

Sandeep Kumar vs.satellite Channels Pvt. Ltd. & Ors

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Court : Delhi

Decided On : Jul-02-2019

Appellant : Sandeep Kumar

Respondent : Satellite Channels Pvt. Ltd. & Ors

Advocate for Pet/Ap. : Mr. Harshit Sethi, Ms. Kartikeya Singh

Judgement :

\$~9 * + IN THE HIGH COURT OF DELHI AT NEW DELHI CS(COMM) 335/2019
SANDEEP KUMAR Plaintiff Through: Mr. Harshit Sethi & Ms. Kartikeya Singh,
Advs. Versus Defendants Through: None. SATELLITE CHANNELS PVT. LTD.
& ORS. CORAM: HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW %

ORDER

0207.2019 IA No.8669/2019 (for exemption) 1.

2. Allowed, subject to just exceptions. The application is disposed of. CS(COMM) No.335/2019, IA No.8670/2019 (under Order XXXIX Rules 1&2 CPC) & IA No.8671/2019 (under Order XXVI Rule 9 CPC) 3. Inspite of passover, the arguing counsel is not available.

4. Though the filing counsel has sought to argue the matter but in my opinion, the plaint as drafted is not maintainable and is liable to be rejected.

5. The plaintiff has instituted this suit against as many as 98 defendants; however the defendants no.37 to 98 are John Doe defendants. In my opinion, even if a John Doe order is sought, there is no need to implead John Doe repeatedly, adding to the bulk of the plaint; one John Doe is sufficient. Moreover, there is no reason why the plaintiff has stopped at 98 and not completed a century of defendants! CS(COMM) 335/2019 Page 1 of 4 6. The plaintiff, as per averments in the plaint, has claimed the relief of damages, only from defendant, no.18 Hathway Cable & Datacom Ltd. which is shown to be at Mumbai. There is no reason for the plaintiff to invoke the territorial jurisdiction of this Court against defendant no.18 situated at Mumbai.

7. Jurisdiction of this Court against defendant no.18 is invoked by stating that the plaintiff, while lodging in Duke Guest House at Delhi, watched the channel of the defendant no.18. However the said Duke Guest House has not even been made a party to the suit.

8. The plaintiff has instituted this suit for permanent injunction restraining infringement of copyright and for recovery of damages. However the plaintiff, as per averments in the plaint, is not the owner of the copyright which is alleged to have been infringed but only the authorized representative of the several owners of the copyright works.

9. The plaintiff, vide Section 55 of the Copyright Act, 1957, as authorized agent, is not entitled to maintain a suit for infringement which can be filed only by the owner of the copyright. The suit has to be filed by the owners of the copyright, even if acting through plaintiff as their authorized representative. The plaint is liable to be rejected on this ground alone.

10. The plaintiff, at page 20 as well as at several other places, has referred the several facts as undisputed, without disclosing as to how and where each of the defendants has admitted the said facts. CS(COMM) 335/2019 Page 2 of 4 11. The plaint, running from pages 9 to 38, comprises of Memo of Parties till pages 15 and else comprises of quotations of statutes and extracts of judgments and which is against the tenets of drafting of pleadings as enshrined in Order VII Rule 1 of the CPC. The same nowhere prescribes law to be pleaded. Reference in this regard

may be made to Sambhav Kapur Vs. British Indo German Industrial Organics Pvt. Ltd. 2016 SCC OnLine Del 6379; Ram Sarup Gupta Vs. Bishun Narain Inter College (1987) 2 SCC555 and Pamela Kumar Vs. Arun Mohan 1997 SCC OnLine Del 681.

12. The plaint, on a reading thereof discloses cause of action only against the defendant no.18 and no cause of action whatsoever is disclosed against defendants no.1 to 17 and 19 to 36. Though the plaintiff at page 33 of the plaint has averred that the other defendants are also indulging in copyright infringement but without even pleading that the copyright infringed by the other defendants is of the plaintiff or of the principals of the plaintiff. From the reliefs claimed in the plaint also, the plaintiff appears to be seeking piracy of copyright in general and not copyright held by the principals of the plaintiff. Section 4 of the Specific Relief Act, 1963 bars grant of specific relief without the plaintiff having cause of action and merely for enforcing law in general.

13. Though at one place, it is also pleaded that the suit is being filed as a quia timet action but again, without pleading any facts. If copyright is being infringed, it is not a quia timet action. CS(COMM) 335/2019 Page 3 of 4 14. The counsel for the plaintiff to, on the next date of hearing come prepared on all the aforesaid aspects as well as on other aspects on which the counsel may be quizzed.

15. List on 4th July, 2019. RAJIV SAHAI ENDLAW, J JULY02 2019 gsr.. CS(COMM) 335/2019 Page 4 of 4

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