

**O.A.No.110 of 2021**  
**in C.S.No.69 of 2021**

**C.V.KARTHIKEYAN J,**

Heard the learned counsel for the plaintiff.

2. Plaintiff had filed the present suit under Sections 55 and 62 of the Copyrights Act, 1957 read with relevant provisions of the Original Side Rules of the Madras High Court, the Code of Civil Procedure and the Commercial Courts Act, 2015 as amended, seeking a Judgment and Decree against the defendant for permanent injunction restraining them from in any manner telecasting or exploiting either through their channel or through any other mode particularly OTT Platforms the 28 movies which have been listed in the schedule and also for directions to the defendant to render true and proper accounts of profit in respect of its telecasting such movies and for damages for Rs.30,00,000/- (Rupees Thirty Lakhs only) and for costs of the suit.

3. The movies are AARU, AMARKKALAM, BOYS, CHELLAMAY, DHILL, ENAKKU 20 UNAKKU 18, KOODI

VAZHTHAL KODI NANMAI, KUTHU, MANMADAN, ORAMPO, PITHA MAGAN, TAMIZHAN, THIRUDA THIRUDI, VAAGAI SOODA VAA, YOUTH, WHISTLE, WINNER, PAISA, PEDARAYUDU, SHANKAM, CHAPTERS, DAIVATHINTE SWANTHAM CLEETUS, KARMAYODHA, MOLLY AUNTY ROCKS, MEERAUDE DHUKKAVUM MUTHUVINTE SWAPNAVUM, SALT AND PEPPER, THATTATHIN MARAYATHU, 22 FEMALE KOTTAYAM. Plaintiff claims that they are the absolute copyright owners of the said movies. Necessary documents to establish such copyright has been filed along with plaint. These documents included with respect to all the films letters from the laboratory to the plaintiff, assignment agreements between the producer of the said movies and a screen shot of the movies to establish the name and identity of the movies so transferred and assigned.

4. The plaintiff had occasion to institute there suit against the very same defendant on earlier occasions and they were in C.S.Nos.439 of 2019, 440 of 2019 and 545 of 2019. The order copies of the said suits have been filed as documents along with the plaint. A perusal of one of the order copies in C.S.No.439 of 2019 dated 23.10.2019 reflects that on

appearance, the learned counsel for the defendant had practically submitted to a decree and had also filed an affidavit by the defendant that the movies which were complained in that particular suit had been removed from their content. But more importantly, there was an undertaking that whenever there was any future uploading of movies for which the defendant did not have any copyright and if, the plaintiff intimates the same, the defendant would remove them immediately.

5. The learned counsel for the plaintiff also drew the attention of this Court to the legal notices which had been issued, first with respect to the Telugu movie ADAVI RAMUDU wherein again the plaintiff had complained to the very same defendant about exploitation without any existing interest over the copyright of the said movie. It is informed by me that the defendant had removed the said movie from the platform. But there was another occasion when a notice was issued on 28.10.2020. This was with respect to the Tamil movie WINNER. The learned counsel pointed out the acknowledgement card and it is seen that with respect to the notice issued to the address at Chennai which is one of the addresses of the defendant given in the cause title, the notice had been returned as 'refused'. However, the notice issued to the other address at

Bangalore, which address is also shown in the cause title in the present suit, had been received. But though the said notice has been issued, it is stated that the defendant had not taken any steps to remove the said movie from their platforms.

6. It is under these circumstances, complaining infringement of their existing copyright over the 28 movies as described in the schedule to the plaint and the Judges Summons in the present application and stated supra, that the suit had been filed.

7. Having heard the learned counsel for the plaintiff I hold that the plaintiff has made out a *prima facie* case, particularly with respect to assignment of copyright from the producers. It is germane to point out that the producer shall be the first copyright owner of a cinematography film and the plaintiff had acquired the rights from such competent person. Naturally they expect they can exploit the rights without any infringement. The act of the defendant in refusing to receive a notice issued by the counsel raises questions which the defendant will have to answer. Filing an undertaking and violating the same is also a factor which swing the balance in favour of the plaintiff and certainly the

balance of convenience is in favour of the plaintiff. Plaintiff would also to be put to much loss and hardship, if the defendant were to continue to exploit the movies or to exhibit the movies in their platforms. Defendant cannot plead ignorance and should have made necessary enquiries before exhibiting the movies.

8. In view of these facts, there shall be an Order of Interim Injunction as prayed for till 15.03.2021.

9. Notice through Court and also Privately returnable by 15.03.2021.

10. Stipulations under Order 39 Rule 3a of CPC shall be complied with and necessary affidavit shall be filed on or before 03.03.2021.

11. It is also to be noted that a mentioning was made by the learned counsel on behalf of the defendant without vakalat and hearing was refused by the Court.

**C.V.KARTHIKEYAN,J.**

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12. List the matter once again on 15.03.2021.

01.03.2021

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