
Super Cassettes Industries Pvt. Ltd Vs M/S I- Vision Digital LLP

Civil Suit (COMM) 905 Of 2018 & I.A. 7340 Of 2018

Court: Delhi High Court

Date of Decision: Nov. 12, 2018

Hon'ble Judges: Prathiba M. Singh, J

Bench: Single Bench

Advocate: K. K. Khetan

Judgement

Prathiba M. Singh, J. (Oral)

1. The present suit for infringement of copyright has been filed by Plaintiff - Super Cassettes Industries Pvt. Ltd. against the Defendant - M/s I-Vision

Digital LLP. The allegations in the plaint are that the Plaintiff owns a large repertoire of rights in sound recordings and audiovisual works from various

cinematographic films. The Plaintiff claims that it has invested a large amount of money in building this repertoire. The Plaintiff has placed on record

the copyright registration certificates of some of the songs in which copyright is owned by it.

2. The Defendant, as is evident from page 50 of the documents, is a company which is running the cable channel by the name Idukki Vision Digital.

Website printout of www.idukkivision.com shows all the channels, which are telecasted by the Defendant Company, are under the name Idukki Vision

Digital, with a very specific logo type. The Plaintiff found that the Defendant is broadcasting various copyrighted works of the Plaintiff on its channel

Idukki Vision News, which is one of the channels run by the Defendant. The Plaintiff has placed on record the copyright registrations certificates in

respect of the specific songs, which were being illegally broadcasted on the cable channel of the Defendant. The screenshots of the said broadcasts

have also been placed on record.

3. Plaintiff issued notices dated 29th December, 2017 and 20th January, 2018 notifying the Defendant of its rights in its audio-visual works. The

Defendant's reply to the same, which is to the following effect, was extremely cryptic.

To Dated: 24.01.2018

Mr. K.K. Khetan

Advocate,

Noida.

From,

Idukki Cable Vision Pvt.Ltd

St.George Church Building

Adimali, Kerala.

SUB: Rejection of Legal Notice

Dear KK Khetan,

This is inform you that we have received your legal notice, but sorry to inform you, the mentioned channel 'IDUKKI VISION ENTERTAINMENT'

is not in our ownership.

We have no relationship with the company that you have accused. So your notice is rejected by the company.

Your basic notice is dishonored by our reputable company.

4. The Defendant took a stand that the channel Idukki Vision Entertainment is not owned by it. The Plaintiff, thereafter, issued another notice dated

5th February, 2018 clearly showing evidence to the effect that Idukki Vision Entertainment and Idukki Vision News are run by the Defendant. The

Plaintiff relied upon the website printout filed at page 50 of the documents, as per which the Defendant's stand was clearly false and incorrect.

However no reply was received, leading to the filing of the present suit. The suit was filed seeking permanent injunction and damages against the

Defendant. On 25th May, 2018, this Court granted an interim injunction in the following terms.

"Summons of the suit and notice of the application be issued to the defendant by all modes on filing of PF/RC returnable before the Joint Registrar

on 04.09.2018 and in the meanwhile the defendant and all others acting for and on its behalf are restrained from authorizing, the recording, distributing,

broadcasting, public performance/communication to the public or in any other way exploiting the cinematograph films, sound recordings and /or literary

works (lyrics) and Musical works (musical composition) or other work or part thereof throughout India, that is owned by the Plaintiff including all

works whereon the Plaintiff has shown its copyright under section 52A of the Copyright Act or doing any other act that would lead to infringement of

the Plaintiffs copyright, through its Ground Cable Network under various logos as mentioned herein before throughout the state of Kerala/India.

Compliance of Order 39 Rule 3 of the CPC be made within ten days. Order dasti.

5. Despite service of the summons and notice, none appeared for the Defendant. Learned Joint Registrar has, accordingly, put the matter before this

Court. It is now settled, in view of the provisions of The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts

(Amendment) Act, 2018 as also the Delhi High Court (Original Side) Rules, 2018, that it is no longer necessary in every matter, even when the

Defendant is not appearing, that the Plaintiff has to lead evidence. The filing of evidence can be exempted, if from the pleadings and documents relied

upon, the suit can be decided. This is the settled position as held in by this Court in Everstone Capital Advisors Pvt. Ltd. & Anr v Akansha Sharma &

Ors.,CS (COMM) 1028/2016, Decided on 17th July, 2018 and M/s VRS Foods Ltd. v Prem Chand, CS (COMM) 365/2016, Decided on 30th August,

2018.

6. A perusal of the plaint and the documents shows that Idukki Vision Digital has a very specific logo, which looks as under:

7. A perusal of the screenshots, which has been placed on record, also shows that an identical logo is used on the channel, which is being run by the

Defendant. The list of channels, which has been placed on record, also shows that the Defendant clearly claims that Idukki Vision News is one of its

channels, as per the data available on its own website www.idukkivision.com. Thus, the stand of Defendant, that it is not the owner of the channel, is

clearly contrary to the information available on its own website. The Defendant has clearly tried to evade taking responsibility of the illegal broadcasts

on its cable channel.

8. The screenshots clearly show the broadcast of songs, in which the Plaintiff owns its rights, as per the copyright certificates placed on record. Under

these circumstances, the stand of Defendant, that it is not the owner of the Idukki Vision News and Idukki Vision Digital, is completely false, and in

fact mala fide, as the website extract placed on record establishes the contrary. Defendant is, accordingly, enjoined in terms of paragraph (i) of the

prayers in the plaint.

9. Considering that the Plaintiff put the Defendant to notice and the Defendant took a false plea in its reply and also failed to reply to the subsequent

notices sent by Plaintiff, this is an apt case for passing a decree of damages. The Defendant is a cable channel, broadcasting to more than 20 lakh

homes. Considering that it would be earning large amounts of revenue for such broadcasts, the suit is decreed for a sum of Rs.10 lakhs along with

costs of the suit and counsel fee, as per the Delhi High Court (Original Side) Rules, 2018.

10. The suit is decreed as per paragraph (i) of the prayer clause along with a decree of damages for a sum of Rs.10 lakhs. Decree sheet be drawn

up. All pending I.As. also stand disposed of.