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C.S.No.240 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 31.10.2025

CORAM:

THE HON'BLE Mr.JUSTICE **P.DHANABAL**

**C.S.No.240 of 2021 &
O.A.No.462 of 2021**

Dinamalar
rep.by its Publisher,
K.Ramasubbu,
No.39, Whites Road,
Royapettah,
Chennai – 600 014

... Plaintiff

Vs.

1. T.Senthilvel

2. Google LLC
1600 Amphitheatre Parkway
Mountain View CA 94043
United States of America
Email: support-in@google.com
(2nd defendant is impleaded as
per order dated 29.11.2021 in
A.No.3466 of 2021)

... Defendants

Prayer:

The Civil Suit filed under Order IV Rule 1 of High Court Original Side Rules read with Order VII Rule 1 of Civil Procedure Code to direct the defendants (a) to pay the sum of Rs.5,00,00,000/- (Rupees Five Crores only) towards damages and compensation to the plaintiff; (b) for permanent injunction, restraining the defendants and their men and agents from in any manner making, uploading, writing, publishing,



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broadcasting, distributing or disseminating in any form whatsoever any defamatory material, statements, continuing in uploading, publishing – including the purported/ video/ audio, any material or statement, referred to in the plaint, relating to or arising from, relatable to the plaintiff which effecting and damaging the name and reputation of plaintiff's newspaper 'Dinamalar' in any manner; (c) for a mandatory injunction directing the first defendant and his men to remove / delete the false, defamatory and politically motivated video / audio or any other material or statements aforesaid and; (d) for a mandatory injunction directing the second defendant to immediately remove / delete the video uploaded by the 1st defendant in his YouTube channel; (e) for a mandatory injunction directing the second defendant to permanently ban the first defendant and his channel, from uploading or using the service of the second defendant; (f) to direct the defendants to pay the cost of this suit.

For Plaintiff : Mr.S.Elamparithi

For Defendants : Mr.G.Balasubramanian for
M/s Leela & Co., for D2
D1 – Set exparte

J U D G M E N T

This suit has been filed for the relief of recovery of money directing the defendants to pay a sum of Rs.5 crores towards damages



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and compensation to the plaintiff and also for permanent injunction, restraining the defendants from making, uploading, writing, publishing, broadcasting, distributing or disseminating in any form whatsoever any defamatory material, statements, continuing in uploading, publishing including the purported/ video/ audio, any material or statement, referred to in the plaint, relating to or arising from, relatable to the plaintiff which affecting and damaging the name and reputation of plaintiff's newspaper 'Dinamalar' in any manner; for a mandatory injunction directing the first defendant to remove / delete the false, defamatory and politically motivated video / audio or any other material or statements aforesaid and; for a mandatory injunction directing the second defendant to immediately remove / delete the video uploaded by the 1st defendant in his YouTube channel.; for a mandatory injunction directing the second defendant to permanently ban the first defendant and his channel from uploading or using the service of the second defendant; to direct the defendants to pay the cost of this suit.

2. The brief facts of the plaintiff are as follows:-

(i) The plaintiff's news paper, 'Dinamalar' is a Tamil News Daily that has been in existence for more than 70 years. On 06.06.2021, the 1st defendant had uploaded a video on his Youtube Channel 'Tamil Kelvi'



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under the title “தமிழ் வாழ்க என்றால் தின மல.....க்கு ஏன் எரிகிறது”, (If Tamil is praised why Dina Mala..... is getting burning) whereupon the 1st defendant has appeared in the video throughout and has blatantly transgressed moral and ethical journalistic norms by openly making crass and baseless statements and innuendos against plaintiff's newspaper with the sole intention to not only malign and damage the name and reputation of plaintiff's newspaper to affect the way of its business but also to incite communal and political violence among the public at large. Being a former political editor in Tamil popular news channels News 18 and News 7 and being the current forerunner of a show for 'Maalai Murasu', the first defendant has made politically coloured statements and overt innuendos in the said video, that the plaintiff's newspaper only publishes news that is biased towards a particular political party, which are all completely false and baseless and the said contends amounts to defaming the name and reputation of the plaintiff's newspaper with malafide intention to damage the business of the plaintiff's newspaper in order to unjustly enrich the business of the 1st defendant's show for 'Malai Murasu'

(ii) The aforesaid video accessed at : <https://www.youtube.com/watch?v=gpmuNRE0138> in 1st defendant's Youtube channel – 'Tamil Kelvi' is highly defamatory and damaging to



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the name and reputation of plaintiff's newspaper and still the first defendant has not removed the video from his You Tube Channel. The plaintiff issued notice dated 08.06.2021 to the defendants through Registered Post as well as by Email claiming damages and the said notice was returned with an endorsement that 'no such person' and the Email has been received by the 1st defendant and the 2nd defendant also received the e-mail dated 08.06.2021 and had replied to the plaintiff that no action would be taken without order from this Court. The 1st defendant neither replied to the legal notice nor deleted the video from his Youtube channel. While the facts are being so, the 1st defendant on 10.07.2021, again, uploaded another video accessed at : <https://www.youtube.com/watch?v=g4pjA9Yf941> in first defendant's Youtube Chanel - "Tamil Kelvi", which is yet again highly defamatory and damaging to the name and reputation of the plaintiff's newspaper. The plaintiff had published a news item on 10.07.2021 that the Central Government is contemplating to divide the western part of Tamilnadu into a separate Union Territory and it is also contemplating naming the same as 'Kongu Nadu'. For the said news item, the 1st defendant has alleged in the second impugned video that the plaintiff is making an attempt to divide Tamilnadu and has also blatantly made a statement touching upon the caste of the people, who own the plaintiff's



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newspaper.

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(iii) In the video posted on 10.07.2021, the 1st defendant made a defamatory statement that the newspaper was torn by him and he made a defamatory statement that it is not fit even to use as tissue paper and the newspaper should be used as napkin for cleaning the children; made imputation concerning the dispute of the partners of the Dinamalar; made imputations concerning that how the news is being published by the Dinamalar Newspaper when the News Item is not a News Item, it is a design of the plaintiff's Newspaper to divide the Tamilnadu and in Tamil it is stated as follows:-

“நாடு கிடையாது, நாடோடி சும்பல் உங்களுக்கெல்லாம் நாடே
கிடையாது, நீங்கள் வந்தேறிகள்”

Therefore, the above said contents were uploaded with malafide intention to cause communal violence instigating his viewers to protest against the Newspaper Dinamalar. The 2nd defendant without verifying the facts alleged in the video, acting as an intermediary platform and assisting the 1st defendant to upload the video. The 2nd defendant in spite of receiving the notice from the plaintiff, allowed the 1st defendant to use their facilities.

(iv) The defendants are causing hardship and continuously attempting and damaging the reputation of the plaintiff's newspaper



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Dinamalar, therefore, the plaintiff filed a suit claiming a sum of Rs.5,00,00,000/- (Rupees Five Crores only) and consequential reliefs of permanent injunction and mandatory injunction.

3. The brief averments of the written statement filed by 2nd defendant are as follows:-

(i) The 2nd defendant is a company incorporated in the USA. The suit is not maintainable, wholly misconceived by facts and law. The 2nd defendant denies the allegation made in the plaint of the suit, except those are specifically admitted by the 2nd respondent in the written statement. The 2nd defendant is an intermediary and by its very nature can neither be expected to, nor is required in law to act as an arbiter of third party claims on its website or to actively monitor or to filter the content uploaded by the third party users on its website and there is a public interest in discussion and publication of commentary or opinion on news reporting, the right of which is constitutionally guaranteed and protected. The present suit discloses no valid and discernible cause of action against the defendants. The plaintiff also admitted that the 2nd defendant is intermediary which provides a platform for uploading the contents but on the contrary has made averments in conflict with well established legal position on the liability of intermediaries. The impugned contents have been uploaded by the 1st defendant and it is for



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the 1st defendant to comply with the orders passed by this Court after giving an opportunity of being heard and it is for the alleged uploader to remove the said contents from the 2nd defendant's platform, if this Court adjudicates that the impugned contents are defamatory.

(ii) The 2nd defendant being an intermediary has no role to play in the present defamation suit or no cause of action or right to relief subsists against the 2nd defendant. The 2nd defendant is neither necessary nor proper party to the present suit. The 2nd defendant, being an intermediary, the limited role which the 2nd respondent is providing a platform whereupon users, after accepting the applicable terms of service, can upload videos for viewing by other users. The 2nd defendant has no role to play in the determination of alleged defamatory content inter se third parties. The impugned contents have been allegedly created and uploaded on the 2nd defendant's platform not by the 2nd defendant, but by the 1st defendant. Therefore, the 2nd defendant is not responsible for the alleged defamatory content, hence the 2nd defendant is not liable to pay any compensation to the plaintiff.

(iii) As per Section 79 of the Information Technology Act [for brevity, hereinafter referred to as Act], intermediaries are not liable for the contents uploaded by the third parties and it is for the plaintiff to



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identify and provide specific location / URL of the alleged offending contents and the intermediary to take appropriate action in accordance with applicable law and subject to any order of the courts. The prayers as against the 2nd defendant are not maintainable. The 2nd defendant is an online video streaming / sharing platform on which users can upload videos / audio-visual content for viewing by other such users. The users are regarded under the law as 'originators' of content and any content uploaded by them is attributable directly to them, not to the platform provider. The 2nd defendant fulfills its obligations qua as envisaged under Section 79 of the Act and corresponding Rules framed under the Act as well as other applicable Laws. The 2nd defendant, being an intermediary is neither involved in the creation, modification or facilitation of any content on its platform; defamatory or otherwise, nor the same is alleged. For defamation related complaints, the Law mandates that Court order to be passed identifying the content by way of its URL to be defamatory and directing the removal of such content. The claim of defamation is especially the role of the courts of competent jurisdiction to determine whether the content is defamatory under applicable local laws.

(iv) In order to constitute defamation, the plaintiff must prove that the impugned statements are in fact, false and defamatory; relate to the



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plaintiff have been published by the defendants and their men with an intent to defame the plaintiff with actual malice, but there are no ingredients to constitute the above said defamation in this suit. Therefore, the suit is not maintainable as against the defendants and the same is liable to be dismissed.

4. Based on the above said pleadings and upon perusing the documents, this Court, framed the following issues on 12.04.2022:-

(a) Whether the defendants are liable to pay a sum of Rs.5,00,00,000/- to the plaintiff towards damages and compensation?

(b) Whether the plaintiff is entitled to get a relief of permanent injunction as sought for in the plaint?

(c) Whether the plaintiff is entitled to get the reliefs of mandatory injunctions as sought for in the plaint?

(d) Whether the suit is bad for misjoinder of unnecessary parties

(e) Whether the plaintiff is entitled for the cost?

(f) To what other reliefs, the plaintiff is entitled to?

Further, this Court, re-framed the Issue No.(a) as follows on 27.09.2022:-

(a) Whether the 1st and 2nd defendants are jointly and



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severally liable to pay a sum of Rs.5,00,00,000/- to the plaintiff towards damages and compensation?

Also, this Court, framed the following additional issues on 27.09.2022:-

(i) Whether the plaintiff has any cause of action as against the 2nd defendant?

(ii) Whether the 2nd defendant can be categorized as an intermediary under the provisions of the Information Technology Act, 2000?

(iii) Whether, if the 2nd defendant is categorized as an intermediary, the 2nd defendant has discharged its obligation of due diligence before uploading the contents complained by the plaintiff and after receiving complaints from the plaintiff?

(iv) Whether the 2nd defendant is entitled for immunity under Section 79 of the Information Technology Act, 2000?

5. In order to prove the case, on the side of the plaintiff, P.W.1 was examined and exhibits Ex.P.1 to P.11 were marked. On the side of the defendants, the 1st defendant was set exparte on 12.04.2022 and no witnesses were examined and at the time of cross examination of P.W.1, by the 2nd defendant, exhibits, Ex.D.1 to Ex.D.3 have been



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marked.

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6. The learned counsel appearing for the plaintiff would submit that the 1st defendant had uploaded a video on 06.06.2021 in his Youtube Channel, namely, "Tamil Kelvi" under the title "தமிழ் வாழ்க என்றால் தினமல.....க்கு ஏன் எரிகிறது?". [In English, If Tamil is praised why Dinamala..... is getting burning]. The 1st defendant had uploaded the defamatory video to defame the plaintiff's news paper. The 1st defendant being a former political editor in Tamil popular News Channels, News 18 and News7 and being current forerunner of a show for 'Maalai Murasu', has made politically coloured statements and stated that the plaintiff- newspaper only publishes news that is biased towards a particular political party, which are all completely false and baseless.

6.1. Further, the learned counsel appearing for the plaintiff would submit that again on 10.07.2021, the 1st defendant uploaded another video accessed at : <https://www.youtube.com/watch?v=g4pj9Yf941>. The video uploaded on 06.06.2021 can be accessed at <https://www.youtube.com/watch?v=gpmuNRE138>. The video posted on 10.07.2021, runs into 12.50 minutes and made several allegations, which are defamatory and therefore, the 2nd defendant also without



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verifying the contents, allowed the 1st defendant to use their facilities.

The entire video uploaded by the 1st defendant in his 'Tamil Kelvi' Youtube Channel is nothing but vituperative, malicious and defamatory, so as to cause irreparable to the plaintiff's newspaper carrying on its business.

6.2. The learned counsel for the plaintiff also contends that in order to prove the case of the plaintiff, P.W.1 was examined and marked Exhibits, P.1 to P.11. The 1st defendant was set exparte and on behalf of the 2nd defendant no witness was examined and they only marked Exhibits D.1 to D.3 during the cross examination of P.W.1, but no contra evidence was adduced by the defendants, therefore, the plaintiff has proved the defamatory contents made by the 1st defendant in the 2nd defendant platform. Therefore, the plaintiff is entitled for damages and the defendants are liable to pay a sum of Rs.5 Crores as damages and also the defendants are required to delete the videos already uploaded and the plaintiff is entitled to the relief as prayed for in the suit.

7. The learned counsel appearing for the 2nd defendant would submit that the main prayer sought for by the plaintiff is against the 1st defendant, who has already been set exparte and as far as 2nd



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defendant is concerned, he is an intermediary and has no role to play in the alleged defamatory statements interse third parties. The impugned contents have been created and uploaded into the platform of the 2nd defendant by the 1st defendant, not by the 2nd defendant, therefore, the 2nd defendant is no way liable to be responsible for the alleged defamatory contents. It is for the plaintiff to identify and provide specific location / URL of the alleged offending content and the intermediary has to review and take appropriate action subject to any orders of this Court. Moreover, after notice, the alleged contents have been moved into the private and public cannot access the above said videos, therefore, nothing survives for further adjudication in this case. Even if any defamatory contends made by the 1st defendant, the 2nd defendant is not liable to pay any compensation, therefore, the suit against the 2nd defendant is liable to be dismissed.

8. Besides the above, the learned counsel for the 2nd defendant submits that a blanket ban of 1st defendant and his channel or a broad injunction against any / all content that allegedly defamatory to the plaintiff, is not legally sustainable as the 1st defendant or any such users are entitled to use the Youtube platform for other non-infringing / non-violative contents, especially when the plaint is bereft of any specific



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plea on such other contents available on 1st defendant's platform and hence such reliefs are liable to be rejected.

9. The learned counsel appearing for the 2nd defendant relied on the following Judgments:

(i) Judgment of the Hon'ble Supreme Court in Shreya Singhal Vs. Union of India reported in 2015(5) SCC 1

(ii) Judgment of High Court of Delhi in Fitjee Limited Vs. Vidya Mandir Classes Ltd., (LA No.16137/2021 in C.S.No.656 of 2021).

(iii) Interim order passed by the High Court of Delhi in Umesh Kishor Kamat Vs. News Nation Network Pvt., Ltd., & ORs (IA(L) No.2268 of 2021 in CS(L) No.20266 of 2021)

10. Heard the learned counsel appearing for the plaintiff, 2nd defendant and perused the documents placed on record.

11. The plaintiff has filed the suit as against the defendants for payment of damages to the tune of Rs.5 Crores for the defamatory videos uploaded by the 1st defendant in the 2nd defendant's Youtube Channel and for permanent injunction restraining the defendants from in any manner making, distributing or disseminating in any form



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whatsoever any defamatory material, statements, continuing in uploading, publishing - including the purported video/audio, any material or statement, referred to in the plaint and for mandatory injunction directing the 1st defendant to remove / delete the false, defamatory and politically motivated video/audio or any other material or statements and for mandatory injunction directing the 2nd defendant to immediately remove / delete the video uploaded by the 1st defendant in his Youtube Channel and also for a mandatory injunction directing the 2nd defendant to permanently ban the 1st defendant and his channel from uploading or using the service of the 2nd defendant and to pay costs.

12. As far as Reframed Issue No.(a) viz., ' *Whether the 1st and 2nd defendants are jointly and severally liable to pay a sum of Rs.5,00,00,000/- to the plaintiff towards damages and compensation*' is concerned,

(i) According to the plaintiff, the 1st defendant uploaded the defamatory video in the 2nd defendant's platform on 04.06.2021. The alleged defamatory statements are that “தமிழ் வாழ்க என்றால் தின மல.....க்கு ஏன் எரிகிறது”, in English, 'If Tamil is praised why Dina Mala..... is getting burning' . According to the plaintiff, the 1st defendant made defamatory speech in the video uploaded on 10.07.2021 that (i) the newspaper was



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torn by him and he made a defamatory statement that it is not fit even to use as tissue paper (ii) the newspaper should be used as napkin for cleaning the children (iii) made imputation concerning the dispute of the partners of the Dinamalar (iv) made imputations concerning that how the news is being published by the Dinamalar newspaper and the News item is not a news item, it is a design of the plaintiff's newspaper to divide the Tamilnadu, “நாடு கிடையாது, நாடோடி கும்பல் [No country, nomadic gang] உங்களுக்கெல்லாம் நாடே கிடையாது, நீங்கள் வந்தேறிகள்” [you are all vanquished] and these are all the imputations made in the video posted on 10.07.2021.

(ii) The 1st defendant was set exparte on 12.04.2022 and he has not contested the case, however, the 2nd defendant, contested the case and filed the written statement. According to the 2nd defendant, he is an intermediary and video was uploaded by the 1st defendant and the 2nd defendant has no role in respect of the above said video uploaded by the 1st defendant and according to the 2nd defendant, the 2nd defendant is an intermediary and no way responsible for the video uploaded by the uploaders. The blanket ban of 1st defendant and his channel or a broad injunction against any / all content that allegedly defamatory to the plaintiff, is not legally sustainable as the 1st defendant



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or any such users are entitled to use the Youtube platform for other non-infringing / non-violative contents, especially when the plaint is bereft of any specific contention available on the 2nd defendant's platform.

(iii) Further, it is the contention of the 2nd defendant that already the 1st defendant had removed the content and the content was sent to his private and public cannot access the content, therefore, the prayers sought for in this suit have become infructuous and nothing survives for further adjudication.

(iv) This Court perused the entire evidence on record, on the side of the plaintiff, P.W.1 was examined and marked Exhibits P.1 to P.11. On the careful perusal of the above said documents, they revealed that plaintiff issued legal notice through E-mail and through Post vide, RPAD Cover and as against the 1st defendant, it was returned. The plaintiff published Article in the Tamil News Paper dated 03.06.2021 and the original news item published on 10.07.2021. The above said evidence of P.W.1 in respect of the alleged defamation video have not been denied by the defendants, particularly the upload of the videos. The 1st defendant was set exparte and the 2nd defendant is only an intermediary and he has not uploaded the video. The 2nd defendant has no role in uploading of the video and not aware about the contents of the video, therefore, the 2nd defendant is not responsible for the



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video uploaded by the 1st defendant. It is also admitted fact that the contents of the video is not available and it was made as private and now, the public persons cannot access the said video. However, till the video was moved to the private, it was available to the access of the public and there is no evidence that whether any third parties accessed the video and the same was defamatory. There is no evidence that the said video was viewed by third parties and thereby reputation of the plaintiff has been damaged.

(v) As far as the alleged contents of the 1st Video is concerned, according to the plaintiff, the 1st defendant published the video that 'If Tamil is praising, why Dinamala.... is getting burning [தமிழ் வாழ்க என்றால் தினமலுக்கு ஏன் எரிகிறது]. There is no explanation by the plaintiff that in what way it is defamatory against the plaintiff and the said words are defamatory. In General, the words used burning gives meaning of angry. That apart, on careful perusal of the entire sentence it shows that the 1st defendant criticized the angry of the plaintiff. As far as the alleged defamatory videos uploaded on 10.07.2021 is concerned, the 1st and 2nd are in respect of the quality of the paper, the 3rd one is in respect of partners of the plaintiff, 4th one is quality and news of plaintiff and other defamatory statements are in respect of no country, nomadic gang and vanquished. In order to prove that these are defamatory as



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against the plaintiff, there is no specific evidence adduced by the plaintiff. Except P.W.1, there is no any other witnesses examined in respect of the alleged defamatory statements.

(vi) Further, the plaintiff has sought for the damages of Rs.5 Crores and how the plaintiff has arrived such a quantum has not been explained either in the plaint or in evidence. The plaintiff has not examined any other witness to prove that the content was viewed by some other persons and thereby the reputation of the plaintiff newspaper was damaged. Mere allegations are not sufficient to prove the alleged defamatory video, moreover, according to the 2nd defendant, it was already moved to the private and not available to the access of public, therefore, in the absence of any specific particulars for quantifying the damages, it is not appropriate to grant damages to the plaintiff. Though the 1st defendant was set exparte and not contested the case, it is the duty of the plaintiff to prove the case that the contention of the video are defamatory and viewed by somebody and thereby the said video caused hardship and inconvenience to the plaintiff-newspaper, but no sufficient evidence adduced by the plaintiff to prove the case, **therefore, the plaintiff is not entitled to damages as against the defendants, as prayed for in the suit.**



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13. In respect of Additional Issue No.(i) *Whether the plaintiff has any cause of action as against the 2nd defendant?*

(i) According to the plaintiff, the 1st defendant uploaded the videos on 06.06.2021 and 10.07.2021 and both the videos have been uploaded in the 2nd defendant platform and the 2nd defendant is the intermediary. Once the videos have been uploaded in the 2nd defendant Youtube Channel, cause of action arose on that date and though the 2nd defendant is an intermediary, in order to get binding decree, presence of the 2nd defendant is necessary and **thereby cause of arose against the 2nd defendant.**

14. With regard to Additional Issue Nos.(ii) and (iii), *(ii) Whether the 2nd defendant can be categorized as an intermediary under the provisions of the Information Technology Act, 2000? (iii) Whether, if the 2nd defendant is categorized as an intermediary, the 2nd defendant has discharged its obligation of due diligence before uploading the contents complained by the plaintiff and after receiving complaints from the plaintiff?*

(i) According to the 2nd defendant, the 2nd defendant is only a platform and anybody can upload the videos and already, they have guidelines for uploading videos, as per Section 79 of the Act and the



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corresponding Rules framed under the Act and the terms and service, privacy policy and community guidelines. Further, the 2nd defendant, being an intermediary, is not involved in the creation, modification or facilitation of any content on this platform. The 2nd defendant has not published any content under the terms of service, uploading of content in violation of terms of service, which may result in removal of such content and further repeat violation could lead to termination of users Youtube Account. The Youtube also mandates the user to provide warranty that the video sought to be uploaded does not breach the terms of use and the Youtube also educates the users through its publicly available community guidelines regarding what is and is not permissible under Law to be posted on this platform.

(ii) Further, the Youtube also facilitates the users by simply clicking on the report option below every video available on the Youtube, by clicking the said report, the user is presented with the list of likely grievances one made against the said video and any user or rights holder can simply click and report the specific grievance against that video. Further, Section 79 of the Act is extracted as follows:-

79. Exemption from liability of intermediary in certain cases:-

(1) Notwithstanding anything contained in any law for the time being in force but subject to the provisions of sub-



sections (2) and (3), an intermediary shall not be liable for any third party information, data or communication link made available or hosted by him.

(2) The provisions of sub-section (1) shall apply if-

(a) the function of the intermediary is limited to providing access to a communication system over which information made available by third parties is transmitted or temporarily stored or hosted; or

(b) the intermediary does not -

(i) initiate the transmission,

(ii) select the receiver of the transmission, and

(iii) select or modify the information contained in the transmission;

(c) the intermediary observes due diligence while discharging its duties under this Act and also observes such other guidelines as the Central Government may prescribe in this behalf.

(3) The provisions of sub-section (1) shall not apply if -

(a) the intermediary has conspired or abetted or aided or induced, whether by threats or promise or otherwise in the commission of the unlawful act;

(b) upon receiving actual knowledge, or on being notified by the appropriate Government or its agency that any information, data or communication link residing in or connected to a computer resource controlled by the intermediary is being used to commit the unlawful act, the intermediary fails to expeditiously remove or disable access to that material on that resource without vitiating the



evidence in any manner. "

on a bare perusal of the same, it is clear that the 2nd respondent is coming under intermediary and intermediary cannot be liable for the acts done by the uploaders. Further, P.W.1 during his cross examination stated that unless the uploaded person agree to the terms and conditions mentioned in the documents, he cannot upload any videos and a user of Youtube has to adhere to the privacy policy and community guidelines mentioned in the documents D1 to D.3. Further, P.W.1 admitted through Ex.P.5 that D2 asked the plaintiff to address their concerns directly with uploader in question and in case any legal action are pursued, they are prepared to comply with the Court order. Further, P.W.1 admitted that the D2 is intermediary under the Information Technology Act.

(iii) Moreover, in this case, after receipt of notice from the plaintiff, the 2nd defendant also informed about the same to the 1st defendant and thereafter, the 1st defendant removed the contents and moved the same to his personal and no body can access the video, therefore, the said conduct of the 2nd defendant and the guidelines and the facilities provided them show that they have discharged their obligation with due diligence before uploading contents complained by the plaintiff and after



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receiving the complaint from the plaintiff.

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15. In respect of the Additional Issue No.(iv) : *Whether the 2nd defendant is entitled for immunity under Section 79 of the Information Technology Act, 2000?*

(i) As per Act, the intermediary is not liable for any action done by the uploaders and the 2nd defendant is not a publisher of the alleged content and the 2nd defendant neither involved in the creation, modification, publication on its platform, **therefore, the 2nd defendant is entitled to the benefit of Section 79 of the Act.**

16. In respect of the Issue Nos.(b) and (c), viz., (b) *Whether the plaintiff is entitled to get a relief of permanent injunction as sought for in the plaint?* (c) *Whether the plaintiff is entitled to get the reliefs of mandatory injunctions as sought for in the plaint?*

As far as reliefs in respect of permanent injunction and mandatory injunction are concerned, it is admitted fact that already the content was removed and not available and the public cannot access the video and was made privately, **therefore, the relief of permanent injunction and mandatory injunction become infructuous.**



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17. With regard to Issue No.(d), *Whether the suit is bad for mis-joinder of necessary parties*

According to the 2nd defendant, the 2nd defendant is the unnecessary party, already this Court in the Additional Issue no.(i) decided that there is a cause of action as against the 2nd defendant and therefore, the 2nd defendant is a proper and necessary party and thereby the suit is not bad for misjoinder of necessary party. Even assuming that the 2nd defendant is unnecessary party, suit cannot be dismissed for misjoinder of parties, as per Order 1 Rule 9 of Civil Procedure Code, no law suit shall be dismissed for the misjoinder or non-joinder of parties. The court can, however, handle the case with the parties it as and may allow for amendments to correct the defect, unless the non-joined party is a 'necessary party' without whom an effective decree cannot be passed, **therefore, the suit is not bad for misjoinder of parties.**

18. Insofar as Issue Nos.(e) and (f): (e) *Whether the plaintiff is entitled for the cost? and (f) To what other reliefs, the plaintiff is entitled to?*

This Court in the previous issues already decided that the plaintiff



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is not entitled to the relief of damages, permanent injunction and mandatory injunction and the plaintiff is not entitled to cost. Since the court already decided the issues as against the plaintiff, **the plaintiff is not entitled to any reliefs. The suit is liable to be dismissed and the plaintiff is not entitled for any costs.**

In the result, the present Civil Suit is dismissed. Consequently, connected Original Application, viz., O.A.No.462 of 2021 seeking for an interim injunction is closed. No costs.

31.10.2025

Index:Yes/No
Internet:Yes/No
Speaking / Nonspeaking order
ssd

1) List of Witnesses Examined on the side of the Plaintiff:-

1. P.W.1 – B.Sethuraman

2) List of Exhibits Marked on the side of the Plaintiff:-



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Exhibits	Date	Description
Ex.P.1	-	Copy of ID Card
Ex.P.2	'08.06.2021	Office copy Legal notice received by email to the 1 st defendant
Ex.P.3	'08.06.2021	Copy of legal notice
Ex.P.4	'08.06.2021	Copy of legal notice by Email to the 2 nd defendant
Ex.P.5	'09.06.2021	Copy of the reply from the 2 nd defendant by email
Ex.P.6	'12.06.2021	Original returned RPAD cover from 1 st defendant
Ex.P.7	'12.06.2021	Original returned RPAD cover from 1 st defendant in different address
Ex.P.8	'11.07.2021	Screenshot of twitter message dated 11.07.2021
Ex.P.9	'03.06.2021	E-paper copy of the news item published by the plaintiff
Ex.P.10	'10.07.2021	Original news item published by the plaintiff dated 10.07.2021
Ex.P.11	-	Pendrive video of 1 st defendant
At the time of cross examination of P.W.1 by the 2nd defendant, Ex.D.1 to D.3 were marked		
Ex.D.1	27.09.2024	Terms of Service of YouTube
Ex.D.2		Printout of Privacy policy
Ex.D.3		Printout of Youtube community guidelines

3) List of Witnesses Examined on the side of the defendants:-

Nil

4) List of Exhibits Marked on the side of the defendants:-



C.S.No.240 of 2021

Nil

WEB COPY

31.10.2025

To

The Sub Assistant Registrar,
O.S.Section,
High Court, Madras

P.DHANABAL, J.

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