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(Civil)  
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**IN THE COURT OF THE XVIII ADDITIONAL CITY CIVIL JUDGE  
AT BANGALORE CITY**

**PRESENT: SRI PADMA PRASAD**

**B.A.(Law) LL.B.,  
XVIII Additional City Civil Judge.**

Dated this the 5<sup>th</sup> day of April 2023

**ORIGINAL SUIT No.385/2023**

**PLAINTIFF:** Sri S.V. Rajendrasingh Babu S/o

[By Sri S.R. Srinivasa Murthy, Advocate]

**/v e r s u s/**

- DEFENDANTS:**
1. The President, Karnataka Film Chamber of Commerce, No.28, 1<sup>st</sup> Main, Crescent road, High Grounds, Bengaluru-560 001.
  2. M/s Sri Jayadurga Movies, Represented by its Proprietor, C/o Karnataka Film Chamber of Commerce, No.28, 1<sup>st</sup> Main, Crescent Road, High Grounds, Bengaluru-560 001.
  3. The Secretary/ Chairman,  
Central Board of Film

Certification, Having office at  
Kendriya Sadhana,  
Koramangala, Bengaluru-560  
071.

D1 - By Sri PS, Advocate  
D2 & D3 -

### **ORDERS ON IA NO.1, 3 AND 5**

IA No.1 and 3 filed by the plaintiffs under Order XXXIX Rule 1 and 2 CPC. The prayer in IA No.1 is to restrain the defendant no.1 and 2 from using the title “Swathi Muttina Male Haniye” in their business such as using the title of their producing the Kannada movie as title song etc., The IA No.3 is with the prayer to restrain the defendant no.3 from censoring the Kannada picture produced by the second defendant using the title “Swathi Muttina Male Haniye”.

2. The said applications are supported with affidavit of plaintiff wherein it is stated that plaint may be read as part and parcel of the affidavit.

3. The case made out by the plaintiff in the plaint is that the plaintiff S.Rajendra Singh Babu is the veteran film producer and director having done about 45 movies in Kannada and other languages.

The plaintiff produced and directed the Kannada movie titled as 'Bannada Gejje' wherein he has picturised a song "Swathi Muttina Male Haniye" which is most popular song and well versed in the Kannada film industry regarding the song and title of the above song. The plaintiff further claimed that he has commenced the Kannada movie in the name of "Swathi Muttina Male Haniye" and completed 70 per cent of the movie, but meantime its actor Ambareesh expired, hence could not able to complete the movie. The plaintiff further stated that to his memory, he appears to have registered the title of the movie "Swathi Muttina Male Haniye" with the first defendant. The plaintiff further claimed that he has issued a legal notice to first defendant stating that title of his movie shall not be given to anyone other than plaintiff, for which the first defendant has given a reply stating that the records of the first defendant shows that second defendant got registered the title "Swathi Muttina Male Haniye" and plaintiff has not

registered the name. Hence, the plaintiff filed this suit along with relief claimed under IA No.1 and 3.

4. The defendant no.1 filed common objections to IA No.1 and 3 wherein it is stated that the plaintiff has not satisfied the essential elements that warranted for the issuance of ex parte temporary injunction, there was no cause of action for the suit. The defendant also claimed that song title in itself would not confirm proprietary right over it as the song title would not be a complete work in itself. The plaintiff has failed to plead when he has started the movie titled as “Swathi Muttina Male Haniye” and when it has been stalled or whether the plaintiff is intended to complete the movie or release the movie etc., The defendant no.1 has no role whatsoever infringing the plaintiff’s alleged right. Further it is stated that Sree Jagadguru Movies represented by its proprietor B.K.Gangadhar registered the name “Swathi Muttina Male Haniye” in the month of August 2022, and the plaintiff has not registered the title of the movie “Swathi Muttina Male Haniye” with

defendant no.1. Further it is stated that third defendant is the statutory authority, hence the suit is hit by Section 82 of the CPC and among other grounds prayed for dismissal of IA and suit.

5. IA No.5 is filed by the defendant no.4 and 5 under Order XXXIX Rule 4 of CPC to vacate the exparte temporary injunction granted in favour of the plaintiff.

6. This IA is supported with the affidavit of defendant no.5 wherein she stated that she is working on a new film under the name “Swathi Muttina Male Haniye” for a quite long time and the said movie is written and directed by Raj. B.Shetty of Lighter Buddha Films and was slated to be fifth defendants come back movie, and movie poster under the name “Swathi Muttina Male Haniye” has also been released and the same is in public domain. The movie is being released in and around April. The title “Swathi Muttina Male Haniye” is of immense significance as the movie is a matured love story set against the back drop of a hill station and the rains

proves to be an equally important part of the story line, hence they have chosen the said title for their movie. Further it is stated that upon verification, the rights to the said movie name was with Sri Jagadguru Movies and not the defendant no.2 to the suit on 9/8/2022. The defendant no.1 has also intimated the transfer of the title “Swathi Muttina Male Haniye” to the defendant no. 4 and 5 by its rightful owner. The defendant no.4 and 5 also claimed that they have completed the shooting of movie “Swathi Muttina Male Haniye” and it is in the post production stage and it is to be released in the middle of April. The plaintiff filed this suit to cause loss and hardship to the applicants, and it is also stated that the plaintiff has not acquired Copyright over the title of the song as the title does not qualify for being described as his works. The combination of the word ‘Swathi’ ‘Muttina’ ‘Male’ and ‘Haniye’ cannot be said to have anything original in it. Hence the plaintiff cannot claim any protection under the Copyright’s Act as the title “Swathi Muttina Male Haniye” does not qualify as a

Copyright under the meaning of Copyright Act, 1957. It is also stated that the temporary injunction order is coming in the way of applicant's right to release the movie, if the temporary injunction is not vacated, the applicants will be put to irreparable injury and loss, and no such prejudice will be caused to the plaintiff. Accordingly, prayed to vacate the temporary injunction order.

7. On the basis of the above, points for consideration are:

1. Whether the plaintiff has made out prima facie case in its favour?

2. Whether the plaintiff proves that balance of convenience tilts in its favour?

3. Whether the plaintiff proves that if temporary injunction is not granted, plaintiff will be put to loss and hardship?

4. Whether the defendants 4 & 5 have made out sufficient grounds to vacate the exparte temporary injunction?

5. What order?

8. Heard the arguments. Perused the materials on record. The learned advocate for the plaintiff filed following citations:

1. Naga Book House and another Vs. State by respondents AIR 1982 Cal 242;

2. Indian Performing Right Society Ltd., Vs. Eastern Indian Motion Picture Associates – AIR 1977 SC 1443.

9. On the other hand, learned counsel for the defendant No.1 filed written arguments and filed following citations:

1. Francis Day and Hunter Ltd., Vs. Twentieth Century Fox Corp. and others 52 LW 10;

2. R.G. Anand Vs. M/s Delux Films and Ors. (1978) 4 SCC 118.

3. Prism Motion Pictures Pvt. Ltd., Vs. Mukta Arts Ltd., 2018 SCC Online DEL 11152.

4. Bihari Chowdhary Vs. State of Bihar and Ors. (1984) 2 SCC 627.

5. Union of India Vs. Natwerlal M. Badiani (2001) 250 ITR 641;

6. State of Orissa and Anr. Vs. Ganeshjew Mahaprabu, AIR 1984 Ori 134.

7. State of Tripura Vs. Sajal Kanti Sengupta AIR 1982 Gau 76.

10. My findings on the above points are as under:



- Point No.1: In the negative;  
Point No.2: In the negative;  
Point No.3: In the negative;  
Point No.4: In the affirmative;  
Point No.5: As per final order;  
for the following:

## **REASONS**

11. **POINT NO.1:** The definite case of the plaintiff is that the plaintiff is the renowned film producer and director has produced various films as claimed in the plaint. The said facts are not in dispute. The claim of the plaintiff in the suit is that he has produced the film called 'Bannada Gejje' and picturised a song "Swathi Muttina Male Haniye". Accordingly the plaintiff claims Copyright over the said line of the song "Swathi Muttina Male Haniye". Further claim of the plaintiff is that, he has commenced the picturisation of movie called "Swathi Muttina Male Haniye" with the starring of Ambareesh, Suhasini and others, and also completed 70 per cent of the movie but could not complete the movie due to the death of Ambareesh. The plaintiff

has not produced any document to substantiate all these facts. But one thing is certain that the plaintiff has not completed the movie “Swathi Muttina Male Haniye” as claimed by him.

12. The plaintiff in plaint para no.5 claimed that according to his memory, it appears that the plaintiff had registered the title of the picture “Swathi Muttina Male Haniye” with first defendant. If this averments in the plaint para no.5 is accepted, the plaintiff is totally aware that name of the film has to be registered with defendant no.1 i.e., the Karnataka Film Chamber of Commerce so that the plaintiff can acquire right over the title of the movie. The manner in which the plaintiff pleaded about the registration of name of the movie in plaint para 5 shows that the plaintiff is not certain about the registration of name of the movie before the first defendant. Admittedly the plaintiff claimed that he is a veteran movie producer and director, as such he has the knowledge of registering the name of the movie in the film industry. In spite of that, the plaintiff is not certain about the

registering of name of movie “Swathi Muttina Male Haniye” with first defendant.

13. The plaintiff claims that he has issued the notice to defendant no.1 on 9/12/2022 praying not to authorise anybody to do the movie in the name of “Swathi Muttina Male Haniye”, for which the defendant has given a reply that the plaintiff has not registered the name “Swathi Muttina Male Haniye” for his alleged movie, and it is the defendant no.2 has got registered the name of the movie “Swathi Muttina Male Haniye”. Hence, the pleadings of the parties and the admission given by the plaintiff shows that the plaintiff has not registered the name “Swathi Muttina Male Haniye” for his movie. When the plaintiff failed to prove that he has registered the name, certainly he cannot claim right over the title of the movie “Swathi Muttina Male Haniye”.

14. Now the point to be determined or considered in this case is that whether a single line of a song can be treated as copyright. The definite case

of the defendants that the four words found in the movie is are different names, and it will not give any right or authority to claim copyright over the said words because it is not the complete work. The author of the complete work only entitled to claim right over the such name. It is specifically claimed that a line in the song will not confer any copyright. In this regard, the counsel for the defendants have relied on a decision reported by privy counsel in a case of **Francis Day and Hunter Limited Vs. Twentieth Century Fox Corp. and others dated 19/10/1939** wherein Privy Counsel specifically held that use of a song titled subsequently as a film title would not constitute an infringement of copyright. The similar view has been taken by Hon'ble Supreme Court of India in a case of **Krishika Lulla Vs. Shyam Vittalrao Devkatta (2016) 2 SCC 521**. Further in a case of **R.G.Anand Vs. M/s Deluxe Films in a case reported in (1978) 4 SCC 118** held that title of the song will not confer any copyright.

15. Further, it is relevant to note that the plaintiff has not completed the picturisation of movie called “Swathi Muttina Male Haniye”, per contra the defendant no.4 and 5 have made out a case that they have acquired the title from its owner and also completed the picturisation of movie. The definite case of the defendant no.4 and 5 is that, in view of the completion of the movie, they are about to release the movie. In support of the said contention, the defendants have also produced their promotional brouchers and other documents. Therefore, the material on record sufficiently shows that the proposed defendant no.4 and 5 have completed the movie and they are about to release the movie. Further the defendant no.6 have registered the title “Swathi Muttina Male Haniye” before the defendant no.1 who is the competent person to get the registration of the title of the movie. The document produced by the defendants also shows that the titleholder of the movie i.e., defendant no.6 has transferred the title to the defendant no.4 Apple Box

Studios LLP as on 11/1/2023, and the defendant no.4 has become the registered title holder of the movie “Swathi Muttina Male Haniye”. Therefore, the material on record sufficiently shows that as of now the defendant no.4 is the absolute owner of the title “Swathi Muttina Male Haniye”. Further, the defendant no.4 and 5 have completed the movie and they are about to release the said movie. Hence, certainly the claim of the plaintiff cannot be accepted, particularly the plaintiff failed to show that he has got registered the title “Swathi Muttina Male Haniye” before defendant no.1 and also the plaintiff failed to show that one line in the song can be considered as the copyright material. If the entire song has been dubbed and copied, then only it can be accepted that the copyright has been infringed. In the case on hand, one single line of the song has been used as a movie name that too after registering the name before the competent authority / defendant no.1. It is not the case of the parties to the suit that defendant no.1 is not a competent authority to register the name.

16. It is also relevant to note that the film of the plaintiff claimed in the plaint is not yet completed. Admittedly the lead-role actor has been died, and the plaintiff has not made out any case to show that when actually the plaintiff intended to complete the picturisation of movie "Swathi Muttina Male Haniye". Mean time, it is useful to refer that the defendant no.4 and 5 have completed the movie and the movie is about to be released. Therefore, the completed movie has to be permitted to release in the theaters, if not permitted, it may cause loss and hardship to the film makers. Per contra, no such hardship will be caused to the plaintiff than the defendants and if plaintiff succeeded in the suit, certainly they are entitled to claim compensation. However, the material on record sufficiently shows that the defendants have completed the movie and about to be released. Per contra, the movie of the plaintiff has not been completed. Therefore, this court is of the humble opinion that the plaintiff has failed to make out a prima facie case. When the plaintiff failed to make out prima facie

case, certainly balance of convenience as well as comparative hardship will not lie on the plaintiff but certainly it is on the defendants. Accordingly, these points are answered in **negative**.

17. **POINT NO.4:** In view of the findings on Points 1 to 3, certainly it has to be accepted that the defendants 4 and 5 have made out sufficient grounds to vacate the exparte temporary injunction. Accordingly this point is answered in **affirmative**.

18. **POINT NO.5:** In view of my findings on the above points, I proceed to pass the following:

## **ORDER**

- IA No. 1 and 3 filed by the plaintiff under Order XXXIX Rule 1 and 2 of CPC are hereby dismissed.
- IA No.5 filed by the defendant no. 4 and 5 under Order XXXIX Rule 4 CPC is allowed. Consequently exparte temporary injunction order dated 16/1/2023 is hereby vacated.

\* \* \*

[Dictated to the Judgment Writer directly on computer, **Script** corrected, signed and then pronounced by me, in the Open Court on this the 5<sup>th</sup> day of April 2023.]

[PADMA PRASAD]  
XVIII Additional City Civil Judge.  
BANGALORE.





...Order pronounced in the Open Court.... (Vide separate detailed order..)

- IA No. 1 and 3 filed by the plaintiff under Order XXXIX Rule 1 and 2 of CPC are hereby dismissed.
- IA No.5 filed by the defendant no. 4 and 5 under Order XXXIX Rule 4 CPC is allowed. Consequently exparte temporary injunction order dated 16/1/2023 is hereby vacated.
- For issues by 1/6/2023.

[PADMA PRASAD]  
XVIII Additional City Civil Judge.  
BANGALORE.





