

Star India Pvt Ltd & Anr. Vs Afilmywap. Top & Ors.

Court: Delhi High Court

Date of Decision: Jan. 17, 2022

Acts Referred: Copyright Act, 1957 " Section 14(d)

Hon'ble Judges: Suresh Kumar Kait, J

Bench: Single Bench

Advocate: Alipak Banerjee, Abhay Prakash Sahay, Swayamprabha Saraswati, Vivek Singh

Final Decision: Disposed Of

Judgement

Suresh Kumar Kait, J

1. The plaintiffs have filed the instant suit for injunction and damages on the ground that their exclusive rights to the original content in the

cinematograph film ""Laxmii"" (formerly known as Laxmi Bomb) are likely to be violated.

2. According to the plaintiffs, release of the film ""Laxmii"" has been postponed multiple times due to Covid-19 pandemic in India and was finally

released on 9th November 2020 on Disney+ Hotstar. Film has been co-produced by the plaintiffs, Cape of Good Films LLP (defendant No.51),

Tusshar Entertainment House and Shabinaa Entertainment. However, the Intellectual Property Rights in the film are jointly held only by the plaintiffs

and defendant No.51. Consequently, defendant No.51 and plaintiffs have the exclusive rights as enumerated under Section 14(d) of the Copyright

Act, 1957Act.

3. He has further submitted that the rogue websites, which are arrayed as defendant Nos.1 to 50, have, in the past, infringed their statutory rights i.e.

copyrights in the cinematograph films produced on earlier occasions. The past infringements have been tabulated by the plaintiffs at page 177 of the

plaintiffs' documents folder. The various 'exclusive rights' that, inter alia, would be deemed to have been infringed/violated by the defendant Nos.1 to

50 are:

Ã¢â¬a. The right of making a copy of the Film including the storing of it in any medium by electronic or other means;

b. The right of communicating the Film to the public.Ã¢â¬a

Therefore, any hosting, streaming, reproducing, distributing, making available to the public, and/or communicating to the public of the film, or facilitating

the same, without authorisation of the plaintiffs, by any means on any platform including internet and mobile would be illegal and amount to violation of

the plaintiffs' copyright protected under the Act.

4. This Court was informed that defendant Nos.52 and 53 are the domain name registrars [in short "DNRs"] while defendant nos. 54 to 62 are the

Internet Service Providers [in short "ISPs"] and that the Department of Telecommunication [in short "DOT"] and the Ministry of Electronics and

Information Technology [in short "MEITY"] have also been arrayed as defendant Nos.63 and 64 respectively. It is to be noted, defendant no. 65 is

Mr. Ashok Kumar i.e. the John Doe defendant(s).

5. Learned counsel for defendant No.53 as well as learned counsel for defendant Nos.63 and 64 have appeared and submitted that they have

complied with the directions passed by this Court vide order dated 03.11.2020. They have further submitted that defendant Nos. 53, 63 and 64 have no

objection to the decree of permanent injunction being passed against them, subject to the plaintiffs giving up the claim for damages and costs. Learned

counsel for defendant No.53 further submitted that he has no objection if prayer clause (i), (iii) and (iv) are allowed and prayer clause (ii) is allowed

to the extent as under:

ii. Pass an order and decree directing the Defendant No. 52 and 53, its directors, partners, proprietors, officers, affiliates, servants,

employees, and all others in capacity of principal or agent acting for and, on its behalf, or anyone claiming through, by or under it, to

suspend the domain name registration of domain names of Defendants No. 1 by Defendant No. 52 (Public Domain Registrar) and

Defendants No. 2 by Defendant No. 53 (GoDaddy) and as already identified by the Plaintiffs in the instant suit in Memo of Parties. to

6. None has appeared on behalf of remaining defendants.

7. In response to the aforesaid, learned counsel for plaintiffs on instructions had submitted that plaintiffs shall not press for damages and costs against

defendants and further prays that prayer clause (i) to (iv) (clause (ii) to the extent as prayed by learned counsel for defendant No.53) be allowed.

However, submitted that plaintiffs shall invite a judgment on this aspect.

8. Today, learned counsel appearing on behalf of plaintiffs has submitted that in view of concession put forth by counsel representing defendant

Nos.53, 63 and 64, the present suit be decreed in terms of Prayer Clause (i) to (iv) (clause ii to the extent as prayed by learned counsel for defendant

No.53) and plaintiffs give up their claims with regard to prayers mentioned prayer clause from (v) to (viii).

9. The aforesaid submission advanced by learned counsel for plaintiffs is consented to by learned counsel for defendant Nos.53, 63 and 64.

10. In view of the above, the present suit is decreed in terms of Prayer Clause mentioned in prayer clause (i), (iii) and (iv) of present suit are allowed

and prayer clause ii of present is allowed to the extent as under which shall form part of the decree:

“(ii.) Pass an order and decree directing the Defendant No. 52 and 53, its directors, partners, proprietors, officers, affiliates, servants,

employees, and all others in capacity of principal or agent acting for and, on its behalf, or anyone claiming through, by or under it, to

suspend the domain name registration of domain names of Defendants No. 1 by Defendant No. 52 (Public Domain Registrar) and

Defendants No. 2 by Defendant No. 53 (GoDaddy) and as already identified by the Plaintiffs in the instant suit in Memo of Parties.

11. Decree sheet be drawn accordingly.

12. The present suit and pending application, if any, are accordingly disposed of.