidavit in reply to the contempt petition, appellants have taken a stand that even before the order of injunction dated 05.04.2023 was passed, they had already sold the overseas rights vide an agreement dated 09.02.2023 that was entered into with one MSK Cinemas SND BHD Kuala Lumpur, Malaysia. It is this Malaysian party which has released the movie on the OTT (Over The Top) platform in the United Kingdom (UK). A copy of the agreement was also filed before the learned Single Judge which shows that the exclusive copyright for the film 'D3' was assigned to the said MSK Cinemas for entire world, except India. This has not been considered by the learned Single Judge, which in our view is a major lapse. This ought to have been considered before holding appellants guilty of wilful disobedience of the order passed by the Court.

5. It is appellants' case in the affidavit that they have not released the movie on the OTT platform in breach of the order dated 05.04.2023.



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6. Shri Harishankar stated that appellants were aware of the order but unless the Court gives a finding that it was appellants who released the movie in breach of the order, the Court could not have held them in contempt.

7. We agree with Shri Harishankar that the learned single Judge failed to consider the documents filed by appellants as also the averments in the affidavit in reply, which *prima facie* indicate that appellants had assigned the overseas rights prior to the order dated 05.04.2023. In our view, the learned Single Judge ought to have taken this into consideration and ought to have given a finding that it was appellants who released the movie on the OTT platform in UK.

8. It is true that when the order dated 05.04.2023 was passed, appellants should have, through their counsel, informed the Court that overseas rights have already been sold vide agreement dated 09.02.2023.



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9. Shri Harishankar states that it was a lapse but nevertheless the Court could not have held appellants guilty of contempt without going into these facts.

10. Since appellants have made averments in the affidavit in reply, and also filed documents to show that the overseas rights were sold before the injunctive order dated 05.04.2023 was passed, and it was that party which had got the movie released, and plaintiffs not having filed any rejoinder to the contrary, in our view, no case for contempt is made out.

11. In the circumstances, we hereby quash and set aside the impugned order dated 05.04.2024.

12. The appeal is allowed. There will be no order as to costs. Consequently, the interim applications also stand disposed of.

(K.R.SHRIRAM, CJ.)

(SUNDER MOHAN, J.)

02.06.2025

Index : Yes/No



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THE HON'BLE CHIEF JUSTICE
AND

SUNDER MOHAN, J.

(tar)

To
The Sub-Assistant Registrar,
Original Side Section,
Madras High Court

OSA(CAD) NO. 41 of 2024

02.06.2025