**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

DATED THIS THE 22nd DAY OF APRIL, 2026

BEFORE

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

**WRIT PETITION No.10911/2026 (C)**

**BETWEEN:**

MR. SANTOSH KUMAR .R.S
S/O LATE MR. R.R. SHIVANAND,
AGED ABOUT 43 YEARS,
WRITER, DIRECTOR & PRODUCER,
PASSION MOVIE MAKERS
NO.321, GAANA RESIDENCY,
KUMARASWAMY LAYOUT,
BENGALURU-560078.

...PETITIONER

(BY SRI RAJESH K.S., ADVOCATE)

**AND:**

1. MR. ADITYA DHAR
S/O SUNITA DHAR
AGED ABOUT 43 YEARS,
FILM DIRECTOR & PRODUCER,

2. MR. LOKESH DHAR
S/O SUNITA DHAR,
AGED ABOUT 32 YEARS,
FILM PRODUCER,

BOTH HAVE OFFICE AT/
M/S. B62 STUDIOS PVT. LTD.,
401, 4TH FLOOR, GLACIS TOWER,
BANDRA LINKING ROAD,
KHAR (WEST), MUMBAI-400052
MAHARASHTRA STATE.

ALSO AT/ B62 STUDIOS
REGISTERED OFFICE AT 611,

RELIABLES PRIDE, ANAND NAGAR,
JOGESHWARI WEST, MUMBAI-400102.

3. SMT. JYOTHI DESHPANDE
AGED ABOUT 56 YEARS,
W/O SANJAY DESHPANDE,
C.E.O. & FILM PRODUCER
OFFICE AT/ JIO STUDIOS,
19TH FLOOR, ONE BKC, B WING,
G BLOCK, BANDRAKURLA COMPLEX,
BANDRA EAST, MUMBAI-400051
MAHARASHTRA STATE.

4. CENTRAL BOARD OF FILM CERTIFICATION
NO.24, DR. GOPALRAO DESHMUKH MARG,
I.T COLONY, CUMBALLA HILL,
MUMBAI, MAHARASHTRA-400026.
REPRESENTED BY ITS CHAIR PERSON
MR. PRASOON JOSHI.

...RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECTION TO THE RESPONDENT NO.4, TO CANCEL THE CERTIFICATE GRANTED TO RESPONDENT NO. 1 TO 3 THE SCREENING OF THE FILM DHURANDHAR-2, HINDI MOVIE WHICH IS ALSO DUBBED AND RELEASED IN ALL SOUTH INDIAN LANGUAGES IN DIFFERENT STATES BY THE RESPONDENT NO.1 TO 3 AND SUB DISTRIBUTORS AND OTHER THAN THIS IF IT IS DUBBED TO ANY OTHER INDIAN LANGUAGES AND OTT, ALL THE SCREENING HAS TO BE STAYED IN THE COUNTRY UNTIL THE DISPOSAL OF THIS CASE.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 08/04/2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MRS JUSTICE K.S. HEMALEKHA

**CAV O R D E R**

This writ petition is filed seeking issuance of a writ of mandamus to direct respondent No.4-Central Board of Film Certification to cancel certification granted to the Hindi movie 'Dhurandhar-2' and to restrain its screening across platforms, alleging that the said movie is plagiarized version of the petitioner's original story/script.

**Brief facts:**

2. The petitioner claims to be a film writer, director and producer, who has authored an original script titled *'D-Saheb'* based on a patriotic theme involving anti-terror operations. It is contended that the petitioner has developed the story, screenplay, character sketches and has registered the same with Screen Writers Association and other authorities.

3. It is the case of the petitioner that during the year 2023, he had shared the said script with various production houses and industry personnel, including respondent No.3

through intermediaries such as one Dinesh Kumar, who was engaged as a creative producer. The petitioner asserts that the respondents, having gained access to his script, have unlawfully copied the same and produced the movie 'Dhurandhar-2', which was subsequently released in multiple languages across the country. Aggrieved, by the alleged authorized use of story and failure of the respondents to give credit or compensation, the petitioner has approached this Court seeking cancellation of the certification granted to the film and for consequential relief.

4. Learned counsel for the petitioner contends that:

i. The petitioner is the original author of the story, screenplay and concept of *'D-Saheb'*, which has been duly registered and documented.

ii. The respondents, having gained access to the petitioner's script through industry interactions, have dishonestly copied substantial portion of the story, characters and screenplay.

iii. The impugned film, ‘Dhurandhar-2’ is a clear case of plagiarism and the respondents have unjustly enriched themselves by exploiting the petitioner's private proprietary rights.

iv. The certificate granted by the Central Board of Film Certification under the Cinematograph Act, 1952 (for short ‘the Cinematograph Act’ for short), is liable to be interfered with, as the very content of the film is illegal and violative of the petitioner's right.

v. Unless immediate orders are passed, irreparable injury would be caused to the petitioner, as the film is being exhibited widely across theatres and OTT platforms.

5. The points that arise for consideration are :

*i. Whether the writ petition alleging copyright infringement is maintainable under Article 226 of the Constitution of India?*

*ii. Whether Sections 5A and 5B of the Cinematograph Act, which deals with certification and regulatory control of films, can be invoked to*

*adjudicate private dispute relating to infringement of copyright?*

*iii. Whether in the absence of any challenge of statutory action under Sections 5A and 5B of the Cinematograph Act, invoking writ jurisdiction is justified?*

**Point No.(i)**

6. The principal grievance of the petitioner is that his story/script has been copied by the respondents in producing the film 'Dhurandhar-2'. Such a dispute, in substance, pertains to copyright infringement and alleged plagiarism, which necessarily requires a detailed examination of evidence, including comparison of scripts, proof of authorship, access and substantial similarity. The scope of interference under Article 226 of the Constitution of India is limited, and the writ Court does not sit as a fact-finding in matters involving such disputed questions of fact of such nature. The landmark judgment of the Apex Court on Copyright Law particularly on the distinction between idea

and expression in dramatic and cinematography works is in the case of ***R.G.Anand vs M/s Delux Films and Others***[1] *(R.G.Anand),* where it has been held at paragraph Nos.45 and 46 as under :

> *"45. Thus, the position appears to be that an idea, principle, theme, or subject-matter or historical or legendary facts being common property cannot be the subject-matter of copyright of a particular person. It is always open to any person to choose an idea as a subject-matter and develop it in his own manner and give expression to the idea by treating it differently from others. Where two writers write on the same subject similarities are bound to occur because the central idea of both are the same but the similarities or coincidences by themselves cannot lead to an irresistible inference of plagiarism or piracy. Take for instance the great poet and dramatist Shakespeare most of whose plays are based on Greek-Roman and British mythology or legendary stories like Merchant of Venice, Hamlet, Romeo and Juliet, Julius Ceasar etc. But the treatment of the subject by Shakespeare in each of his dramas is so fresh, so different, so full of poetic exuberance elegance and erudition and so novel in character as a result of which the end product becomes an original in itself. In fact, the power and*

[1] *(1978) 4 SCC 118*

*passion of his expression, the uniqueness, eloquence and excellence of his style and pathos and bathos of the dramas become peculiar to Shakespeare and leaves precious little of the original theme adopted by him. It will thus be preposterous to level a charge of plagiarism against the great playwright. In fact, throughout his original thinking, ability and incessant labour Shakespeare has converted an old idea into a new one, so that each of his dramas constitute a masterpiece of English literature. It has been rightly said that "every drama of Shakespeare is an extended metaphor". Thus, the fundamental fact which has to be determined where a charge of violation of the copyright is made by the plaintiff against the defendant is to determine whether or not the defendant not only adopted the idea of the copyrighted work but has also adopted the manner, arrangement, situation to situation, scene to scene with minor changes or super additions or embellishment here and there. Indeed, if on a perusal of the copyrighted work the defendant's work appears to be a transparent rephrasing or a copy of a substantial and material part of the original, the charge of plagiarism must stand proved. Care however must be taken to see whether the defendant has merely disguised piracy or has actually reproduced the original in different form, different tone, different tenor so as to infuse a new life into the idea of the*

*copyrighted work adapted by him. In the latter case there is no violation of the copyright.*

*46. Thus, on a careful consideration and elucidation of the various authorities and the case law on the subject discussed above, the following propositions emerge:*

*1. There can be no copyright in an idea, subject-matter, themes, plots or historical or legendary facts and violation of the copyright in such cases is confined to the form, manner and arrangement and expression of the idea by the author of the copyrighted work.*

*2. Where the same idea is being developed in a different manner, it is manifest that the source being common, similarities are bound to occur. In such a case the courts should determine whether or not the similarities are on fundamental or substantial aspects of the mode of expression adopted in the copyrighted work. If the defendant's work is nothing but a literal imitation of the copyrighted work with some variations here and there it would amount to violation of the copyright. In other words, in order to be actionable the copy must be a substantial and material one which at once leads to the conclusion that the defendant is guilty of an act of piracy.*

*3. One of the surest and the safest test to determine whether or not there has been a violation of*

*copyright is to see if the reader, spectator or the viewer after having read or seen both the works is clearly of the opinion and gets an unmistakable impression that the subsequent work appears to be a copy of the original.*

*4. Where the theme is the same but is presented and treated differently so that the subsequent work becomes a completely new work, no question of violation of copyright arises.*

*5. Where however apart from the similarities appearing in the two works there are also material and broad dissimilarities which negative the intention to copy the original and the coincidences appearing in the two works are clearly incidental no infringement of the copyright comes into existence.*

*6. As a violation of copyright amounts to an act of piracy it must be proved by clear and cogent evidence after applying the various tests laid down by the case-law discussed above.*

*7. Where however the question is of the violation of the copyright of stage play by a film producer or a director the task of the plaintiff becomes more difficult to prove piracy. It is manifest that unlike a stage play a film has a much broader prospective, wider field and a bigger background where the defendants can by*

*introducing a variety of incidents give a colour and complexion different from the manner in which the copyrighted work has expressed the idea. Even so, if the viewer after seeing the film gets atotality of impression that the film is by and large a copy of the original play, violation of the copyright may be said to be proved."*

(Emphasis supplied)

7. Thus, the aforesaid judgment of the Apex Court in the case of ***R.G.Anand***, has authoritatively laid down that a copyright infringement cannot succeed on mere allegation or superficial similarity, but must be established by clear, cogent and convincing evidence demonstrating that the other side has in fact copied a substantial and material part of the expression of the work. The burden squarely lies on the person seeking infringement to prove not only that the other side had access to the original work, but also there exists such degree of similarity which led a prudent and reasonable viewer to make an unmistakable impression that the impugned work is a copy of the original. Such adjudication/exercise necessarily requires appreciation of

evidence and in appropriate cases, even expert analysis. Such adjudication involves triable issue of facts, including proof of access, originality and copying which cannot be satisfactorily undertaken in a writ jurisdiction that is confined to examining legality of administrative action and does not permit detailed evidentiary enquiry, cross-examination or fact finding trial. Therefore, it is well settled where the *lis* pertains to alleged infringement of copyright, the appropriate remedy is to institute a suit for injunction and damages under the Copyright Act, 1957 ('the Copyright Act' for short), where parties can lead oral and documentary evidence. A writ petition would be maintainable except in exceptional cases where issue is purely one of law or involves a challenge to statutory action without disputed facts.

8. The Apex Court in the case of ***Whirlpool Corporation vs. Registrar of Trademarks***[2] *(Whirlpool Corporation)* has held at paragraph Nos.14 to 20 as under:

[2] (1998) 8 SCC 1

*"14. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other purpose".*

*15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions*

*of the evolutionary era of the constitutional law as they still hold the field.*

*16. Rashid Ahmed v. Municipal Board, Kairana [1950 SCC 221 : AIR 1950 SC 163 : 1950 SCR 566] laid down that existence of an adequate legal remedy was a factor to be taken into consideration in the matter of granting writs. This was followed by another Rashid case, namely, K.S. Rashid & Son v. Income Tax Investigation Commission [AIR 1954 SC 207 : (1954) 25 ITR 167] which reiterated the above proposition and held that where alternative remedy existed, it would be a sound exercise of discretion to refuse to interfere in a petition under Article 226. This proposition was, however, qualified by the significant words, "unless there are good grounds therefor", which indicated that alternative remedy would not operate as an absolute bar and that writ petition under Article 226 could still be entertained in exceptional circumstances.*

*17. A specific and clear rule was laid down in State of U.P. v. Mohd. Nooh [AIR 1958 SC 86 : 1958 SCR 595] as under:*

> *"But this rule requiring the exhaustion of statutory remedies before the writ will be granted is a rule of policy, convenience and discretion rather than a rule of law and instances are numerous where a writ of certiorari has been issued in spite of*

*the fact that the aggrieved party had other adequate legal remedies."*

*18. This proposition was considered by a Constitution Bench of this Court in A.V. Venkateswaran, Collector of Customs v. Ramchand Sobhraj Wadhwani [AIR 1961 SC 1506 : (1962) 1 SCR 753] and was affirmed and followed in the following words:*

*"The passages in the judgments of this Court we have extracted would indicate (1) that the two exceptions which the learned Solicitor General formulated to the normal rule as to the effect of the existence of an adequate alternative remedy were by no means exhaustive, and (2) that even beyond them a discretion vested in the High Court to have entertained the petition and granted the petitioner relief notwithstanding the existence of an alternative remedy. We need only add that the broad lines of the general principles on which the Court should act having been clearly laid down, their application to the facts of each particular case must necessarily be dependent on a variety of individual facts which must govern the proper exercise of the discretion of the Court, and that in a matter which is thus pre-eminently one of discretion, it is not possible or even if it were, it would not be desirable to lay down inflexible rules*

*which should be applied with rigidity in every case which comes up before the Court."*

*19. Another Constitution Bench decision in Calcutta Discount Co. Ltd. v. ITO, Companies Distt. I [AIR 1961 SC 372 : (1961) 41 ITR 191] laid down:*

> *"Though the writ of prohibition or certiorari will not issue against an executive authority, the High Courts have power to issue in a fit case an order prohibiting an executive authority from acting without jurisdiction. Where such action of an executive authority acting without jurisdiction subjects or is likely to subject a person to lengthy proceedings and unnecessary harassment, the High Courts will issue appropriate orders or directions to prevent such consequences. Writ of certiorari and prohibition can issue against the Income Tax Officer acting without jurisdiction under Section 34, Income Tax Act."*

*20. Much water has since flown under the bridge, but there has been no corrosive effect on these decisions which, though old, continue to hold the field with the result that law as to the jurisdiction of the High Court in entertaining a writ petition under Article 226 of the Constitution, in spite of the alternative statutory remedies, is not affected, specially in a case where the authority against whom the writ is filed is*

*shown to have had no jurisdiction or had purported to usurp jurisdiction without any legal foundation."*

Thus, in the absence of such exceptional grounds, the writ Court cannot entertain writ petition under Article 226.

**Point Nos.(ii) and (iii):**

9. Point Nos.(ii) and (iii) are taken up together in order to avoid repetition of facts.

10. The petitioner also seeks to invoke Section 5A of the Cinematograph Act which deals with certification of films by the Central Board of Films Certification. To answer the above points for consideration, the statutory provisions that needs to be looked into are Sections 3, 5, 5A and 5B of the Cinematograph Act.

11. Section 3 of the Cinematograph Act reads as under:

*"**3. Board of film Certification.—**(1) For the purpose of sanctioning films for public exhibition, the Central Government may, by notification in the Official Gazette, constitute a Board to be called the Board of*

*Film Certification which shall consist of a Chairman and not less than twelve and not more than twenty-five other members appointed by the Central Government.*

*(2) The Chairman of the Board shall receive such salary and allowances as may be determined by the Central Government, and the other members shall receive such allowances or fees for attending the meetings of the Board as may be prescribed.*

*(3) The other terms and conditions of service of the members of the Board shall be such as may be prescribed."*

12. Section 3 provides for the constitution of the Central Board of Film Certification (CBFC) which is the statutory authority entrusted with the examination and certification of films.

13. The body that manages film certification in India is commonly known as Censor Board. The Cinematograph Act enacted by the Parliament regulates the film exhibitions in India. The legislation is designed to guarantee that films are appropriate for general viewing. It guarantees that they do

not include any content that might offend or undermines public moral or decency. The legislation also empowers the Central Government to set up a Film Certification Body to evaluate and certify films for screening. The Board consist of a Chairman and members selected by the Central Government. The members, include accomplished professionals from variety of professions, including social sciences, law, education, art and cinema.

14. The vision of Central Board of Film Certifications (CBFC) is 'to ensure good and healthy entertainment' in accordance with the Cinematograph Act and the Cinematograph (Certification) Rules, 1983. The Cinematograph Act, which was one piece of legislation, was passed in 1952 and authorized the Central Government to form a Censorship Board. The Board certifies films without which they are not allowed for public showing.

15. Section 5 of the Cinematograph Act reads as

under:

*"**5. Advisory panels.—**(1) For the purpose of enabling the Board to efficiently discharge its functions under this Act, the Central Government may establish at such regional centres as it thinks fit, advisory panels each of which shall consist of such number of persons, being persons qualified in the opinion of the Central Government to judge the effect of films on the public, as the Central Government may think fit to appoint thereto.*

*(2) At each regional centre there shall be as many regional officers as the Central Government may think fit to appoint, and rules made in this behalf may provide for the association of regional officers in the examination of films.*

*(3) The Board may consult in such manner as may be prescribed, any advisory panel in respect of any film for which an application for a certificate has been made.*

*(4) It shall be the duty of every such advisory panel whether acting as a body or in committees as may be provided in the rules made in this behalf to examine the film and to make such recommendations to the Board as it thinks fit.*

*(5) The members of the advisory panel shall not be entitled to any salary but shall receive such fees or allowances as may be prescribed."*

16. Section 5 deals with the procedure in relation to the Board, including the manner in which the films are to be examined and certified in accordance with the Cinematograph Act and the Rules framed there under.

17. Section 5A of the Cinematograph Act reads as under:

*"**5A. Certification of films.—**(1) If, after examining a film or having it examined in the prescribed manner, the Board considers that—*

*(a) the film is suitable for unrestricted public exhibition, or as the case may be, for unrestricted public exhibition with an endorsement of the nature mentioned in the proviso to clause (i) of sub-section (1) of section 4, it shall grant to the person applying for a certificate in respect of the film a "U" certificate or, as the case may be, a "UA" certificate with any UA marker;*

*(b) the film is not suitable for unrestricted public exhibition, but is suitable for public exhibition restricted to adults or, as the case may be, is suitable for public exhibition restricted to members of any profession or any class of persons, it shall grant to the person applying for a certificate in respect of the film an "A" certificate or, as the case may be, a "S" certificate;*

*and cause the film to be so marked in the prescribed manner:*

*Provided that the applicant for the certificate, any distributor or exhibitor or any other person to whom the rights in the film have passed shall not be liable for punishment under any law relating to obscenity in respect of any matter contained in the film for which certificate has been granted under clause (a) or clause (b).*

*(2) A certificate granted or an order refusing to grant a certificate in respect of any film shall be published in the Gazette of India.*

*(3) Subject to the other provisions contained in this Act, a certificate granted by the Board under this section shall be valid throughout India."*

18. Section 5A confers the power of grant a refusal of certification. Upon examination, the Board may:

i. Grant a certificate of unrestricted public exhibition (U)

ii. Grant a certificate with parental guidance (U/A)

iii. Restrict exhibition to adults (A) or

iv. Refuse certification altogether

The certification is the statutory authorization, and once granted, the film can be exhibited subject to the conditions imposed.

19. Section 5B of the Cinematograph Act reads as under:

> *"**5B. Principles for guidance in certifying films.—**(1) A film shall not be certified for public exhibition if, in the opinion of the authority competent to grant the certificate, the film or any part of it is against the interests of the sovereignty and integrity of India the security of the State, friendly relations with foreign States, public order, decency or morality, or involves defamation or contempt of court or is likely to incite the commission of any offence.*

*(2) Subject to the provisions contained in sub-section (1), the Central Government may issue such directions as it may think fit setting out the principles which shall guide the authority competent to grant certificates under this Act in sanctioning films for public exhibition."*

20. Section 5B lays down the substantive criteria governing certification. It mandates that films shall not be certified, if it is against:

a. The sovereignty and integrity of India

b. The security of the State

c. Friendly relation with foreign States

d. Public order, decency or morality or

e. Involves defamation, contempt of Court or incitement to an offence.

This provision incorporates the Constitutional limitations under Article 19 (2) and forms the guiding standard for the CBFC while exercising powers under Section 5A.

21. To challenge a certificate, the grounds include:

i. Violation of guidelines: The Board ignored statutory censorship guidelines (examples inciting violence, disrupts public order or defamation).

ii. Procedural irregularity: The Board did not follow the proper legal steps while granting the 'U', 'U/A' or 'A' Certificate.

iii. Violation of fundamental rights: The film infringes the petitioner's rights, (example right of dignity or right to privacy).

22. The Certification granted by the Board is regarded as an 'expert opinion, unless there is a blatant illegality'. Thus, the certification process is confined to examining whether the film conforms to the statutory guidelines relating to public order, decency, morality and other specified considerations.

23. The petitioner's claim that the movie is a 'plagiarized version of an original script' is a matter of copyright law. This constitutes a private proprietary rights

dispute between the creator and the filmmakers. The petitioner has to prove that he is the rightful owner of the original script, that the filmmakers had access to the petitioner's script and the movie is 'substantially similar to the said script' are required to be proved by a full fledged trial which are to be handled through a civil suit for the reasons envisaged earlier while answering point No.(i), in light of the proposition of law laid down by the Apex Court in ***R.G.Anand*** (supra).

24. The Board's primary mandate under the Cinematograph Act is to classify content based on statutory guidelines as stated *supra*, and the Board is not a specialized forum for adjudicating private proprietary rights disputes or title over the script. The challenge to certification by the petitioner is based solely on a private copyright dispute and not maintainable unless the petitioner is able to demonstrate 'a manifest illegality' in the Board's certification process.

25. In the present case, the petitioner has failed to establish any violation of the statutory guidelines warranting for this Court to interfere under Article 226 of the Constitution of India. Merely because a film has been certified under Section 5A of the Cinematograph Act, the same cannot be interfered with, on the ground of alleged plagiarism, particularly when such allegations pertains to private proprietary rights disputes, which require trial. Thus, this Court finds that the challenge to the CBFC certification lacks a statutory basis, as the Board is not an arbitrator of private proprietary rights. However, regarding plagiarism claim, this Court is of the considered view that the petitioner is at liberty to approach the Civil Court for copyright infringement, and the writ petition is not maintainable.

26. Section 5A of the Act does not grant the Board any judicial or *quasi-judicial* power to adjudicate 'title or ownership of the screenplay'. The certification process is a regulatory function to ensure the film's adherence to the public order, decency, and morality. Unless the film's content

itself violates Section 5B, (example it is defamatory to the petitioner), Section 5A certificate cannot be revoked merely because of a plagiarism dispute. A writ of mandamus is issued when a public official fails to perform a legal duty. Under Section 5A, the Board's duty is to certify based on the Cinematograph Act and the Rules framed there under.

27. There is no statutory duty for the Board to investigate allegations of script theft before issuing a certificate. The petitioner relied upon the decision in ***Bobby Art International Vs. Om Pal Singh Hoon and Others***[3] *(Bobby Art International)*. That was a case where the Apex Court dealt with film censorship, obscenity and freedom of expression. The film '*Bandit Queen'* was certified by the CBFC, the same was challenged by Om Pal Singh Hoon and others, arguing that it was obscene, defamatory and violated privacy and decency standards, before the High Court of Delhi and the judgment in ***Bobby Art International*** (supra) did not deal with the copyright infringement, but arose in the

[3] AIR 1996 SC 1846

context of alleged violations under the provisions of Cinematograph Act.

28. Similarly, the decision relied by the petitioner in the case of ***N.P.Amruthesh vs State of Karnataka and Others***[4] *(N.P.Amruthesh)*, where the challenge in the writ petition (PIL) was that the Censor Board wrongly certified the film despite such content, violating Constitutional values and guidelines under the Cinematograph Act. Therefore, the issue therein also pertained to whether the exhibition of a film violated the statutory provisions or offended public order, decency or morality and not a dispute *inter se* between the parties involving adjudication of competing proprietary rights and hence, the reliance placed by the petitioner on the aforesaid decisions in ***Bobby Art international*** and ***N.P.Amruthesh*** is wholly distinguishable and not applicable to the present facts.

[4] ILR 1998 KAR 2885

29. On the other hand, a claim of copyright infringement, as settled in ***R.G.Anand*** (supra) necessarily involves determination of disputed questions of fact such as access, originality and substantial copying of expression, which can be established only upon appreciation of evidence. Such an exercise squarely falls within the domain of the Civil Court in a properly instituted suit and not within the limited scope of writ petition. The petitioner has failed to show a legal right *'to have the Board investigate plagiarism under the Cinematograph Act and the remedy lies to the petitioner under the provisions of the Copyright Act and not under the Cinematograph Act'.* Section 5A of the Cinematograph Act is a safety and morality 'filter' not plagiarism. For the foregoing reasons, this Court is of the considered view that the writ petition is not maintainable and devoid of merits. Accordingly, this Court pass the following:

**ORDER**

The writ petition is hereby ***dismissed***, reserving liberty to the petitioner to avail an appropriate remedy in accordance with law, before the competent forum.

**Sd/-**

**JUSTICE K.S. HEMALEKHA**

MBM/CKL