

O.A.No.744 of 2019
in C.S.No.470 of 2019

KRISHNAN RAMASAMY, J.,

The present Original Application has been filed seeking to grant an interim injunction restraining the respondents 1-9/defendants 30-38 from infringing the cinematographic film "NERKONDA PAARVAI" by themselves, their partners/proprietor/directors, heirs, representatives, successors in business, assigns, distributors, agents, servants, or anyone claiming through them or under them from infringing the applicant's copyrighted cinematographic film "NERKONDA PAARVAI" by copying, recording, reproducing or allowing camcording or allowing others to transmit, communicate or make available or distributing or duplicating or displaying or releasing or showing or uploading or downloading or exhibiting or playing and/or in any manner whatsoever from communicating the cinematographic film, "NERKONDA PAARVAI" and said work without a proper license from the applicant or in any other manner which would violate/infringe the applicant's copyrighted cinematographic film "NERKONDA PAARVAI" through different mediums including but not limited to CD, DVD, Blu-ray disc, VCD, cable TV, Direct to home services, internet services, multimedia messaging services, pen drives, hard drives, tapes, DAS, satellite, Conditional Access Systems or in any other medium/manner whatsoever, pending disposal of the above suit.

2.1. The learned counsel for applicant fairly submitted that the applicant's latest venture is an upcoming cinematographic film titled "NERKONDA PAARVAI" in Tamil language, starring Ajithkumar, Sharddha Srinath, Rangraj Pandey and others directed by H.Vinoth. He further submitted that the applicant has invested substantial sums of money in the

production of the said film and is scheduled to be released in more than 2000 screens worldwide including Chennai and its official trailer was also published in the Youtube.

2.2. The learned counsel would submit that the said cinematographic film is scheduled to be released on 08.08.2019 and the applicant Company acquired all exploitation and distribution rights including theatrical rights, music rights, other rights including TV, internet, digital and home video and all the aforementioned rights are exclusive. He would also submit that the applicant has the right to bring, extend or defend any proceedings related to the infringement in respect of the film and also it has the exploitation rights of the said film under the provisions of Copyright Act, 1957 as amended in 2012 vide the Copyright (Amendment) Act 2012.

2.3. The learned counsel for applicant contended that the various cable and internet services provided by various persons (respondents 1-9) across the world are involved in activities of recording, cam-cording and reproducing the audio songs, audio-visual clips, audio-visual songs and full cinematographic films that are screened in theatres and then copying/reproducing them through various medium including but not limited to CDs, DVDs, VCDs, Blu-ray Discs, computer hard drives, pen drives etc., and distribute the same for selling at a meager sum to the general public without any leave or authorization of the production houses/copyright holders/right holders such as the applicant herein.

2.4. The learned counsel argued that the extensive list of 1129 websites mentioned in Schedule have the potential to upload and/or enable third parties to copy, reproduce, distribute, display through cable or online

medium of the applicant's copyright protected said Film and said Work through the 9 ISPs. He further argued that these websites do not have any sort of "take-down" mechanism whereby copyright holders can notify the website of a user who has posted content that infringes their copyright.

2.5. The learned counsel submitted that the respondents have not entered into any license agreement with the applicant for communicating the movie and thus it amounts to infringement of applicant's copyright under Sections 14(1)(d) r/w. Section 16 of the Copyright Act, 1957. He would also submit that the present suit is being instituted as a *quiatimet* action on account of reasonably apprehended acts of infringement. He further submitted that unless the respondents are restrained from such infringing activities, other persons with whom the applicant had entered into agreements for the purpose of marketing, promotion, exploitation, communication etc., would also suffer huge financial losses and therefore, the applicant has filed the present Original Application for the relief stated *supra*.

3. In the light of the facts and circumstances narrated *supra*, I am of the opinion that the applicant has made out a *prima facie* case, for obtaining an order of interim injunction. The reasons stated in the affidavit filed in support of the Application are convincing and also the balance of convenience is in favour of the applicant. Hence, this Court is inclined to grant an order of interim injunction in this Original Application as sought for by the applicant. Accordingly, there shall be an interim order of injunction till 20.08.2019. The applicant is directed to comply with the procedures contemplated under Order XXXIX Rule 3 of the Code of Civil Procedure.

KRISHNAN RAMASAMY, J.,

mrr

4. Notice to the respondents through Court as well as privately returnable by 20.08.2019

5. Post the matter on 20.08.2019.

06.08.2019

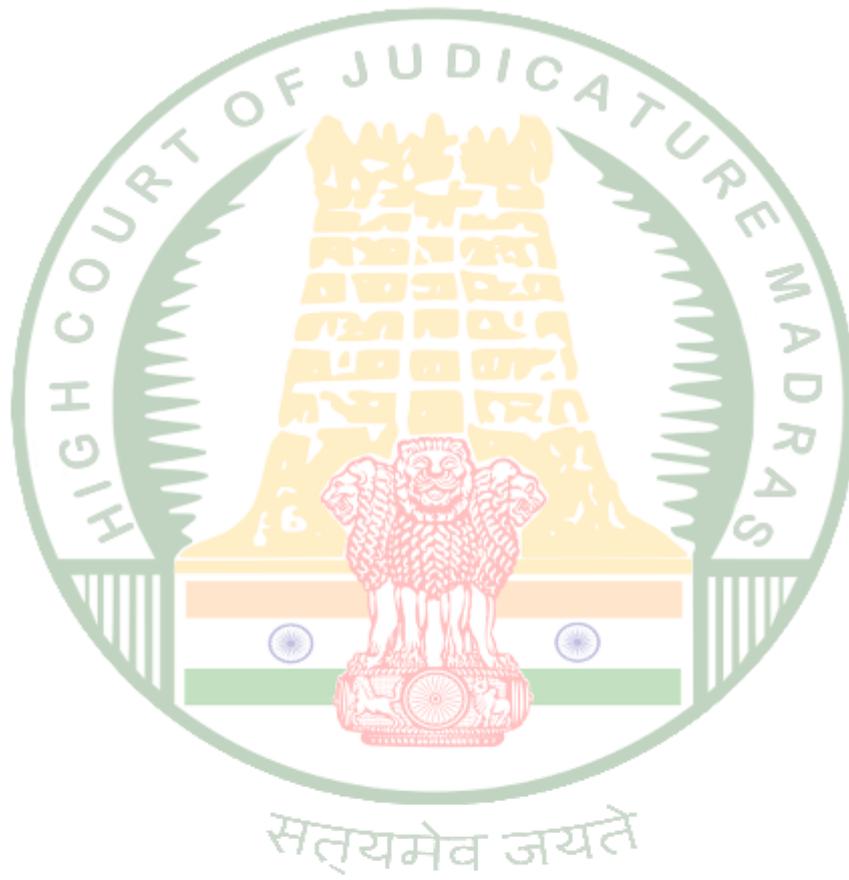
mrr

Note: Issue Order Copy on 07.08.2019

O.A.No.744 of 2019
in C.S.No.470 of 2019



WEB COPY



WEB COPY