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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.04.2025**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

C.S.No.723 of 2019
and A.Nos.1832 & 1833 of 2023

The Indian Performing Rights Society Limited,
Represented by its Area General Manager,
N.J.Venkataraman,
Flat No.D-1, Second Floor,
Parsn Paradise Residential Apartments,
109, G N Chetty Road, T Nagar,
Chennai – 600 017. ... Plaintiff

-vs-

1.Mr.K.Murali,
Proprietor – Mouna Raagam Orchestra,
13/7, First Floor,
Bagirathi Ammal Street,
T.Nagar, Chennai – 600 017.
Email: murusuman2000@gmail.com
(Amended Plaint as per order dated 04.08.2023 in A.No.4019 of 2023)

2.M/s.Om Shakthi Travels Private Limited,
S1, Kurian Complex 19,
Railway Colony 1 Street,
Chennai 600 029.
Email: abc1224@gmail.com

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3.Haddown Country Club Private Limited,
No.6, Kushkumar Road, Subba Road Avenue,
Nungambakkam, Chennai,
Tamil Nadu 600 034.
Email: thehaddowsclub@gmail.com ... Defendants

PRAYER: Civil Suit is filed under Order IV Rule 1 of the Original Side Rules Read With Order VII Rule 1, CPC and Sections 13, 14, 51, 55 and 62 of the Copyright Act, 1957, praying to grant a judgment and decree on the following terms:-

(a) A Decree of Permanent Injunction restraining the Defendants and their directors, proprietors, partners, principal officers, servants, agents, assigns and representative and all others acting for and on their behalf from either engaging in themselves or authorising, the public performance / communication to the public, of the Plaintiff's repertoire of literary and musical works, in any form or manner whatsoever, including as part of sound recordings, or doing any other act amounting to an infringement of the Plaintiff's copyright in the said works, without a license from the Plaintiff;

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(b) A Decree of Permanent injunction restraining the Defendants from publicly performing and / or communicating to the public works created by the author members of the Plaintiff without paying the Authors Statutory Royalty to the Plaintiff;

(c) A Decree of Rendition of Accounts of Profit illegally earned by the Defendants on account of the Defendants' infringing activities in violation of the Plaintiffs' copyright through the unauthorised utilization and exploitation, by way of public performance and / or communication to the public, of the underlying literary and musical works belonging to the Plaintiff's repertoire, or in any other manner whatsoever;

(d) A direction to the Defendants to inform / intimate the Plaintiff about the works intended to be communicated to the public through live performances / recorded music, one week prior to the date of any upcoming event. Subsequently, the person / hirer shall furnish a written request and obtain permission to publicly perform / communicate to the public, the literary and musical works belonging to the Plaintiff's repertoire;

(e) A Decree for Damages of Rs.2,00,05,000/- to be passed in favour of the Plaintiff and against the Defendants including compensatory / actual

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damages and exemplary / punitive damages payable to the Plaintiff. The Plaintiff reserves its right to claim additional damages as and when these are computed and hereby undertakes to pay additional court fees as and when directed. This claim is without prejudice to the Plaintiff's contention that the damage being caused by the Defendants is not compensable in monetary terms;

(f) An order for Costs of these proceedings in favour of the Plaintiff and against the Defendants.

For Plaintiff : Mr.G.K.Muthukumar, K.Nithyavendan
for M/s.GMS Law Associates

For Defendants : Mr.D.Murugan for D1
D2 – Served on 04.01.2020
D3 – Served on 22.01.2020

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JUDGMENT

By this suit, the plaintiff has prayed for injunctive relief to restrain the defendants from conducting public performances of the plaintiff's repertoire of literary and musical works without obtaining a license from the plaintiff

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and without paying the author's statutory royalty to the plaintiff. In addition, rendition of accounts followed by a decree of profits and damages of Rs.1 crore have also been prayed for.

2. Suit summons was served on the first defendant on 21.08.2023. The first defendant failed to enter appearance in person or through counsel and, therefore, did not file a written statement. Consequently, the first defendant was set *ex parte* by order dated 05.09.2023. Suit summons was served on the second and third defendants on 04.01.2020 and 22.01.2020, respectively. Since the said defendants also failed to file their written statements, by order dated 30.07.2021, the right of all the defendants to file written statements was forfeited. Defendants 2 and 3 remained unrepresented thereafter. Even today, the said defendants are unrepresented. In view thereof, the second and third defendants are also set *ex parte*.

3. By order dated 25.08.2021, the matter was posted before the Additional Master No.I for recording evidence. Pursuant thereto, the

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plaintiff examined four witnesses. Ms.Sheetal D.Madnani was examined as P.W.1. In course of her examination-in-chief, 40 documents were exhibited as Exs.P1 to P40. Mr.K.Prabhu, Licensing Executive of the plaintiff, was examined as P.W.2. In course of his examination-in-chief, two documents were marked as Exs.P41 and P42. Mr.Pawankumar Ramesh Chandar Gupta, the Assistant Manager, Distribution Department of the plaintiff, was examined as P.W.3. In course of his examination-in-chief, three documents were exhibited as Exs.P43 and P44. Mr.N.J.Venkataraman, Area Manager of the plaintiff, was examined as P.W.4. In course of his examination-in-chief, Exs.P45 to P59 were exhibited. Although the second and third defendants had not been set *ex parte* at that juncture, they did not contest the proceedings or cross examine any of the witnesses. As stated earlier, as regards the first defendant, the said defendant was set *ex parte* on 05.09.2023.

4. Learned counsel for the plaintiff submitted that the first defendant conducted about four events at which public performances of copyrighted material took place without obtaining licenses from the plaintiff and without

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paying royalty. He referred to the events described at paragraphs 31 to 40 of the plaint. As regards the event organized by the first and second defendants at Hosur Mela Ground under the title "Paatu Thalaivan Paadinal Musical Programme", learned counsel submitted that evidence was adduced by the plaintiff through P.W.2. In particular, he referred to the proof affidavit of K.Prabhu and the ticket exhibited under Ex.P41. He also referred to the evidence of P.W.3 in this regard. With particular reference to paragraphs 4 to 6 of such proof affidavit, learned counsel submits that the authors and publishers of the songs performed at the event are members of the plaintiff.

5. By referring to Exs.P39 and P40, he also submits that notices were issued by the plaintiff before the suit was instituted, including by way of a lawyer's notice.

6. The plaintiff is a copyright society registered with the Central Government. In terms of Sections 18, 19 and 33 of the Copyright Act, 1957, copyright societies are permitted to grant licenses and collect royalty

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on behalf of their members. In the plaint, the plaintiff has referred to four events that were organized by the first defendant. The fourth of these events is the event at Hosur Mela Ground. The evidence of P.W.2 and P.W.3 clearly establish that the songs performed at this event were published by members of the plaintiff society.

7. The evidence adduced by the plaintiff, especially in the factual context of no contra evidence being adduced by the defendants, leads to the conclusion that the plaintiff is entitled to the injunctive relief claimed in the suit. The plaintiff is also entitled to rendition of accounts and a decree of profits in terms thereof. However, while the suit was pending, the first defendant agreed to settle the suit claim by paying a sum of Rs.20,00,000/- with GST thereon. Out of this sum, only a sum of about Rs.9,90,000/- was paid. Since the first defendant had repeatedly violated undertakings given to this Court in this regard, by order dated 10.03.2025, the plaintiff was directed to give credit to amounts received until date and prosecute the suit on merits. At the hearing today, although the first defendant remains *ex parte*, learned counsel for the first defendant submitted that the said

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defendant would pay the outstanding amounts in terms of the settlement on or before 30.06.2025. In view of this submission, in the interest of justice, the decree in relation to rendition of accounts will come into effect on 01.07.2025, if the amount outstanding is not from and out of the above mentioned sum of Rs.20,00,000/- is not paid. If paid, such payment shall be treated as discharge of the obligation and the decree for rendition of accounts and payment in terms thereof shall not come into effect.

8. As the successful party, the plaintiff is also entitled to costs. The plaintiff has paid a sum of Rs.1,04,125/- as court fee. The plaintiff is entitled to this sum along with reasonable lawyer's fees and costs. Therefore, the defendants are liable to pay a sum of Rs.3,00,000/- to the plaintiff as costs.

9. By alleging wilful disobedience of orders of interim injunction, the plaintiff had filed A.Nos.1832 & 1833 of 2023. Since the permanent injunctive relief and rendition of accounts are being granted under this judgment, separate orders are not being passed in the said applications and the said applications are hereby closed.

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10. In the result, the suit is decreed in terms of prayers (a), (b) and (d) of paragraph 61 of the plaint. As regards prayer (c) of paragraph 61, if the the first defendant pays amounts outstanding as per the statement recorded earlier prior to 01.07.2025, there shall be no decree. Otherwise, the decree in respect of prayer (c) of paragraph 61 shall come into operation on 01.07.2025. The defendants are further directed to pay a sum of Rs.3,00,000/- as costs to the plaintiff.

21.04.2025

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Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

Plaintiff's witnesses:

P.W.1 – Ms.Sheetal D.Madnani

P.W.2 – Mr.K.Prabhu

P.W.3 – Mr.Pawan Kumar Ramesh Chandar Gupta

P.W.4 – Mr.N.J.Venkataraman

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Documents exhibited on behalf of the plaintiff:

Exhibits	*Documents*
Ex.P1	Certified true copy of the board resolution dated 28.09.2018.
Ex.P2	Certified copy of the certificate of incorporation dated 23.08.1969.
Ex.P3	Certified copy of the Memorandum of Association.
Ex.P4	Certified copy of the Articles of Association.
Ex.P5	Certified copy of plaintiff's copyright society registration certificate dated 27.03.1996.
Ex.P6	Certified copy of the conditional registration certificate dated 28.11.2017.
Ex.P7	Certified copy of the registration certificate dated 08.06.2018.
Ex.P8	Photocopy of the assignment deed executed by G.K.Venkatesh in favour of plaintiff dated 27.01.1972. (Compared with original and returned the original)
Ex.P9	Photocopy of the assignment deed executed by Kanadhasan in favour of plaintiff dated 04.02.1972. (Compared with original and returned the original)
Ex.P10	Photocopy of the assignment deed by Vaalee in favour of plaintiff dated 04.02.1972. (Compared with original and returned the original)
Ex.P11	Photocopy of the assignment deed by R.N.Jayagopal in favour of plaintiff dated 26.03.1972. (Compared with original and returned the original)
Ex.P12	Photocopy of the assignment deed executed by Chi Udaya, Shankar in favour of plaintiff dated 31.03.1972. (Compared with original and returned the original)
Ex.P13	Photocopy of the assignment deed executed by Gangai Amaren in favour of plaintiff dated 21.07.1979. (Compared with original and returned the original)

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Exhibits	***Documents***
Ex.P14	Photocopy of the Author / Composer assignment deed dated 10.02.2018. (Compared with original and returned the original)
Ex.P15	Photocopy of the assignment deed executed by Ramasamy Thevar Vairamuthu in favour of the plaintiff dated 18.07.1987. (Compared with original and returned the original)
Ex.P16	Photocopies of the assignment deed dated 22.05.2017 and the amendment agreement dated 22.05.2017 by SAREGAMA India Ltd., in favour of plaintiff. (Compared with original and returned the original)
Ex.P17	Photocopy of the assignment deed executed by The Master Recording Company in favour of plaintiff dated 10.05.1994. (Compared with original and returned the original)
Ex.P18	Photocopy of the assignment deed executed by Hindusthan Music Publishing Private Limited in favour of plaintiff dated 15.01.1998. (Compared with original and returned the original)
Ex.P19	Photocopy of the assignment deed dated 06.04.2018 by Hindustan Music Publishing Pvt., Ltd., in favour of plaintiff. (Compared with original and returned the original)
Ex.P20	Photocopy of the assignment deed executed by Star Music in favour of plaintiff dated 29.06.2000. (Compared with original and returned the original)
Ex.P21	Photocopy of the assignment deed dated 12.01.2018 by Star Music in favour of plaintiff. (Compared with original and returned the original)
Ex.P22	Photocopy of the assignment deed executed by Panchu Arunachalam in favour of plaintiff dated 20.11.2001. (Compared with original and returned the original)
Ex.P23	Photocopy of the assignment deed dated 27.11.2002 by Music Master Audio Video Manufacturing Pvt., Ltd., in favour of plaintiff. (Compared with original and returned the original)

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Exhibits	***Documents***
Ex.P24	Photocopy of the assignment deed executed by Sree Devi Video corporation in favour of the plaintiff dated 22.11.2002. (Compared with original and returned the original)
Ex.P25	Photocopy of the assignment deed executed by Aditya Music (India) Pvt. Ltd in favour of plaintiff dated 17.01.2005. (Compared with original and returned the original)
Ex.P26	Copy of the plaintiff's letter dated 28.08.2018.
Ex.P27	Copy of the royalty (license) fees – estimate bearing number 2018-2019_8328 dated 28.08.2018.
Ex.P28	Copy of the royalty (license) fees – estimate bearing number 2018-2019_8329 dated 28.08.2018.
Ex.P29	Office copy of the legal notice dated 30.08.2018.
Ex.P30	Copy of the plaintiff's letter dated 23.11.2018.
Ex.P31	Copy of the royalty (license) fees – estimate bearing number 2018-2019_10612 dated 23.11.2018.
Ex.P32	Office copy of the legal notice dated 06.12.2018.
Ex.P33	Copy of the royalty (license) fees – estimate bearing number 2018-2019_10826 dated 07.12.2018.
Ex.P34	Copy of the royalty (license) fees – estimate bearing number 2018-2019_14187 dated 07.12.2018.
Ex.P35	Copy of the tax invoice – cum – receipt dated 20.02.2019.
Ex.P36	Copy of the letter dated 24.09.2019.
Ex.P37	Copy of the royalty (license) fees – estimate bearing number 2019-2020_10314 dated 24.09.2019.
Ex.P38	Copy of the royalty (license) fees – estimate bearing number 2019-2020_10312 dated 24.09.2019.
Ex.P39	Copy of the plaintiff's letter dated 30.09.2019.
Ex.P40	Office copy of the legal notice dated 21.10.2019.

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Exhibits	***Documents***
Ex.P41	The Investigator's affidavit of Mr.K.Prabhu (myself) of the Plaintiff along with the original ticket dated 12.12.2019.
Ex.P42	The affidavit of Mr.K.Prabhu under Section 65B of the Indian Evidence Act, 1872 read with Order XI Sub-Rule 6(3) of the Commercial Courts Act, 2015 dated 12.12.2019. (The learned counsel for the plaintiff has stated that since there is no hardware accompanying this affidavit, it be marked as Investigator's additional report recording the subsequent events done by the witness after the event).
Ex.P43	The Investigator's affidavit of Mr.Pawan Kumar Ramesh Chandra Gupta (myself) dated 12.12.2019.
Ex.P44	Two numbers of CD towards the audio-video recorded during the event held by D1 (Part 1 and 2) on 10.11.2019 and also word format along with list of songs contained in two CD's along with affidavit under Sec.65B of Indian Evidence Act.
Ex.P45	Original letter of authority in favour of Mr.N.J.Venkataraman, the authorised signatory of the plaintiff dated 11.12.2019.
Ex.P46	Printout of the E-mail from Defendant No.1 to plaintiff's counsel dated 11.09.2018 mentioned in affidavit under Sec.65B of Indian Evidence Act.
Ex.P47	Printout of the E-mail sent by the defendant no.1 to plaintiff's Chennai office dated 06.12.2018 mentioned in affidavit under Sec.65B of Indian Evidence Act.
Ex.P48	Printout of the E-mail sent by defendant no.1 to plaintiff's Chennai office dated 20.12.2018 mentioned in affidavit under Sec.65B of Indian Evidence Act.
Ex.P49	Printouts of the E-mails sent by plaintiff's Chennai office to the defendant no.1 dated 11.02.2019 and 03.05.2019 mentioned in affidavit under Sec.65B of Indian Evidence Act.

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Exhibits	***Documents***
Ex.P50	Printout of the E-mail sent by defendant no.1 to plaintiff's Chennai office dated 07.05.2019 mentioned in affidavit under Sec.65B of Indian Evidence Act.
Ex.P51	Printouts of posts from Instagram and Twitter made about the proposed events dated December 31, 2019 and January 5, 2020 taken printout on 12.10.2019 mentioned in affidavit under Sec.65B of Indian Evidence Act.
Ex.P52	Printouts from Bookmyshow website for selling tickets for the proposed event dated January 5, 2020, taken printout on 12.10.2019 mentioned in affidavit under Sec.65B of Indian Evidence Act.
Ex.P53	Printout of Company Master Data of the Defendant no.2 downloaded from the website of Ministry of Corporate Affairs, taken printout on 12.11.2019 mentioned in affidavit under Sec.65B of Indian Evidence Act.
Ex.P54	Printouts from the website of the defendant no.3, taken printout on 12.12.2019 mentioned in affidavit under Sec.65B of Indian Evidence Act.
Ex.P55	Printout of Company Master Data of the Defendant no.3 downloaded from the website of Ministry of Corporate Affairs, taken printout on 12.10.2019.
Ex.P56	Printout ticket and booking confirmation ticket towards attending the event held at Hosur Mela Ground dated 07.11.2019 mentioned in affidavit under Sec.65B of Indian Evidence Act.
Ex.P57	Printout of plaintiff's tariff scheme mentioned in affidavit under Sec.65B of Indian Evidence Act.
Ex.P58	Printout of list of plaintiff's members dated 12.12.2019 mentioned in affidavit under Sec.65B of Indian Evidence Act.
Ex.P59	The printouts of the relevant webpages from the defendant no.1's website, taken printout on 12.11.2019 mentioned in affidavit under Sec.65B of Indian Evidence Act.

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Defendants' witnesses and documents:

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