

WP NO. 10837/2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
[MR. BONEY KAPOOR VS. MR.C.R. ANIL KUMAR AND OTHERS]

SRKKJ

11.04.2024

(VIDEO CONFERENCING / PHYSICAL HEARING)

ORDER

Office objections to be complied with by the next date of hearing.

Heard Sri.Sajjan Poovayya, learned Senior counsel for the petitioner and perused the material on record.

2. In addition to reiterating the various contentions urged in the memorandum of petition and referring to the material on record, learned Senior Counsel for the petitioner invited my attention to the impugned order in order to point out that the same is a cryptic, laconic, non-speaking and unreasoned order, without any application of mind and contrary to the principles for grant of ad-interim ex-parte order of temporary injunction as contemplated under Order 39 Rule 3 CPC as enunciated by the various judgments of the Apex Court and this Court including the judgment of the Apex Court in the case of ***Moran Stanley Mutual Fund vs. Kartick Das – (1994) 4 SCC 225.*** In this context, it is pointed out that the impugned order does not assign reasons or spell out as to how

and why the 1st respondent – plaintiff had made out a prima – facie case and that balance of convenience was in his favour and irreparable injury and hardship would be caused to the 1st respondent – plaintiff requiring dispensation of notice to the defendants.

2.1 Learned Senior counsel also invited my attention to the bald, vague and unsubstantiated pleadings and documents produced by the 1st respondent – plaintiff in order to contend that except stating that the petitioner had released the trailer / teaser more than 1½ months prior to institution of the instant suit, there was no other material placed on record to even remotely establish alleged infringement of the alleged copyright of the 1st respondent-plaintiff and the impugned order is contrary to the principles relating to grant of injunction in copyright disputes as enunciated in the judgment of the Apex Court under identical circumstances in the case of ***R.G.Anand vs. M/s.Delux Films & others – (1978) 4 SCC 118***, which has been followed subsequently in several other judgments of the Apex Court, this Court and other High Courts including the recent judgment of the Delhi High Court in the case of ***Bikramjeet Singh Bhullar vs. Yash Raj Films Private Limited and others – 2023 SCC Online Del 8212***. It is

submitted that in the absence of the 1st respondent – plaintiff producing either the script of the movie “Maidaan” or the entire movie itself which had undisputedly not been released as on the date of the impugned order, the trial court fell in error in coming to the erroneous conclusion that there was infringement of the alleged copyright of the plaintiff.

2.2 Learned Senior counsel further submitted that the judgments of the Kerala and Delhi High Courts referred to and relied upon by the trial court in the impugned order are completely distinguishable on facts and the same would have no application to the facts of the instant case.

2.3 It is therefore submitted that the impugned ad-interim ex-parte order of temporary injunction would have the detrimental effect of stalling and preventing the worldwide theatrical / OTT release of the movie “Maidaan” by the petitioner and other defendants, especially when the filming of the aforesaid movie commenced as long back as in the year 2019 and was prolonged on account of covid-19 pandemic and consequently, the impugned order has resulted in irreparable injury and hardship to the petitioner, who is before this Court by way of the present petition. In support of his contentions,

learned Senior counsel for the petitioner has relied upon the following judgments:-

(i) Paramjit Kaur and Others vs. Union of India - (2004) 136 PLR 753;

(ii) R.G.Anand vs M/s. Delux Films and Others -(1978) 4 SCC 118;

(iii) Mansoob Haider v. Yash Raj Films Pvt. Ltd and Others (2014)1 Bom CR 460;

(iv) Vishwas Patil v. M/s. Vision World LLP & Ors Com. IP. No. 1247 of 2019 (Bombay High Court);

(v) Akash Aditya Harishchandra Lama v. Asutosh Gowarikar and Others Suit No. 693 of 2016;

(vi) Deepa Jayakumar v. A.L. Vijay and Others 2021 SCC Online Mad 2642 (Madras High Court);

(vii) Sai Paranjape v. PLA Entertainment Pvt.Ltd.,And Others (Film " Chasme Baddoor") Suit (L) No. 280 of 2013 (Bombay High Court);

(viii) Smt. Sakshi Punjabi v. Mrs. Shobha Kapoor and Others (Film " Shadi Ke side effects") Suit No. 177 of 2014(Bombay High Court);

(ix) Sameer Wadekar and Another v. Netflix Entertainment Services Pvt. Ltd., LD-VS-7- of 2020 (Bombay High Court);

(x) Tarun Wadhwa vs. Saregama India Ltd., and Others Com.IP Suit (L) No. 4366 of 2021 (Bombay High Court) and

(xi) Morgan Stanley Mutual Fund.v.Kartick Das (1994)4 SCC 225 (Supreme Court)

3. Issue emergent notice to the 1st respondent returnable by 24.04.2024.

4. Notice to respondents 2 to 7 are dispensed with for the present.

5. In the meanwhile, the impugned order dated 08.04.2024 passed in O.S.No.9/2024 pending on the file of Prl.District and Sessions Judge, Mysuru, are hereby stayed till the next date of hearing.

Re-list on 24.04.2024.

Liberty is reserved in favour of respondents to seek vacation / modification of this order.

Sd/-

(S.R.KRISHNA KUMAR)
JUDGE

SRL
List No.: 1 Sl No.: 1