* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment delivered on: 28.03.2026*

\+ **CS(COMM) 680/2024**

M/S MRT MUSIC .....Plaintiff

Versus

PARAMVAH STUDIOS PRIVATE LIMITED & ORS. .....Defendants

Advocates who appeared in this case

For the Plaintiff : Ms. Swathi Sukumar, Senior Advocate with Ms. Asavari Jain, Ms. Geetanjali Visvanathan, Mr. Shivansh Tiwari, Mr. Ritik Raghuvanshi, Ms. Shrudula Murthy, Ms. Rishika Aggarwal and Ms. Prathibha, Advocates.

For the Defendants : Mr. J. Sai Deepak, Senior Advocate with Ms. Meenakshi Ogra, Mr. Samrat S. Kang and Mr. Vishnu Gambhir, Advocates for D-1 and D-2.

CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

I.A. 36229/2024, I.A. 40421/2024, I.A. 40876/2024 & I.A. 22870/2025

1. By way of this common Judgment the following Applications are decided:

i. IA No. 36229/2024 under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 ("**CPC**") seeking interim injunction against the Defendants;

ii. IA No. 40421/2024 filed on behalf of Defendant Nos.1 and 2 under Order VII Rule 10 read with Section 151 of the CPC for return of Plaint;

iii. IA No. 40876/2024 filed on behalf of Plaintiff under Order XXXIX Rule 2A read with Section 151 of the CPC read with Section 12 of the Contempt of Courts Act, 1971 with respect to wilful disobedience of the Order dated 12.08.2024 and

iv. IA No. 22870/2025 filed on behalf of Defendant Nos.1 and 2 under Order XXXIX Rule 4 of the CPC for vacation of *ex parte* ad-interim injunction granted *vide* Order dated 12.08.2024.

FACTUAL BACKGROUND:

2. The Plaintiff has filed the present Suit, *inter alia,* seeking the relief of permanent injunction against the Defendants restraining from infringement of copyright and seeking damages and rendition of accounts of profits. The Plaintiff has alleged that Defendants are illegally and unauthorizedly exploiting the audio-visual recordings, sound recordings and underlying literary and musical works of two songs namely "Nyaya Ellide" and "Omme Ninnanu" ("**Original Works**") in the Defendant Nos. 1 and 2's film, "Bachelor Party" ("**Impugned Film**").

3. The Plaintiff is a partnership firm duly constituted under the provisions of the Partnership Act, 1932 and is engaged in the business of acquisition and / or production, marketing, distribution and sale of sound recordings and cinematograph films including audio visual recording of

songs and underlying literary works and musical works embodied therein *via* various means such as sale of recorded audio CDs, VCDs, DVDs and sub-licensing / distribution of digital rights, audio rights, broadcasting rights *via* satellite video and television etc. and also publishing, mechanical and synchronization rights in the copyright in works therein.

4. The Plaintiff has a repertoire of more than 15000 sound recordings and 2000 music videos over which it has all rights including the copyright ("**Copyrighted Works**") under Section 13 of the Copyright Act, 1957 ("**Copyright Act**"). The Plaintiff claims to have acquired the ownership of Copyrighted Works by paying valuable consideration to acquire the ownership from the producers or the owners thereof and / or directly from the authors, i.e., lyricists and composers through written Assignment Deeds. The Plaintiff also takes the initiative and responsibility to commission the making of audio-visual recordings, cinematograph films, sound recordings and underlying literary works, musical works and dramatic works and the performances embodied therein for valuable consideration thereby being the producer and the first owner of copyright therein.

5. The Plaintiff claims that being the owner of the Copyrighted Works, the Plaintiff has the exclusive rights under Section 14 of the Copyright Act to, *inter alia*, reproduce, store, post, issue copies, digitally transmit, communicate to the public, publicly perform, synchronize, make any sound recording or cinematograph film in respect of the Copyrighted Works. The Plaintiff also has the exclusive right to adapt, modify, sell or give on hire or otherwise exploit the Copyrighted Works. The Plaintiff further claims that no third party, entity or person can utilize any of the Copyrighted Works without obtaining a valid license or permission from the Plaintiff and any

unlicensed use or exploitation of the Plaintiff's Copyrighted Works would be a violation of the Plaintiff's statutory rights under the Copyright Act.

6. The Plaintiff has also submitted that the Plaintiff is able to run its business and recoup its investments made with respect to the acquisition and production of the Copyrighted Works by exploiting the same through licensing and the license fee received by the Plaintiff supports the creative activities of the Plaintiff and gives opportunities to many talented writers, composers, artists and performers to reach the wider audience, sustain their livelihood and nurture their talents.

7. The Plaintiff claims that the Plaintiff has acquired the Original Works for valuable consideration from its previous owners being the Master Recording Company, "Sangeetha" by way of a written Assignment Deed dated 31.08.2020 ("**Assignment Deed**"). The Plaintiff has relied upon the Assignment Deed by which the sound recording, audio-visual songs as well as literary, dramatic and musical works forming part of the original works have been assigned in perpetuity to the Plaintiff throughout the entire world.

8. The Plaintiff has submitted that the use of Original Works without the permission of the Plaintiff in any manner whatsoever is deemed to be infringement of the Plaintiff's copyright under Section 51 of the Copyright Act and the Plaintiff is entitled to the relief of injunction against the Defendants as the Original Works have been used in the Impugned Film.

9. According to the Plaintiff, in last week of January 2024, Defendant Nos. 1 and 2 approached the Plaintiff expressing their willingness to obtain license for use of the Original Works in the Impugned Film. The Plaintiff communicated the License Fee for its synchronization and adaptation license for the usage of the Original Works in the Impugned Film. However,

Defendant No. 1 did not respond to the Plaintiff despite regular follow-ups over calls and messages. The Impugned Film was theatrically released on 26.01.2024 and, subsequently, made available on OTT Platforms in the first week of March 2024. Defendant Nos. 1 and 2 used the Original Works in the Impugned Film without obtaining the requisite license or permission from the Plaintiff.

10. Being aggrieved by the use of the Original Works in the Impugned Film, in which a character watching television plays the audio-visual recording of the song "Nyaya Ellide" and the song "Omme Ninnanu" is adapted in a scene depicting a young girl singing the song in school, the Plaintiff has filed the present Suit in August, 2024 seeking the permanent injunction, damages and rendition of account etc. along with IA No.36229/2024 for interim relief.

11. *Vide* Order dated 12.08.2024 passed in IA No.36229/2024, an *ad-interim ex-parte* injunction was granted in favour of the Plaintiff directing Defendant Nos. 1 and 2 to deposit an amount of ₹20,00,000/- before this Court within a period of four weeks and also to take down the infringing posts on Instagram. Despite the expiry of four weeks on 09.09.2024, Defendant Nos. 1 and 2 did not deposit the said amount within such period.

12. On 23.09.2024, Defendant Nos. 1 and 2 filed IA No.40422/2024 and IA No.40421/2024 for modification of the Order dated 12.08.2024 and return of the Plaint respectively.

13. On 26.09.2024, the Plaintiff filed IA No.40876/2024 for contempt of the Order dated 12.08.2024.

14. On 01.08.2025, Defendant Nos. 1 and 2 filed IA No.22870/2025 for vacating and / or setting aside the Order dated 12.08.2024 granting *ex-parte ad-interim* injunction.

15. *Vide* Order dated 15.10.2025, IA No.40422/2024 was disposed of in view of filing of IA No.22870/2025 seeking the same relief of vacating the Order dated 12.08.2024.

16. Accordingly, submissions on IA Nos. 36229/2024, 40421/2024, 40876/2024 and 22870/2025 were heard on 15.10.2025, 03.11.2025 and 02.12.2025. During the course of the hearing, the learned Senior Counsel for the Defendants, on instructions, submitted that without prejudice to the rights and contentions of the Defendants, the Defendants would like to deposit the amount of ₹20,00,000 as per the Order dated 12.08.2024, which statement was recorded in the Order dated 15.10.2025. On 03.11.2025, it was submitted on behalf of Defendant Nos. 1 and 2 that they had filed an affidavit dated 31.10.2025 and have deposited ₹20,00,000 as directed *vide* Order dated 12.08.2024, which was taken on record and it was observed that the effect of the same shall be considered at the time of final disposal of Application being IA No. 40876/2024 for contempt of the Order dated 12.08.2024.

17. After conclusion of the submissions in IA Nos. 36229/2024, 40421/2024, 40876/2024 and 22870/2025, Parties were directed to file their respective Written Submissions, which were filed, and accordingly, the Judgment in these Applications was reserved on 11.12.2025.

SUBMISSIONS ON BEHALF OF THE PLAINTIFF:

18. The learned Senior Counsel for the Plaintiff submitted that the Plaintiff is the owner of the copyright in the audio-visual recording, sound

recording and underlying musical and literary works in the Original Works by virtue of the Assignment Deed from the Master Recording company called "Sangeetha". The Plaintiff has relied upon the Assignment Deed as well as the Agreement between the producers of the films "Gaali Matthu" and "Nyaya Ellide" showing that the rights were transferred to Sangeetha, which are produced on record.

19. It was further submitted that admittedly, the Defendants are not the copyright owners of the Original Works, and they have not taken any license from another third party for exploiting the Original Works in the Impugned Film. The Defendants have also not been able to challenge the assignment of the Original Works by Sangeetha in favour of the Plaintiff. Accordingly, the Plaintiff has discharged the *prima facie* burden of proving ownership in the Original Works.

20. The learned Senior Counsel for the Plaintiff submitted that in accordance with Section 55(2) of the Copyright Act, there is a presumption in favour of the Plaintiff as being the author of the Original Works unless contrary is proved. In the absence of any proof of ownership in the Original Works by any person or entity other than the Plaintiff, the Plaintiff is presumed to be the owner of the Original Works.

21. In ***Super Cassettes Industries Limited v. Malayalam Communications Limited***, (Order dated 24.10.2013 in CS(OS) 1915/2012), it is held by this Court that:

> "*6. I have heard the submissions of the learned counsel for the parties. A question was posed to the learned counsel for the defendant as to whether the defendant claims copyright in any of the songs which have been referred to in the cue sheet. The learned counsel for the defendant has denied that defendant is having any copyright of the same. The counsel is also unable to state as to whether the defendant has taken permission from owner of the*

copyright before broadcasting the same. Counsel, however, submits that for the said purpose he will have to take instructions.

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8. The plaintiff has placed on record sample assignment deeds to show assignment of rights of various songs in its favour. The defendant has not been able to show that there exists any dispute about the ownership of the plaintiff to the Copyright. Admittedly, the defendant is not claiming ownership or copyright. The defendant has admittedly not taken permission to broadcast these songs from any other third party claiming ownership of copyright. Clearly the plaintiff has been able to prima facie establish right to the copyright in question."

22. In ***Saregama India Limited v. Balaji Motion Pictures***, 2019 SCC OnLine 10036, this Court has held that:

"*34. I even otherwise enquired from the counsel for the defendants, whether not once it is found that the defendants are infringing copyright in a song, which they themselves in their advertising describe as iconic, whether copyright in the song be of the plaintiff or anyone else, the defendants are liable to be restrained. It appears that the purport of the laws relating to copyright and trade mark is to prevent theft of intellectual property and a public element is also involved in preventing such thefts.*

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36. The defendants, though have not denied infringement of copyright, have not even whispered in their arguments, that they have any right or title to the song copyright wherein is infringed. In my view, on this ground alone the defendants are liable to be restrained."

23. In view of the above, as the Defendants have not claimed any right over the Copyrighted Works, the use of the same in the Impugned Film amounts to an infringement of the copyright of the Plaintiff and, accordingly, the Defendants are liable to be restrained.

24. It was further submitted that the Defendants are estopped from challenging the ownership of the Plaintiff in the Original Works since the Defendants had themselves approached the Plaintiff for a license of the Original Works. The issue of ownership been raised by the Defendants in the Written Statement belatedly, which is an afterthought as the same was not raised at the time of filing IA No.40422/2024 for modification of the Order dated 12.08.2024. The defense of the Defendants in the Written Statement regarding the ownership of the Original Works by the Plaintiff on the ground of concealment of material facts and documents is untenable as there was no occasion for the Plaintiff to have filed the documents since the ownership of the Plaintiff was not in question prior to the filing of the Written Statement. Accordingly, the Plaintiff has filed all the relevant documents along with its Rejoinder as the same is permissible under Order XI Rules 1(1)(c)(ii) and (5) of the Commercial Courts Act, 2015 ("**CC Act**"). Hence, it is a non-issue.

25. The learned Senior Counsel for the Plaintiff submitted that the contention of the Defendants that the Plaintiff's copyright had lapsed as on the date of filing of the Suit by virtue of Section 19(4) of the Copyright Act is incorrect. The Plaintiff has filed extracts from YouTube to show exploitation of the Original Works on 15.05.2021 and 16.06.2021 in the documents filed along with the Replication.

26. It was submitted that the Defendants' argument that the Plaintiff's primary claim is over the film and sound recordings and not over the literary and musical works, which are claimed as secondary works, is misconceived as it is clear from the Plaint that the Plaintiff has asserted its copyright in all works including sound recordings, audio-visual recording and underlying

literary and musical works in both songs of the Original Works and has not made any distinction between primary and secondary works. The Plaintiff has been exploiting the Original Works openly and the reliance placed by the Defendants upon Section 14 of the Copyright Act is misplaced.

27. The learned Senior Counsel for the Plaintiff submitted that the contention of the Defendants that the Plaintiff is not a registered copyright society or a member of a copyright society under Section 33 of the Copyright Act and is not entitled to issue a license for the use of Original Works is misconceived. It was submitted that the Plaintiff is a musical record label, which is engaged in the business of acquisition and production of sound recordings and films and is thus, an individual copyright owner. The Plaintiff is not a copyright society or an association of persons, who is solely into the business of issuing or granting licenses for work of others. The Plaintiff is the copyright owner of the Original Works and, therefore, Section 33 of the Copyright Act is not applicable to the Plaintiff.

28. The learned Senior Counsel for the Plaintiff submitted that Section 33 of the Copyright Act was introduced by virtue of Copyright (Amendment) Act, 1994 to regulate the management of copyright societies and not to curtail the power of copyright owners to be able to license their works. Chapter VII of the Copyright Act deals with copyright societies while Chapter VI deals with the grant of licenses. The first proviso to Section 33(1) of the Copyright Act clearly states that an owner of a copyright shall in his individual capacity continue to have the right to grant licenses in respect of his own works consistent with his obligations as a member of a copyright society. Section 33 of the Copyright Act only gives a choice to the author / owner to exploit its works on its own or through a copyright society.

The idea behind the copyright society is to assist the owner in exploiting his rights and not to take away the rights of an owner to grant license in the individual capacity. In any event, the proviso to Section 33 of the Copyright Act shall come into play only if the owner of the copyright is a member of a copyright society. As the Plaintiff is neither running the business of a copyright society nor a member of a copyright society, the provisions of Section 33 of the Copyright Act are not applicable to the Plaintiff.

29. It was further submitted that the mandate of Section 33 of the Copyright Act does not compel the copyright owner to become a member of a copyright society to be able to exploit his own works as the owner has individual control over the exploitation of his own works. Section 34(1)(b) of the Copyright Act provides that the owner has a right to withdraw the authorization given to a copyright society and once an owner withdraws such authorization, the owner can independently exercise their rights under Section 30 of the Copyright Act to grant licenses as they deem appropriate. The right to grant licenses under Section 30 of the Copyright Act can be done by the copyright owner even when the owner is a part of a copyright society. Therefore, the right to grant licenses under Section 30 of the Copyright Act by the owner of the copyright is separate from Section 33 of the Copyright Act relating to a copyright society as held in ***Novex Communications Private Limited v. Trade Wings Hotesl Limited***, 2024 SCC OnLine Bom 252, wherein the High Court of Bombay has observed that:

> "*141. In my view, by its very nature, a copyright society may wear two hats i.e. (1) as an authorized agent and (ii) as an assignee. It administers the rights of "owners" by operating as an agent. It is necessary to note that under section 34 of the Act and in particular Section 34 (1) (b) it is provided that an owner will have the right to*

withdraw authorization given to the copyright society. This also shows that an author or other owner/assignee does not have to carry on the business of licensing his works only through a copyright society. Since, once an owner withdraws its authorization from a copyright society, the owner can independently exercise his rights under Section 30 of the Act to grant licenses as he deems appropriate. It could never have been the intention of the legislature that once an author/owner withdraws the authorization from a copyright society then that work cannot be licensed by anyone especially an owner. Such an Interpretation would undermine the public interest in making available the copyrighted work to members of the public. In any event the provisions of Section 31, 31A-D would continue to operate to bind all owners to grant compulsory and statutory licenses even after withdrawal of authorization under Section 34(1)(b).

142. Thus it is clear that the 1994 Amendment which Introduced these provisions was brought in to protect and facilitate the exercise of "owner's" rights, not to restrict or diminish them in any way.

143. The other relevant provision namely Section 34(3) of the Act clarifies that a copyright society is licensing the works of an "owner" under section 30. This means that a copyright society is licensing the works of the "owner" as a duly authorized agent under Section 30. Therefore, this is not a new right created in favour of a copyright society independent of the owner or independent of it being a duly authorized agent. Section 35(1) of the Act provides that "Every copyright society shall be subject to the collective control of the owners of rights under this Act whose rights it administers...". Thus, both Sections 34 and 35 draw a clear distinction between the author/owner of the right on the one hand and the administrator of that right on the other (i.e. the copyright society)."

30. The learned Senior Counsel for the Plaintiff submitted that there is no copyright society in India which grants synchronization and adaptation licenses with respect to audio-visual songs and underlying sound recording, literary works and musical works and such rights are exercised only by the copyright owners thereof. The fact that the Defendants approached the Plaintiff and not any copyright society for the license, clearly shows that the

Defendants are aware that it is the Plaintiff alone that has authority to grant license in the Original Works.

31. The learned Senior Counsel for the Plaintiff submitted that the song "Nyaya Ellide" is an original and independent work distinct from the Tamil song "Sattam Oru Iruttarai". Accordingly, the submission of the Defendants that the film "Nyaya Ellide" being a remake of the Tamil movie "Sattam Oru Iruttarai" and, therefore, the song "Nyaya Ellide" is not an original and independent work is misplaced as the audio-visual elements, musical composition and the underlying literary works of both the songs are different.

32. The learned Senior Counsel for the Plaintiff submitted that the graphical representation for musical works is not a requirement under copyright law as the definition of "musical work" in the Copyright Act was amended in 1994 to ensure that the musical work was not restricted to works recorded in graphical notations or even those reduced to material form in any manner in order to align with the Berne Convention. Accordingly, the submission of the Defendants that since the Plaintiff has not filed the graphical representation of the melody and harmony of the two songs, the composition of the song would be disqualified from being considered as a "musical work" under the Copyright Act is misconceived.

33. It was further argued on behalf of the Plaintiff that the Defendants' reliance on the principle of "*de minimis*" is misplaced. As per the Defendants, the song "Nyaya Ellide" is used only for 7 seconds in a scene in the background in the Impugned Film and the depiction of song is incidental, irrelevant and does not constitute substantial copying. The Defendants have further contended that the song is not significant to plot,

theme or central elements of the Impugned Film. The Defendants have also contended that song "Omme Ninnanu" is used for a limited duration of 31 seconds in the Impugned Film. However, these submissions of the Defendants are erroneous and misleading as:

i. The Defendants have specifically pleaded that the song "Nyaya Ellide" was used with an intent to create a scene wherein the song is played on the television where the housemaid is watching the television with tears in her eyes and the protagonist Santosh is seen standing in the balcony. Accordingly, the song in the background was used to show the suffering of the protagonist of the Impugned Film and his plight. Given this intention, the Defendants specifically chose the song "Nyaya Ellide" which means "where is the justice?".

ii. Similarly, the song "Omme Ninnanu" was used to create a scene where a small girl is singing this song in classroom where Maddy recalls a childhood memory of his friend Santosh and himself with an idea to give a reference by playing a song which matches the script of the Impugned Film.

iii. This clearly shows that the use of Original Works was not merely incidental or irrelevant but was actually a conscious creative call taken to further the plot of the Impugned Film.

iv. The Defendants have taken a license from Saregama India Limited, another copyright owner, for use of Saregama's song for 12 seconds and 30 seconds each. The Defendants have also taken a license from French Gramm for another song to be used in the Impugned Film. Therefore, the Defendants are aware and

recognize that the use for even a few seconds requires a copyright license and is not covered by the principle of "*de minimis*".

v. The Defendants cannot have selective licensing where on one hand for a similar usage they have taken license from Saregama, but on the other hand, they have taken a defense of "*de minimis*" for using the Original Works without taking license from the Plaintiff.

vi. In any event, the use of the Original Works in the Impugned Film was not minimal as the song "Omme Ninnanu" was incorporated for substantial 31 seconds whereas the song "Nyaya Ellide" was used for 7 seconds. As per Section 14(d)(i)(A) of the Copyright Act, even a single photograph of any image forming part of the film is an exclusive right given to the copyright owner and, therefore, the Defendants could not have used even a single frame for even a second from the audio-visual of the song "Nyaya Ellide" without permission of the Plaintiff.

vii. The reliance placed by the Defendants on the case of ***India TV Independent News Service v. Yashraj Films***, 2012 SCC OnLine Del 4298, is misplaced as only a half line of popular Bollywood song which was incidental to the advertisement. Further, the advertisement was for consumer awareness and not for personal financial gain to the advertiser and there was no evidence that the advertisement was paid. The second instance of the usage of the songs was when a singer was discussing the

life and achievement of his songs in a chat show, and it was held that singer could not have been denied from using excerpts from her own performance. Accordingly, the Defendants have not satisfied the "*de minimis*" test as the use of the Original Works is substantial.

viii. In ***Ramsampath v. Rajesh Roshan & Ors.***, 2008 SCC OnLine Bom 370, the High Court of Bombay injuncted the use of 6 seconds of the works of the plaintiff therein and the defendants were permitted to release the film by removing the infringing part in the sound track of the film. Therefore, it is important to examine the size and type of harm and not merely the duration of the infringement.

ix. Further, the test is not quantitative but qualitative as admittedly, the Original Works were selected to further the plot of the Impugned Film and were not incidental thereto. It is settled law that it is not only the duration of exploitation which matters but there is a qualitative element as well in deciding the aspects of fair dealing and "*de minimis*" as held in ***Shemaroo Entertainment Limited v. News Nations Network Private Limited***, 2022 SCC OnLine Bom 930, wherein it is observed that the length and extent of the copyrighted work, infringement of which is complained of, is undoubtedly of vital importance, however, it could not be reduced to just a quantitative test of minutes and seconds *de hors* the qualitative aspect. It was also held that the purpose for which the content was used without license assumes critical significance.

x. Further, the refusal by the Defendants to take a valid license encourages others to do the same, which causes substantial monetary and reputational harm to the Plaintiff's business revolving around licensing. As the Defendants have used the Original Works for a commercial purpose and admittedly to match the script, such use cannot be said to be covered within the ambit of fair use and principle of "*de minimis*".

34. The learned Senior Counsel for the Plaintiff submitted that the Defendants have falsely stated that they had made telephonic enquiries around December 2023 seeking a license from the Plaintiff. There is no proof produced by the Defendants that they had contacted the Plaintiff around that time. On the other hand, the Plaintiff has produced a WhatsApp chat demonstrating that the Defendants contacted the Plaintiff only on 25.01.2024 for a license one day before the theatrical release of the Impugned Film. As the scenes using the Original Works are in the middle of the Impugned Film, which goes through the post-production process which usually takes months, it is inconceivable that the Defendants would have taken the creative call to include the Original Works and synchronized them just one month prior to the release of the Impugned Film. It is clear that the Defendants never intended to negotiate with the Plaintiff from the Instagram and Facebook posts dated 15.07.2024, wherein Defendant No. 2 specifically stated that the price quoted by the Plaintiff was beyond their budget and not open for negotiation. As such, no counteroffer was ever given by the Defendants to the Plaintiff at any point of time. Further, the Defendants released the Impugned Film on OTT only in March 2024 and thus, the Defendants had sufficient time to omit the usage of the Original Works from

the OTT version of the Impugned Film, if they were not agreeable to the license fee quoted by the Plaintiff.

35. In any event, the license fee quoted by the Plaintiff was not excessive or unreasonable. The Plaintiff being the copyright owner was entitled to quote license fees for the Original Works as per its market rates. The Plaintiff has sought an injunction against the Defendants from using the Original Works in the Impugned Film and does not seek that a rate of the license fee be fixed by the Court as the same is not within the domain of this Court.

36. The Plaintiff had quoted ₹10,00,000/- for each of the songs of the Original Works as the same are classic evergreen songs having extensive popularity across various platforms. Hence, the argument of the Defendants that the license fee quoted by the Plaintiff was excessive and unreasonable is misconceived.

37. The learned Senior Counsel for the Plaintiff submitted that this Court has a territorial jurisdiction to hear and decide the present Suit as the Impugned Film is accessible for viewing and downloading for the viewers within the jurisdiction of this Court as the Impugned Film is available with English subtitles on Amazon Prime. Further, the social media posts wherein the clips of the impugned scenes of the Impugned Film were circulated are also accessible for viewing within the jurisdiction of this Court. It is settled law that as much as the Impugned Film is accessible within the jurisdiction of this Court, infringement of copyright would take place within such jurisdiction. In ***Nilesh Girkar v. Zee Entertainment Enterprises Limited & Ors.***, 2025 SCC OnLine Del 6040, this Court held that based on the averment that the film was being communicated to the public on OTT

platforms throughout the territories of India including within the territory limits of the Court in New Delhi, under Section 20(c) of the CPC, the Court had the territorial jurisdiction to entertain the suit. Similarly, in ***Sholay Media and Entertainment Private Limited & Anr. v. Law and Kenneth & Ors.***, (Order dated 04.05.2018 in CS Comm 708/2018), this Court held that whenever the copyright claim is infringed, the cause of action would arise and howsoever minimal cause of action may be, the Court where the cause of action has accrued will have jurisdiction under Section 20 of the CPC and merely by saying that the impugned commercial advertisement could be viewed everywhere through the internet would not be a defense to the cause of action so accruing. In ***GE Power India Limited v. NHPC Limited***, 2020 SCC OnLine Del 667, this Court held that by issuing the copies of the plaintiff's purported work by putting the same on the portal and circulating the same to public including the public in Delhi would give rise to the cause of action at Delhi.

38. It was further submitted that the cause of action under Section 20 of the CPC is in addition to Section 62 of the Copyright Act and not in exclusion thereof as held in ***Burger King Corporation v. Techchand Shewarkramni & Ors.***, 2018 SCC OnLine Del 10881, and ***M/s Elite Blenders and Distilleries Private Limited v. R.K. Distilleries Private Limited***, 2017 SCC OnLine Del 7224.

39. The learned Senior Counsel for the Plaintiff has submitted that the principle of forum convenience does not apply to civil suit in India which are governed by the CPC and there being no provision under the CPC for the same, recourse to Section 151 of the CPC is not permissible for application of the principle of forum non convenience to domestic forums especially

keeping in mind that it is the other side of the coin of the doctrine of anti-suit injunction as held in ***Horlicks Limited & Anr. v. Heinz India (Pvt.) Limited***, 2009 SCC OnLine Del 3342.

40. The learned Senior Counsel for the Plaintiff has submitted that on the issue of pecuniary jurisdiction of this Court, the Plaintiff is entitled to value its reliefs as per the Court Fees Act and Suit Valuation Act. It was submitted that in intellectual property disputes, it is difficult to estimate damages. License fee quoted is the minimum amount of damage that the Plaintiff is entitled to recover from the Defendants however, given the public spectacle caused by the Defendants the harm to the Plaintiff has only amplified both monetarily and reputationally. Reliance is placed on ***Sandip Kumar Roy Choudhary & Ors. v. Indian Plumbing Association through its precedent Gurmeet Singh Arora***, 2022 SCC OnLine Del 3272, and ***Bharat Bhushan Gupta v. Pratap Narayan Verma & Anr.***, (2022) 8 SCC 333. Further, since the license fee quoted was ₹20,00,000/-, the same is above the specified value of ₹3,00,000/- and, accordingly, the present Suit is a commercial matter as per the CC Act and there is no requirement to specifically mention that the specified value is above ₹3,00,000/- when the pleadings in the Plaint have to be read as a whole as held in ***M/s Kranti Shop Private Limited & Ors. v. Deep Chand Arya Industries***, Neutral Citation: 2025:DHC:2908.

41. In view of the above, the learned Senior Counsel for the Plaintiff submitted that there is a *prima facie* case in favour of the Plaintiff being a copyright owner of the Original Works and the Defendants having admittedly used the Original Works without taking a license despite having approached the Plaintiff for the same. Irreparable loss is being caused to the Plaintiff as the Defendants continue to illegally reap the benefit and earn

revenues from the Impugned Film, which incorporates the Plaintiff's Original Works without requisite permission. The Plaintiff being the copyright owner continues to suffer losses both monetarily and reputationally as the conduct of the Defendants has a cascading effect and also encourages others to use the Plaintiff's Copyrighted Works without taking license from the Plaintiff. The Defendants are continuing to infringe the Original Works of the Plaintiff on a daily basis and also presently refuse to comply with the directions of this Court. The balance of convenience is also in favour of the Plaintiff and not the Defendants as the Defendants can easily omit the impugned scenes from the Impugned Film. In any case, without prejudice and without admitting the Defendants' case that the use of Original Works is "*de minimis*", no prejudice would be caused to the Defendants if the injunction as sought by the Plaintiff is granted as the changes to be implemented by the Defendants would be miniscule.

42. Accordingly, it is settled law that in the cases of infringement of copyright, an injunction must follow and mere delay is not sufficient to deny the injunction as held in ***Midas Hygiene v. Sudhir Bhatia***, (2004) 3 SCC 90.

43. The learned Senior Counsel for the Plaintiff submitted that IA No. 22870/2025 filed on behalf of Defendant Nos. 1 and 2 under Order XXXIX Rule 4 of the CPC for vacation of *ex-parte ad-interim* injunction granted *vide* Order dated 12.08.2024 is liable to be dismissed in view of the above submissions.

44. As regards IA No. 40876/2024 filed by the Plaintiff under Order XXXIX Rule 2A of the CPC for willful disobedience of the Order dated 12.08.2024, the learned Senior Counsel for the Plaintiff submitted that the Defendants have actively committed contempt of the directions passed by

this Court despite being aware about the same. The filing of the modification application cannot be an excuse for not complying with the *ad*-interim injunction granted as it is settled law that even if the injunction order was subsequently set aside, the disobedience does not get erased as held in ***Samee Khan v. Bindu Khan***, (1998) 7 SCC 59. Further, challenging the jurisdiction of this Court is also no excuse for not complying with the order passed by this Court as categorically held by the Supreme Court in ***Tayabbhai M. Bagasarwalla & Anr. v. Hind Rubber Industries Private Limited & Anr.***, (1997) 3 SCC 443 that while in force, the orders of the court have to be obeyed and their violation can be punished even after the question of jurisdiction is decided against the plaintiff provided the violation is committed before the decision of the Court on the question of jurisdiction.

45. Further, it is settled that the contemnor should not be allowed to enjoy or retain the fruits of its contempt and it is the duty of the Court as a policy to set the wrong right and not allow the perpetuation of the wrongdoing as held in ***Delhi Development Authority v. Skipper Construction Co. (P) Ltd. & Anr.***, (1996) 4 SCC 622.

46. In view of the above, it was submitted on behalf of the Plaintiff that there is a clear contempt of the Order dated 12.08.2024 and Defendant Nos. 1 and 2 should be punished by way of attachment of property, detention of Defendant No. 2 in civil prison and heavy costs being imposed on Defendant Nos. 1 and 2 as held in ***Kashmiri Gate Charitable Trust v. M.G. Shahani and Co. (Delhi) Pvt. Ltd. & Anr.***, 1980 SCC OnLine Del 116, and ***Louis Vuitton Malletier v. Capital General Store & Ors.***, 2023 SCC OnLine Del 613.

47. Accordingly, the learned Senior Counsel for the Plaintiff submitted that this Court be pleased to grant interim injunction in favour of the Plaintiff and against the Defendants and the Defendants be punished for the contempt of the Order dated 12.08.2024, while dismissing the Application for return of Plaint as well as the Application for vacation of the Order dated 12.08.2024 filed by Defendant Nos. 1 and 2.

SUBMISSIONS ON BEHALF OF THE DEFENDANTS:

48. The learned Senior Counsel for the Defendants submitted that the Plaintiff is not entitled to interim injunction restraining the Defendants from streaming, exhibiting, broadcasting, reproducing, downloading, communicating to the public, publicly performing the Impugned Film. The Original Works used in the Impugned Film are only incidental to the scene wherein the protagonist has bought a new TV in the house, followed by an argument with his wife over such an expense and subsequently, the scene transitions to the next day, showing the housemaid of the protagonist watching the said TV while eating popcorn and crying while watching the TV and it is only at that instant, in that TV, the song "Nyaya Ellide" is played for merely 7 seconds. Again, the song "Omme Ninnanu" is an incidental scene wherein the protagonist is shown to be going in a flashback memory during his school days, wherein a school girl / classmate of the protagonist whom the protagonist likes is seen reciting a version of the song in her classroom, wherein the child form of the protagonist is shown standing outside the class, and his friend makes a joke owing to the lyrics of the song, making it a parody scene.

49. It was further submitted that the Plaintiff has failed to show any chain of ownership as there is only assignment of rights from Sangeetha to the

Plaintiff, however, no assignment of rights was shown from the authors of the Original Works. The Plaintiff has by way of additional documents sought to rectify this defect by placing on record the Assignment Deed from the producer of the movies to Sangeetha. However, as per the Copyright Act, the ownership of a cinematograph film and sound recordings vest in their respective authors at the time of completion, while literary and musical works belong to their respective authors and composers, therefore, the documents show that M/s Anupam Movies is merely a producer of the film and does not establish as to how M/s Anupam Movies became the owner of the Original Works either under Section 17 of the Copyright Act or by any valid assignment. Further, the veracity of the assignment deeds are questionable since the same are neither stamped nor notarized. Further, the assignment deeds for "Gaali Maathu" is dated 04.09.1980, whereas the song "Omme Ninnanu" was released along with the movie on 24.01.1981 and 03.09.1982.

50. It was further submitted on behalf of the Defendants that the Plaintiff's copyright had lapsed as on the date of the Suit as per Section 19(4) of the Copyright Act. Although the Plaintiff had filed YouTube screenshots to demonstrate the usage, where the Original Works were posted in the year 2022 and 2023, the same would only show the usage as merely "sound recording" without the visual / cinematographic work and, therefore, the rights qua the visual aspect of the Original Works are deemed to be lapsed.

51. It was submitted on behalf of the Defendants that the film "Nyaya Ellide" is not an original work as it is merely a remake of Tamil film "Sattam Oru Irrutarai", wherein the title of the song has an identical musical

composition as that of the Original Works and the cinematographic work is also identical wherein a person is seen playing a metal plate. Further, the Original Works, having been conceived and released prior to the Copyright (Amendment) Act, 1994, the same cannot be considered as valid "musical works" as the definition of musical work as it stood under Section 2(p) of the Copyright Act prior to its amendment would govern the Original Works. Prior to the amendment, it was mandatory that a musical work be "printed, reduced to writing or otherwise graphically produced or reproduced". Accordingly, graphical representation was an essential pre-condition for a musical work to qualify as a copyrightable subject matter under the pre-amendment regime. Therefore, any musical composition conceived in 1981, without being reduced into writing, notation, or any other form of graphical fixation, could not have acquired copyright protection as a "musical work" within the meaning of the Copyright Act as it then existed. The subsequent amendment in 1994, which broadened the definition to include the graphical notation is merely illustrative rather than mandatory and cannot operate retrospectively to vest copyright in works that were not protected at the time of their creation. Hence, the Original Works having been conceived and released prior to the 1994 amendment of the Copyright Act and not represented graphically, cannot now be deemed to possess copyright protection as "musical works" within the provisions of the Copyright Act.

52. The learned Senior Counsel for the Defendants submitted that the Plaintiff cannot claim ownership over both the underlying literary and musical works as well as the derivative sound recordings and cinematograph films as the Original Works cannot be considered as valid "literary works". Section 16 of the Copyright Act unequivocally establishes that no copyright

can be acquired except in accordance with the provisions of the Copyright Act and only the rights which the Copyright Act creates and subject to the limitations it imposes, vest in the owner. Similarly, Section 13(4) of the Copyright Act reserves the copyright in primary works such as literary or musical compositions even when incorporated into derivative works like cinematograph films or sound recordings. This statutory framework creates a clear hierarchy i.e., primary works (literary, musical, dramatic) exists independently, and their copyright continues notwithstanding derivation, whereas derivative works (sound recordings, films) do not retroactively confer primary rights on embedded elements.

53. It was submitted on behalf of the Defendants that the Plaintiff in the present case has not demonstrated the independent creation, fixation, or exploitation of the literary or musical works prior to their embodiment in the sound recording or film. The pleadings suggest that the underlying works of the Original Works exist only as part of the derivative works. Consequently, in the absence of any distinct subsistence or delineation of the alleged literary and musical works as primary works, the Plaintiff's attempt to assert independent copyright over the embedded elements through the ownership of derivative works stands contrary to the statutory scheme and renders its claim legally unsustainable.

54. The learned Senior Counsel for the Defendants submitted that the licensing business can only be carried out by a copyright society as per Section 33 of the Copyright Act. Admittedly, the Plaintiff is not a copyright society and, therefore, the Plaintiff cannot be in the business of such licensing of copyrightable works. Reliance was placed on ***Azure Hospitality***

v. Phonographic Performance, 2025 SCC OnLine Del 2407, wherein the Division Bench of this Court has held that:

> "*19.10 One reaches, now, Section 33, which is the cornerstone of controversy.*
>
> *19.11 Section 33 figures in Chapter VII, which deals with Copyright Societies, and was entirely substituted by Section 11 of the Copyright (Amendment) Act, 199431 .*
>
> *19.12 Section 33(1) is worded in proscriptive terms. It unequivocally proscribes any person, or association of persons, from "carrying on the business of issuing or granting licences in respect of any work in which copyright subsists or in respect of any other rights conferred by (the Copyright) Act", except to, or in accordance with, registration granted under Section 33(3). Section 33(3) deals with registration of copyright societies.*
>
> *19.13 The word "business" is a word of wide import. The expression "carrying on business" has been defined by the Supreme Court in Director of Supplies and Disposals v Member, Board of Revenue32 , thus:*
>
> > *"To regard an activity as business there must be a course of dealings, either actually continued or contemplated to be continued with a profit-motive; there must be some real and systematic or organised course of activity or conduct with a set purpose of making profit. To infer from a course of transactions that it is intended thereby to carry on business, ordinarily there must exist the characteristics of volume, frequency, continuity and system indicating an intention to continue the activity of carrying on the transactions for a profit."*
>
> ***** ***** *****
>
> *19.17 Thus, it is clear that word "business" is a word of very wide import. Any person who grants licenses to others to exploit sound recordings in which such person holds a copyright can be said to be carrying on the business of issuing and grating such license.*
>
> *19.18 In any event, there can be no doubt whatsoever that PPL is most certainly engaged in the business of issuing or granting*

licenses in respect of copyrighted sound recordings. This position stands recognized in para 2.1 of the impugned judgment itself, in the following words:

> *"The plaintiff, Phonographic Performance Limited, (PPL) is a company limited by guarantee, registered under the provisions of the Companies Act, 2013, which is engaged in the business of issuing licences for public performance of sound recordings on the basis of the assignments granted to it by its various member record labels."*

***** ***** *****

19.23 Reverting back, now, to Section 33(1), the main body of the sub-section prohibits the carrying on of business of issuing or granting licences in respect of (i) any copyrighted work or (ii) any other rights conferred by the Copyright Act, except under or in accordance with the registration granted under Section 33(3) to a copyright society.

19.24 It is important to understand this provision, and the best way to do so would, perhaps, be to apply it to the facts before us. PPL is an association of persons. It is, admittedly, carrying on the business of granting licences in respect of the copyrighted works assigned to it under Section 18(1) and forming its repertoire. The sub-section, therefore, clearly applies to it. PPL is, therefore, proscribed from granting any licence in respect of the said assigned work, or in respect of the right to communicate it to the public, except under or in accordance with the registration granted under Section 33(3). PPL cannot possibly grant any licence under the registration granted under Section 33(3), since it is not a registered copyright society under the said provision. It has, nonetheless, to carry on the business in accordance with the registration granted under Section 33(3). This can only be done if PPL is itself a member of the registered copyright society, i.e. RMPL. Viewed in isolation, however, this requirement, as envisaged by Section 33(1), is absolute and non-negotiable.

19.25 What, then, is the effect of the proviso to Section 33(1)?

19.26 PPL's contention is that the proviso to Section 33(1) preserves, intact, its right to grant licences in respect of its own works. PPL is the owner of the copyrighted sound recordings

assigned to it under Section 18(1), by operation of Section 18(2); ergo, the proviso to Section 33(1) allows it to grant licences in respect of the said assigned recordings, which are "its own works" under the proviso, as it is the owner thereof.

19.27 PPL, thereby, seeks to interpret the proviso to Section 33(1) as crafting out an exception from the rigour of Section 33(1).

19.28 With this, we come to the nub of the controversy, and may, therefore, discontinue our journey through the statutory provisions.

***** ***** *****

20.5 The Copyright Act does not envisage grant of license in respect of copyrighted sound recordings by any person other than the first owner of such copyrighted recordings, or the assignee thereof under Section 18. PPL is, unquestionably, the owner of the sound recordings in its repertoire, of which copyright stands assigned to it under Section 18(1). To that extent, PPL's stand is unassailable. The two Novex decisions would, therefore, grant him an absolute right to issue licenses in respect of such recordings, on its own terms.

20.6 Such an interpretation would, however, undisputedly render the words "except under or in accordance with the registration granted under sub-section (3)", in Section 33(1), completely otiose. Indeed, Section 33(1) would be rendered completely redundant, as it is intended only to introduce this restriction, on persons who desire to carry on the business of issuing or granting licenses in respect of copyrighted work

***** ***** *****

The sequitur

21. The position that ultimately obtains is, therefore, the following:

21.1. The obligation under Section 33(1) is absolute. Section 33(1) requires any person, who carries on the business of granting licensees in respect of copyrighted works, to do so in accordance with the registration granted under Section 33(3).

21.2. Be it noted, this sub-section does not specifically state that the person issuing or granting licensees must itself be registered as copyright society under Section 33(3). The issuance of granting of

licensees has only to be in accordance with the registration granted under Section 33(3).

21.3. This is also apparent from the proviso to Section 33(3), which ordinarily permits the Central Government to register only one copyright society in respect of one class of works. Sound recordings constitute a distinct and individual class of works under Section 2(y)(iii). Thus, ordinarily there would be only one registered copyright society in respect of sound recordings. Such a registered copyright society, we are informed, is already in existence in the form of RMPL.

21.4. The word "carrying on the business of issuing or granting licensees" in Section 33(1) would envisage every commercial activity in which licensees in respect of copyrighted works are issued or granted. There is no legitimate basis to read down the ambit of the expression "carry on the business", particularly the word "business".

21.5. In any event, it is an admitted position that PPL is engaged in carrying on the business of issuing or granting of licensees in respect of the sound recordings assigned to it by the original copyright owners.

21.6. PPL can, therefore, issue or grant licensees in respect of the sound recordings assigned to it, of which it can claim ownership under Section 18(2), only in accordance with the registration granted under Section 33(3).

21.7. The use of the words "consistent with his obligations as a member of the registered copyright society", contained in the proviso to Section 33(1) are of great significance. They clearly indicate that the legislature envisages any person who is granting licensees in respect of copyrighted works as being a member of a registered copyright society. It would be unrealistic and strained to read the words "consistent with his obligations as a member of the registered copyright society" as contained in the proviso to Section 33(1) as applying only to a situation in which the copyright owner happens to be such a member. Clearly, at the cost of repetition, it is clear that Section 33(1) envisages that the copyright owner, who is issuing or granting licensees in respect of the copyrighted works of which he is the owner, is a member of a registered copyright society.

21.8. This interpretation would also harmonise with the well-settled principle that a proviso to a section cannot derogate or detract from the ambit of the section itself. It has to be read harmoniously with the main section and cannot dilute its efficacy. [Refer CST v. B.G. Patal, 1995 Supp (1) SCC 429 : 1995 SCC (L&S) 504] The requirement of any person engaged in the business of issuing or granting licensees in respect of copyrighted works, contained in Section 33(1) cannot, therefore, be diluted, much less eviscerated, by the proviso thereto.

21.9. Thus, what the proviso permits is that such a member of a registered copyright society, who may also be holding copyright in respect of his own works which expression has necessarily to be contradistinguished with the works of which he claims ownership merely as an assignee under Section 18(2) has the right to grant licensees in respect of such works. Even so, such grant of licensees has to be consistent with the obligations of such a person as a member of the registered copyright society.

21.10. Viewed any which way, therefore, there can be no escaping the position that issuance or grant of licensees for exploiting of works in respect of which a person claims copyright can only be done if such person is a registered copyright society or a member of a registered copyright society.

***** ***** *****

*24.**The corollary***

24.1. We, therefore, are unable to accept the principle that PPL was entitled, without either registering itself as a copyright society or becoming a member of any registered copyright society, to issue licensees in respect of the sound recordings assigned to it under Section 18(1) of the Copyright Act.

24.2. One of the contentions advanced in the written submissions filed by Azure is that, not being a registered copyright society or a member of a registered copyright society, PPL has no enforceable legal right in respect of the sound recordings assigned to it, insofar as their communication to the public by third parties is concerned, as PPL cannot grant any licensee for the said purpose in view of the proscription contained in Section 33(1) of the Copyright Act. We

have found prima facie merit in this contention. The further issue that would arise would be whether, in such a situation, PPL can maintain the suit at all. We refrain from returning any finding on this contention, as it was not orally argued at the Bar. We, therefore, leave this issue open."

55. The learned Senior Counsel for the Defendants submitted that an *ex-parte* Order dated 12.08.2024 for pro-tem security cannot be passed without hearing the Defendants. Therefore, the direction to deposit the license fee of ₹20,00,000/- ought to be vacated.

56. Further, the Suit was filed only in the second week of August 2024, i.e., after 7 months of theatrical release on 26.01.2024 and after five months of OTT release in the first week of March 2024, hence, there is no need for any urgent interim relief. In addition, the Plaintiff quoted an exorbitant fee of ₹20,00,000/- a day before the theatrical release, when the Defendant had actually approached the Plaintiff in December 2023. Therefore, the Defendants could not have taken the steps to curb the already included Original Works in the Impugned Film just a day before its release. Since the relief sought in IA No. 36229/2024 for grant of interim relief includes an alternative prayer of deposit of money equaling the license fee quoted by the Plaintiff, there cannot be any irreparable harm / injury when the Plaintiff can be compensated with the damages.

57. The learned Senior Counsel for the Defendants submitted that this Court does not have territorial jurisdiction based upon Section 20(c) of the CPC on the ground that the platform of Defendant No. 3 – Amazon Prime can be accessed, viewed, and downloadable in Delhi, which hosts the Impugned Film containing the Original Works and Section 20(b) of the CPC on the ground that Defendant No. 3 is carrying on business in Delhi and Section 62 of the Copyright Act on the ground that the Plaintiff has a

subordinate office in Delhi. It was submitted that this is a classic case of forum shopping as the registered place of business of both Defendant Nos. 1 and 2 is in Bengaluru, Karnataka. The theatrical release of the Impugned Film in January 2024 was only in Karnataka and the Plaintiff waited for its OTT release, FIR against Defendant Nos. 1 and 2 was filed by the Plaintiff in Bengaluru, Karnataka and OTT release of the Impugned Film was in Kannada language only with English closed captions, which is a mandatory requirement under the Prime Video Digital License Agreement. Therefore, the Plaintiff has avoided the jurisdiction of Courts in Karnataka by wrongly filing the Suit before this Court.

58. In absence of the Plaintiff being in Delhi, it is required to specifically plead that the act of the Defendants resulted in an injury or harm to the Plaintiff within the forum state, i.e., the effects test and it is also mandatory to show that the injurious effect has been felt by the Plaintiff by showing that the viewers in the forum state were specifically targeted, i.e., the sliding scale as held in ***Banayan Tree Holding (P) Limited v. A. Murli Krishna Reddy & Anr.***, 2009 SCC OnLine Del 3780.

59. In view of the above, the Plaintiff is required to show that the Defendants engaged in some commercial activity in the forum state by targeting its website specifically at customers within Delhi and also plead that the website was specifically targeted at the viewers in the forum state. In the present case, the only basis for the Plaintiff to maintain the Suit within the jurisdiction of this Court is availability of the Impugned Film on the OTT Platform of Defendant No. 3. It was submitted by the learned Senior Counsel for the Defendants that unlike the traditional push-based models such as linear television or early server-side streaming, OTT platforms rely

on client-driven protocols such as HTTP Live Streaming (HLS) and Dynamic Adaptive Streaming over HTTP (DASH). These protocols segment media into small chunks, which are requested by the user's device just in time for playback. Accordingly, the availability of content on OTT platforms is based on subscription, search, payment, request and delivery. Accordingly, the Defendants do not push content to any specific location or user. Instead, the user initiates the transaction by subscribing, searching and streaming without any solicitation or targeting by the Defendants. It is the user who 'travels' with his request to the place of origin. Reliance is placed on the book 'Digital Peripheries' published in Springer Series in Media Industries, wherein Chapter 4 deals with territoriality of copyright law. The extract relied upon by the Defendants is reproduced as under:

> *"4.5 Place of Communicating Works to the Public*
>
> *One problem with the chain of arguments above is that, despite being normatively valid, they are pragmatically very problematic for a number of reasons that have been forcefully articulated not only by AG Bobek, but also in European and US copyright doctrine (Trimble 2019; Torremans 2016). It might, then, simply be a matter of time before the jurisdictional uncertainty, generated by the possibility of cause of action for damages in every EU Member State (not to mention the other approximately 150 Member States of the Berne Convention), is limited legislatively or judicially and the whole chain of arguments leading to the conclusion above regarding the link between copyrights and geoblocking is broken.*
>
> *Even more problematic is the fact that many online distribution platforms for copyrighted content do not operate on the basis of distributing copies (files) but instead use various streaming technologies. In that case, there are no copies being de fure distributed between various jurisdictions and thus no distribution rights can be protected here by the use of geoblocking tools*

according to the aforementioned Interpretation of the existing case law of the CJEU

Copyrighted works, in this instance, are without doubt made available to the public in terms of Art. 3 of Directive 2001/29/EC, but the question is whether "the act of communication to the public of their works, by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access them from a place and at a time individually chosen by them" physically takes place simultaneously in all Member States (and ultimately in all states where the Internet is accessible), or only in the country of origin (i.e., in the Member State from which the work is being made available).

The answer to that question is relatively simple to find in the wording of Art. 3 of Directive 2001/29/EC. This question is also answered by the definition of the term "information society service" as provided in Directive (EU) 2015/1535.12

It is a definitional element of "communication to the public" that "the public" decides the place and time that copyrighted works are accessed and viewed or in any other way used for personal purposes (i.e., "non-used" in terms of the Berne treaty). The fact that place and time of access is by definition out of the control of the provider directly implies that the provider cannot be seen as using the work within a territory which is arbitrarily chosen by the consumer as a matter of legally irrelevant "non-using" of that work,

Recently, the CJEU considered multiple cases in which "communication to the public" was at stake, namely with regard to indirect forms of communication of copyrighted works such as linking (Savola 2017). Although these cases do not give an explicit answer as to possible fora where such a use of copyrighted work can be claimed, the actions were always determined to be in the country of origin of the provider (i.e., never in any other jurisdiction where such "communication to the public" was merely available).

The only remaining possibility for arguing that the copyrighted work, when it is available through the Internet, is legally used by the provider simultaneously in all jurisdictions is if the provider legally engages in broadcasting such work in all the

jurisdictions at the same time. This would mean that by making the work available on the Internet, the provider legally broadcasts that work in every jurisdiction where the work is accessible.

Besides the problem in such circumstances of finding the particular places of broadcasting within every single jurisdiction (e.g.. for the purpose of determining which particular court in that jurisdiction would be entitled to hear the case), it is not even possible to consider the communication to the public in this way as a form of broadcasting. The reason is that copyrighted works are made available on the Internet through services that are provided, in legal terms, upon the individual request of a user.

Broadcasting typically consists of coverage of a certain target group with a signal that can be refined by specific technologies (receivers) into particular casts. In con-trast, transmitting content over the Internet always technically requires an individual request from a user. The ECJ (CJEU) acknowledged this in case C-607/11, which considered the webcast of TV programs, by noting that "[t]he software on the edge server creates a separate stream for each user who requests a channel through it. An individual packet of data leaving the edge server is thus addressed to an individual user, not to a class of users."

The key element of a webcast, i.e., the provision of the service in response to an individual request by a user, means that any distribution of content via the Internet is not a broadcast service but rather an information society service, according to the meaning of Art. 1(b) of Directive (EU) 2015/1535.

While the user of a broadcasting service only waits for the signal to arrive at her doorstep, the user of an information society service always individually requests service at the place from which it is provided. Upon such a request, an individual connection is always established. This individually established connection normally involves not only transmitting the requested content, but also mutual communication with the client device such as the processing of cookies. But in broadcasting, all communication goes only one way from the broadcaster to the (deemed) user.

The nature of the communication, unidirectional versus bidirectional, makes an important distinction between broadcasting and information society service. It is not only a technicality that information society service is based on direct communication between the provider and a user. Besides the provider knowing about each request and eventually even knowing in detail about the individual behavior of each user (which might have massive economic meaning), it is also significant that an information society service must be dimensioned in order to individually cater to its users. In broadcasting, there is no concern about too many viewers, for example, while too many requests for an information society service leads to a technical denial of that service.

Thus, in broadcasting, the signal is transmitted solely at the will of the provider, while in information society service, the user "travels" with her request to the place of origin. This, then, clearly implies that an information society service that consists of making content available for viewing is both technically and legally provided from the country of origin. This has been the conclusion of the ECJ (CJEU) in similar cases outside the copyright domain, such as sui generis rights and personal data protection."

60. In ***Padmanabh Shankar v. Union of India***, Neutral Citation: 2019:KHC:28061-DB, it has been observed that:

"*10. In this petition, we are dealing with what is available on the internet. Broadly speaking, internet can be an said to be an interconnected network which connects the computers across the globe. It can be said to be an interconnected network of all the web-servers worldwide. When we come to web-server, it is essentially a program that uses Hyper Text Transfer of Protocol [http] to serve the files that form web pages to the users which are provided in response to their requests which are forwarded by http client on their computers. There may be various films or serials transmitted via internet. If we take into consideration the concept of internet and how the internet operates, it is impossible to accept the submission that the films or serials which are transmitted or exhibited through internet will constitute films within the meaning of Clause (dd) of Section 2 of the said Act of 1952. In fact, if we consider the concept of internet, it is very difficult to accept the contention that through the internet there is an exhibition of films or serials. The internet*

contemplates transfer of files in response to the requests made by the users."

61. In view of the above, it was submitted on behalf of the Defendants that this Court does not have territorial jurisdiction to entertain the present Suit. In addition, it was submitted that this Court lacks pecuniary jurisdiction as the Plaintiff has failed to declare the specified value. Admittedly, the Plaintiff has quoted license fee of ₹20,00,000/- and not justified the damages sought of ₹2,00,00,000. The Suit is not maintainable due to failure by the Plaintiff to fulfill the twin conditions under the CC Act, which requires that the suit being commercial in nature as per Section 2(1)(c) of the CC Act and the dispute must be of a specified value, which is the market value of the concerned intellectual property. Reliance was placed on ***Fine Footwear Private Limited v. Sketchers U.S.A. Inc. & Ors.***, Neutral Citation: 2019:KHC:24569, and ***K.D. Gold and Diamonds Private Limited v. Khimji & Sons***, 2022(III) ILR-CUT 734. Accordingly, it was prayed that IA No.40421/2024 under Order VII Rule 10 of the CPC be allowed and the Plaint be returned for lack of territorial and pecuniary jurisdiction.

62. As regards IA No.40876/2024 under Order XXXIX Rule 2A read with Section 151 of the CPC for willful disobedience of the Order dated 12.08.2024, the learned Senior Counsel for Defendant Nos. 1 and 2 relied upon the affidavit dated 31.10.2025 filed by Defendant No. 2 for himself and in his capacity as the authorized representative of Defendant No. 1 stating that the Defendants have never intended to disobey or disregard any direction passed by this Court and they believed that since an Application for modification of the Order dated 12.08.2024 was filed seeking an order to keep in abeyance the direction to deposit ₹20,00,000/- till the disposal of the interim injunction Application, the amount of ₹20,00,000/- was not

deposited within a stipulated period as per the Order dated 12.08.2024. It is further stated in the said affidavit that the Defendants deeply regret any inconvenience or misunderstanding caused to this Court on account of the said delay in submitting the security amount. It is stated in the said affidavit that the Defendants hold this Court and its orders in the highest regard and have always endeavored to act in complete consonance with its directions and they are committed to ensuring their scrupulous compliance at all times, both in letter and spirit. The said affidavit further states that to rectify any inadvertent lapse, Defendant Nos. 1 and 2 have deposited the ordered amount of ₹20,00,000/- by way of a demand draft dated 20.10.2025 before the Registrar General of this Court.

63. In view of the above, it was submitted on behalf of the Defendants that IA No.36229/2024 seeking interim relief and IA No.40876/2024 seeking punishment for Defendant Nos. 1 and 2 for committing contempt of the Order dated 12.08.2024 filed by the Plaintiff be dismissed and the Plaint be returned as prayed in IA No. 40421/2024 and the Order dated 12.08.2024 be vacated as prayed for in IA No. 22870/2025 filed by Defendant Nos. 1 and 2.

REJOINDER SUBMISSIONS ON BEHALF OF THE PLAINTIFF:

64. The learned Senior Counsel for the Plaintiff submitted that the Defendants are estopped from challenging the ownership of the Plaintiff in the Original Works as the Defendants admittedly approached the Plaintiff for a license for the use of the Original Works in the Impugned Film. The Plaintiff quoted a license fee for such usage, and the Defendants did not revert with any counteroffer but went ahead and used the Plaintiff's Original Works with no intimation to the Plaintiff. Having approached the Plaintiff

for a license and brazenly used the Plaintiff's Original Works, the Defendants are estopped from questioning the copyright ownership of the Plaintiff.

65. The learned Senior Counsel for the Plaintiff submitted that the reliance placed on ***Azure Hospitality*** (*supra*) by the Defendants to contend that only copyright societies have the right to licensed work is misconceived and contrary to the scheme of the Copyright Act.

66. It was submitted that a copyright society or internationally known as 'collective society' is a system of collective administration of the rights of the owners whereby the right owners authorize one or more collective societies to grant license on behalf of the right owners. Such societies generally grant blanket licenses for a society's entire repertoire on a take-it-or-leave-it basis and, thereafter, distribute the royalties to its members as it is difficult for the right owners to exercise their rights individually.

67. It was submitted that in ***Azure Hospitality*** (*supra*), the Phonographic Performance Limited ("**PPL**") was solely engaged in the business of issuing licenses for public performance of sound recordings on the basis of assignments granted to it by its various member record labels. Although PPL was not registered as a copyright society under the Copyright Act, it was carrying on the business of collective licensing akin to a copyright society and thus, in that context, it was held that it could not issue licenses without being registered as copyright society or being a member of the copyright society.

68. It was submitted on behalf of the Plaintiff that in stark contrast to PPL, the Plaintiff's business is not of a copyright society or an association of persons, who is solely in the business of issuing or granting licenses for

works of others. The Plaintiff is a music record label, which is engaged in the business of acquisition and production of sound recordings and films, and, therefore, the Plaintiff is an individual copyright owner. The Plaintiff does not have any members on whose behalf the Plaintiff issues licenses for the Copyrighted Works. The Plaintiff grants licenses for its own Copyrighted Works in its individual capacity and not on behalf of anyone else. Therefore, the decision in the case of ***Azure Hospitality*** (*supra*) is not applicable to the facts of the present case as the same apply to entities like PPL and not to the owners of the copyright.

69. The learned Senior Counsel for the Plaintiff submitted that Section 33 of the Copyright Act is only restricted to copyright societies and their management. As Section 33 of the Copyright Act was introduced by virtue of the Copyright (Amendment) Act, 1994 to regulate the management of copyright societies, it did not curtail the power of the copyright owners to be able to grant licenses of their works in their individual capacity as per Section 30 of the Copyright Act. Reliance was placed on ***Novex Communication*** (*supra*), which further held that the carrying on business of granting licenses cannot be excluded from Section 30 of the Copyright Act, particularly when such granting of licenses is by the owner of the copyright.

70. It was submitted on behalf of the Plaintiff that the mandate of the Copyright Act was never to preclude owners like the Plaintiff from exercising their rights in their own copyrighted works. Further, Section 34(1)(b) of the Copyright Act permits the owner of the copyright to withdraw the authorization given to a copyright society, which means that the owner can independently exercise their rights under Section 30 of the Copyright Act to grant licenses as they deem appropriate. This provision

was not considered by the Court in ***Azure Hospitality*** (*supra*) as the issue therein was regarding PPL's ability to issue licenses without being a registered copyright society and not regarding the individual licenses that can be granted by the owners of the copyright.

71. The learned Senior Counsel for the Plaintiff submitted that admittedly, the Impugned Film and the social media post, which reshares the clips containing the Original Works are accessible and downloadable within the jurisdiction of this Court amounting to communication of the Plaintiff's Copyrighted Works within this Court's jurisdiction. Therefore, the Act of infringement of Plaintiff's copyright is taking place within the jurisdiction of this Court. Further, Defendant No. 3 has provided New Delhi as the address for service provider and contact information. Therefore, the cause of action has arisen within the jurisdiction of this Court. Reliance was placed on ***Zee Entertainment Enterprises Limited v. Mohalla Tech Private Limited***, Neutral Citation: 2025:DHC:11002 and ***Sun Pharmaceutical Industries Limited v. Artura Pharmaceuticals P. Ltd.***, Neutral Citation: 2025:DHC:10348.

72. It was submitted on behalf of the Plaintiff that the decision in ***Banayan Tree Holding*** (*supra*) is not applicable in the facts of the present case as it is a case of infringement of copyright and not a trade mark infringement. Unlike a trade mark case where an imminent threat of a commercial transaction gives rise to a cause of action in the forum state, in the suit for infringement of copyright the cause of action arises in the forum state where the infringement of the copyright takes place. In copyright cases, streaming of copyrighted work constitutes communication to the public and inasmuch as the Impugned Film is accessible within the jurisdiction of this

Court, it will give jurisdiction to this Court as held in ***Nilesh Girkar*** (*supra*). "Targeting" as founded in ***Banayan Tree Holding*** (*supra*) need not be an aggressive act of marketing aimed at set of customers a mere looming presence in a geography and the ability to access website is sufficient as held in ***Tata Sons (P) Ltd. v. Hakunamatata Tata Founders & Ors.***, 2022 SCC OnLine Del 2968.

73. Further, the decision in ***Padmanabh Shankar*** (*supra*) is distinguishable as the same was in context of a writ petition in relation to interpretation of the provisions of Cinematograph Act, 1952 and no issue of territorial jurisdiction was involved qua copyright infringement. Further, the Chapter in the book Digital Peripheries relied upon by the Defendants is not authoritative as it does not consider or apply Indian law and mostly focus on EU law which does not have equivalent provision of Section 20(c) of the CPC.

74. It was further submitted on behalf of the Plaintiff that the Plaint has to be read as a whole on *demurrer* and the Plaintiff being master of the Suit is entitled to value its reliefs and it is the nature of the relief claimed in the Plaint that is decisive of the question of Suit valuation and not the market value of the property. Reliance was placed on ***Bharat Bhushan Gupta v. Pratap Narain Verma & Anr.***, (2022) 8 SCC 333. It was also submitted that when there exists no objective standards the Plaintiff has right to value the relief claimed according to its own estimation and such valuation has to be ordinarily accepted by the Court when no objective standard exists to determine the precise amount of damages and, accordingly, the *bona fide* and provisional valuation made by the Plaintiff must be ordinarily accepted as held in ***Envitech Consultants India Private Limited v. Rudrabhishek***

Enterprises Limited & Ors., Neutral Citation: 2025:DHC:10351. It was submitted that given the intangible nature of intellectual property, it is difficult to estimate the value of the relief to be claimed based on the damages incurred from its infringement as calculating the damages require judicial consideration and whether a party is entitled to damages cannot be decided at a preliminary stage even before the trial has commenced as held in ***Nandita Bose v. Ratanlal Nahata***, (1987) 3 SCC 705.

75. The learned Senior Counsel for the Plaintiff relied upon Rule 20 of the Delhi High Court Intellectual Property Rights Division Rules, 2022 ("**IPD Rules**") that provides a list of factors to be considered while determining the quantum of damages which include loss of profits suffered by the injured party, profits earned by the infringing party, quantum of income which the injured party may have earned through royalties / license fees had the use of the subject IPR been duly authorized, duration of the infringement, degree of intention / neglect underlying the infringement and conduct of the infringing party to mitigate the damages being incurred by the injured party. In view of the complex nature of this exercise, the said Rule provides that the Court may take the assistance of an expert to compute damages. Accordingly, in the present case, the Plaintiff has stated that the losses both in business and reputation of the Plaintiff are incapable of being assessed in monetary terms and tentatively valued at ₹2,00,01,000 as the Plaintiff does not have access to the accounts of the Defendants to estimate the profits earned by them through the Impugned Film and the Defendants have been exploiting the Plaintiff's Original Works till date through different mediums.

76. It was further submitted on behalf of the Plaintiff that the Defendants reshared the clips of the scenes containing the Original Works on the social media platforms and also made provocative statements against the Plaintiff by calling the license fee requirement as being harassment by the Plaintiff. Given the popularity and fan following of Defendant No. 2, the harm caused to the Plaintiff has been amplified both economically and reputationally. It was submitted that the Defendants' conduct has a cascading effect which actively encourages others not to take a license. Therefore, the infringement by the Defendants is willful.

77. It was submitted that the Plaintiff has met the twin requirements of the Suit being commercial and declaration of specified value under the provisions of the CC Act and, therefore, the decision of ***Fine Footwear*** (*supra*) and ***K.D. Gold*** (*supra*) are distinguishable.

78. It was also submitted that the license fee quoted at the initial pre-infringement stage cannot be equated to damages post-infringement. The willful infringement by the Defendants of the Plaintiff's Original Works coupled with the willful disobedience of the Order dated 12.08.2024, makes it a fit case for enhanced, aggravated and punitive damages. Reliance was placed on ***Adobe v. Namase Patel & Ors.***, 2022 SCC OnLine Del 4190, wherein looking at the conduct of the Defendants, this Court had granted damages of ₹2,00,00,000, which were intended to be deterrent in nature. It was submitted that at this stage, the Court cannot decide the quantum of damages and the Plaintiff will be entitled to prove the same at the stage of trial of the Suit.

79. The learned Senior Counsel for the Plaintiff submitted that the Defendants have wrongly argued that the Plaintiff's copyright in Original

Works lapsed as on the date of filing of the Suit by virtue of Section 19(4) of the Copyright Act as the Defendants have no locus to make this argument not being assigners of such right. It was submitted that the assignment does not automatically get revoked unless the assigner exercises its right under Section 19(A)(1) of the Copyright Act for revocation of the assignment. The Defendants being a third party cannot invoke Section 19(4) of the Copyright Act as it is only the assigner's prerogative to have the assignment revoked. It is settled law that a stranger to a contract cannot alter the legal obligations of the parties to the contract as held in ***Suraj Mal Ram Niwas Oil Mills Private Limited v. United India Insurance Company Limited & Anr.***, (2010) 10 SCC 567.

80. It was further submitted that Clause 9 of Assignment Deed between the Plaintiff and the Master Recording Company, Sangeetha, provides that all rights transferred therein will be in perpetuity and, therefore, Section 19(4) of the Copyright Act is not applicable as the parties have expressly agreed that the Plaintiff can exercise its right in agreement at any time.

81. The learned Senior Counsel for the Plaintiff submitted that the Defendants' contention that the definition of "musical works" as it existed prior to 1994 would apply to Plaintiff's musical works as the work was created in 1980s is misconceived as the cause of action of the Suit and the enforcement of the Plaintiff's rights in its musical works has arisen in 2024 and, therefore, the definition under the current Copyright Act would be applicable. Further, the definition of "musical works" in the Copyright Act was specifically amended in 1994 to ensure that the musical work was not restricted to works recorded in graphical notation or even those reduced to material form in any manner in order to extend the copyright protection

effectively to Indian musical works. In ***A.R. Rahman v. Ustad Faiyaz Wasifuddin Dagar and Ors.***, 2025 SCC OnLine Del 6159, the Division Bench of this Court has examined the 1994 amendments to the definition of "musical work" and specifically noted that fixation in writing was not a requirement under the copyright law and would be contrary to the legislative intent if its requirement was introduced indirectly.

82. It was submitted on behalf of the Plaintiff that merely because the Plaintiff sought the alternative relief of deposit of money, the Plaintiff is not disentitled from its primary relief of injunction as the said prayer for deposit was made without prejudice. The Defendants' act of infringement will embolden third parties to freely infringe copyright of the Plaintiff. It is a settled law that an alternative prayer cannot be construed as a waiver or abandonment of the main relief in the suit as the alternative prayer is the relief which is claimed by the party if the party is found to be not entitled to the principle relief claimed in the Suit as held in ***M.K. Sehgal v. Mohinder Kaur***, 2006 SCC OnLine Del 579. It was also submitted that the belated payment of ₹20,00,000/- deposited in the Court may be appropriately purposed as this Court may deem fit.

REBUTTAL SUBMISSIONS ON BEHALF OF DEFENDANTS:

83. The learned Senior Counsel for the Defendants submitted that the presence of Defendant No. 3 in Delhi does not automatically attract the jurisdiction of this Court under Section 20(c) of the CPC. The present Suit involves a joinder of three Defendants, of whom only Defendant No. 3 is alleged to have a subordinate office in Delhi and, accordingly, the present case falls within the ambit of Section 20(b) of the CPC, which mandates that where one of several defendants resides or carries on business within the

jurisdiction of the Court, the plaintiff is required to obtain leave of the Court before instituting a suit. As no leave has been sought or granted in the present case, this Court does not have territorial jurisdiction. Further, Defendant Nos. 1 and 2 have not acquiesced or consented to the institution of this Suit in Delhi and consequently, the Plaintiff cannot rely on Defendant No. 2's limited presence to circumvent jurisdictional requirements or to arrogate jurisdiction to this Court.

84. It was further submitted that the reliance by the Plaintiff on ***Nilesh Girkar*** (*supra*) was misplaced as the factual matrix of the present case is wholly different. The facts of the present case show that the theatrical release of the Impugned Film was done solely in the State of Karnataka and it was released on OTT in Kannada language, the FIR filed by the Plaintiff's representative in Bengaluru mentioning the place of occurrence of offence as Bengaluru, Karnataka. This shows that the Defendants never purposefully availed itself of the jurisdiction of this Court. Reliance was placed on ***Indian Performing Rights Society Limited v. Sanjay Dalia and Another***, (2015) 10 SCC 161, to submit that merely on the basis of OTT streaming the Plaintiff can sue at far flunk places irrespective of the majority of the cause of action happening at its principal place of business in the State of Karnataka, which is the principal place of business of the Defendants as well as the Plaintiff. Further, reliance was placed on ***Escorts Limited v. Tejpal Singh Sisodia***, 2019 SCC OnLine Del 7607. Further, the Division Bench of this Court in ***Nilesh Girkar*** (*supra*) was not considering the test of online infringement *via* OTT platforms, which is different than the test of online infringement *via* open-sourced websites as laid down in ***Banayan Tree Holding*** (*supra*).

85. The learned Senior Counsel for the Defendants submitted that the assertion of the Plaintiff that it is not in the business of licensing is contrary to the pleadings of the Plaintiff. Hence, the argument of the Plaintiff lies in the teeth of its own categorical averments, and the Plaintiff cannot be allowed to resile from or contradict its own pleadings. Therefore, the judgment of the Division Bench of this Court in ***Azure Hospitality*** (*supra*) is totally applicable to the present facts and circumstances. Accordingly, once the statutory framework under Sections 33, 34, 54 and 55 of the Copyright Act is correctly appreciated, it becomes evident that the Plaintiff is not competent in law to maintain a copyright infringement action in respect of the Original Works as the Plaintiff's entire case is based on the premise that it exploits the Original Works through licensing, however, Section 33 mandates that the business of issuing or granting licenses can be carried out only through a registered copyright society, which alone is vested with exclusive authorization under Section 34 of the Copyright Act and is deemed to be the owner of copyright under Section 54 of the Copyright Act for the purpose of enforcement of Section 55 of the Copyright Act. As the Plaintiff is not a copyright society, it lacks the statutory capacity to issue licenses, administer rights, or claim infringement of rights as the same can be exercised exclusively through a copyright society.

86. It was further submitted that without prejudice to the foregoing, the Plaintiff has been insisting that the sum of ₹20,00,000/- be deposited before this Court being the license fee chargeable by the Plaintiff, which has duly been deposited by Defendant Nos. 1 and 2. In view of the same and considering the alternative prayer contained in its Application, wherein the Plaintiff explicitly sought a direction for deposit of ₹20,00,000/-, Defendant

Nos. 1 and 2 may not be injuncted from displaying the Original Works in the Impugned Film on the OTT platform of Defendant No. 3 as the Plaintiff is not entitled to alter its stand and submit that it no longer presses for such deposit and instead an injunction against the use of the Original Works be granted.

ANALYSIS AND FINDINGS:

87. Having considered the submissions made on behalf of the Parties, the following Issues arise for determination in these Applications:

i. Whether the Plaintiff is the owner of copyright in the Original Works?

ii. Whether the Defendants usage of the Original Works falls under the category of fair use and *de minimis*?

iii. Whether the Plaintiff, not being a registered copyright society or a member of a copyright society, entitled to issue a license for usage of the Original Works as per Section 33 of the Copyright Act?

iv. Whether the Original Works is an original and an independent work?

v. Whether the Plaintiff's copyright in Original Works had lapsed on the date of the Suit as per Section 19(4) of the Copyright Act?

vi. Whether graphical representation of musical works is a requirement under the Copyright Act?

vii. Whether the license fee demanded by the Plaintiff was excessive, unreasonable or exorbitant and if there was any delay in communicating the same?

viii. Whether this Court has territorial jurisdiction to entertain the present Suit?

ix. Whether this Court has pecuniary jurisdiction to entertain the present Suit?

x. Whether the Plaintiff is entitled to the relief of injunction as prayed?

xi. Whether the Defendants have committed willful disobedience of order dated 12.08.2024 and if so, the consequences?

Ownership of the Plaintiff in copyright of the Original Works

88. The Plaintiff has submitted that the Plaintiff is the exclusive owner of the copyright in the Original Works pursuant to the Assignment Deed from the Master Recording Company, Sangeetha, and the agreements between the producers of the film "Gaali Maathu" and "Nyaya Ellide" showing that the rights were transferred to Sangeetha. Additionally, the Plaintiff has also produced documents to show that Sangeetha was the original owner of the music rights in the songs of the films "Gaali Maathu" and "Nyaya Ellide" before the transfer and assignment to the Plaintiff. The Plaintiff has also produced documents showing Sangeetha as a publisher of the music in both the said films.

89. Admittedly, the Defendant Nos. 1 and 2 approached the Plaintiff for obtaining a license for the Original Works. This indicates that, prior to the theatrical release of the Impugned Film, the Defendants were aware that the Plaintiff held copyright ownership in the Original Works. Nonetheless, the Defendants chose not to secure a license from the Plaintiff and proceeded to utilize the Original Works in the Impugned Film, which is now accessible to the public.

90. The Defendants have used the Original Works without taking the license from the Plaintiff or any other third party as part of the Impugned Film. Further, the Defendants have not claimed any ownership of the copyright of the Original Works. On the contrary, the Plaintiff has the prior assignment from Sangeetha, which is shown to be the original owner of the Original Works since the 1980s. Accordingly, the presumption under Section 55(2) of the Copyright Act would apply in the present case. Section 55(2) of the Copyright Act is reproduced as under:

> "***55. Civil remedies for infringement of copyright.—***
>
> *(1)* …
>
> *(2) Where, in the case of a literary, dramatic, musical or artistic work, [or, subject to the provisions of sub-section (3) of section 13, a cinematograph film or sound recording, a name purporting to be that of the author, or the publisher, as the case may be, of that work, appears] on copies of the work as published, or, in the case of an artistic work, appeared on the work when it was made, the person whose name so appears or appeared shall, in any proceeding in respect of infringement of copyright in such work, be presumed, unless the contrary is proved, to be the author or the publisher of the work, as the case may be.*"

91. In the absence of any contrary evidence led by the Defendants, it is presumed that Sangeetha is the original owner of the Original Works and the Plaintiff, being assignee of Sangeetha, is clearly has the copyright in the Original Works as held in ***Super Cassettes*** (*supra*) and ***Saregama India*** (*supra*).

92. The contention of the Defendants that the Plaintiff has not been able to show the chain of ownership as the documents produced by the Plaintiff only show assignment from Sangeetha to the Plaintiff, however, no assignment of rights was shown from the authors of the Original Works to

Sangeetha as the said documents only show the transfer of the rights from the producer of the films and not from the owner of the literary and musical works in the Original Works as the same belong to the respective authors and composers. However, perusal of the Assignment Deed shows that the Plaintiff is the assignee of all rights in the sound recordings, audio-visual songs, underlying literary, dramatic and musical works in the entire catalogue mentioned therein. Further, the assignment agreements in favour of Sangeetha clearly mention that Sangeetha is assignee of the copyright in the cinematograph films, original recording of any music or musical, literary, dramatic and / or artistic works as incorporated in the cinematograph films. Therefore, the argument of the Defendants that Sangeetha did not have right in the literary and musical works in the Original Works is *prima facie* not tenable.

93. From the documents produced by the Plaintiff on record, it is established *prima facie* that the Plaintiff is the copyright owner of the Original Works.

Fair / *de minimis* use of the Original Works

94. The Defendants have claimed that the use of the Original Works in the Impugned Film falls within the category of fair and "*de minimis*" use. As per the Defendants, the song "Nyaya Ellide" is used only for 7 seconds in a scene in the background, whereas the song "Omme Ninnanu" is used for 31 seconds in another scene in the Impugned Film.

95. The Defendants have explained the intent for using the Original Works in the Impugned Film to create a scene wherein the song "Nyaya Ellide" is played on the TV when the housemaid of the protagonist was eating popcorn and crying while watching the TV and the protagonist is seen

standing in the balcony. It was contended that the idea was to give a reference by playing a song in the background and as a part of creativity to show the suffering of the protagonist of the Impugned Film and his plight.

96. It is stated that the meaning of "Nyaya Ellide" is "where is the justice?" and it appears that the Defendants have carefully chosen this well-known song to further the script of the Impugned Film.

97. Similarly, the song "Omme Ninnanu" is used for 31 seconds in a scene of the Impugned Film to show that the protagonist is going in a flashback memory during his school days, wherein his classmate is shown reciting a version of this song in her classroom. It is stated by the Defendants that the idea of the Defendants was to give a reference by playing a song which matches the script of the Impugned Film.

98. The foregoing justifications demonstrate that the Defendants made an informed decision when selecting these two songs, which are neither incidental nor irrelevant to the script or plot of the Impugned Film. Their selections were purposeful and intentional, as reflected in their stated position.

99. The Defendants' reliance on fair use and the principle of "*de minimis*" must be evaluated with regard not only to the *duration of use, but a*lso *to* the intent and way the material was utilized. The application of the "*de minimis*" or fair use standard is determined primarily by qualitative aspects rather than quantitative measures. In ***Shemaroo Entertainment*** (*supra*), it was concluded that, considering the nature of the activity—which constituted the defendant's primary revenue source—the burden rests with the defendant to demonstrate that the use of copyrighted material occurred within their

ordinary and regular course of business in order for such use to be condoned under the "*de minimis*" principle.

100. In ***Ramsampath*** (*supra*), the Court injuncted the use of six seconds of the work, which demonstrates that the mere duration of the infringement is not relevant and the Court has to examine the size and type of the harm likely to be caused to the Plaintiff for considering whether the use of the Original Works was "*de minimis*".

101. As the use of the Original Works was not incidental or irrelevant to the script of the Impugned Film, it is evident that the Defendants have consciously selected the Original Works and, therefore, it was necessary for the Defendants to take a license from the Plaintiff similar to the license taken by the Defendants from Saregama India Limited for Saregama's song for 12 seconds and 30 seconds each.

102. The reliance placed by the Defendants on ***India TV*** (supra) is not relevant to the facts of the present case as the song in question in the said case was only incidental to the advertisement, which was for consumer awareness and not for the financial gain of the advertiser.

103. The Plaintiff has relied upon Section 14(d)(i)(A) of the Copyright Act, which provides that even a photograph of any image forming part thereof would be covered within the meaning of copyright in case of a cinematographic film. Hence, the Defendants were not entitled to use even a single frame of the Original Works without the permission of the Plaintiff.

104. In view of the above, the use of the Original Works by the Defendants does not fall in the exception of fair use and the principle of "*de minimis*".

Necessity to be a registered copyright society or member thereof by the Plaintiff

105. The Defendants have submitted that the Plaintiff has no right to issue a license for the Original Works as the Plaintiff is not a registered copyright society as per Section 33 of the Copyright Act.

106. Section 33 of the Copyright Act provides as under:

> "***33. Registration of Copyright society.—***
> *(1) No person or association of persons shall, after coming into force of the Copyright (Amendment) Act, 1994 (38 of 1994) commence or, carry on the business of issuing or granting licences in respect of any work in which copyright subsists or in respect of any other rights conferred by this Act except under or in accordance with the registration granted under sub-section (3):*
>
> *Provided that an owner of copyright shall, in his individual capacity, continue to have the right to grant licences in respect of his own works consistent with his obligations as a member of the registered copyright society:*
> *[Provided further that the business of issuing or granting licence in respect of literary, dramatic, musical and artistic works incorporated in a cinematograph films or sound recordings shall be carried out only through a copyright society duly registered under this Act:*
>
> *Provided also] that a performing rights society functioning in accordance with the provisions of section 33 on the date immediately before the coming into force of the Copyright (Amendment) Act, 1994 (38 of 1994) shall be deemed to be a copyright society for the purposes of this Chapter and every such society shall get itself registered within a period of one year from the date of commencement of the Copyright (Amendment) Act, 1994.*
>
> *(2) Any association of persons who fulfils such conditions as may be prescribed may apply for permission to do the business specified in sub-section (1) to the Registrar of Copyrights who shall submit the application to the Central Government.*
>
> *(3) The Central Government may, having regard to the interests of the authors and other owners of rights under this Act, the interest and convenience of the public and in particular of the groups of persons who are most likely to seek licences in respect of the*

relevant rights and the ability and professional competence of the applicants, register such association of persons as a copyright society subject to such conditions as may be prescribed:

Provided that the Central Government shall not ordinarily register more than one copyright society to do business in respect of the same class of works.

[(3A) The registration granted to a copyright society under sub-section (3) shall be for a period of five years and may be renewed from time to time before the end of every five years on a request in the prescribed form and the Central Government may renew the registration after considering the report of Registrar of Copyrights on the working of the copyright society under section 36:
Provided that the renewal of the registration of a copyright society shall be subject to the continued collective control of the copyright society being shared with the authors of works in their capacity as owners of copyright or of the right to receive royalty:

Provided further that every copyright society already registered before the coming into force of the Copyright (Amendment) Act, 2012 (27 of 2012) shall get itself registered under this Chapter within a period of one year from the date of commencement of the Copyright (Amendment) Act, 2012.]

(4) The Central Government may, if it is satisfied that a copyright society is being managed in a manner detrimental to the interests of the [authors and other owners of right] concerned, cancel the registration of such society after such inquiry as may be prescribed.

(5) If the Central Government is of the opinion that in the interest of the [authors and other owners of right] concerned [or for non-compliance of sections 33A, sub-section (3) of section 35 and section 36 or any change carried out in the instrument by which the copyright society is established or incorporated and registered by the Central Government without prior notice to it], it is necessary so to do, it may, by order, suspend the registration of such society pending inquiry for such period not exceeding one year as may be specified in such order under sub-section (4) and that Government shall appoint an administrator to discharge the functions of the copyright society"

107. It is the case of the Defendants that the Plaintiff not being a registered copyright society under Section 33 of the Copyright Act, it cannot carry on the business of licensing the copyrightable works. It is only the registered copyright society that can carry on the business of issuing or granting licenses in respect of any work in which copyright subsists or in respect of any other rights conferred by the Copyright Act. For carrying on the business of issuing or granting license, the person or association of persons have to register as a copyright society in terms of Section 33(3) of the Copyright Act.

108. It is submitted on behalf of the Defendants that the Plaintiff is primarily in the business of issuing license of the copyright in the repertoire of the Plaintiff as admitted by the Plaintiff in the Plaint itself. The Defendants have relied upon the decision in ***Azure Hospitality*** (*supra*) to submit that any person who grants licenses to others to exploit sound recordings in which such person holds a copyright can be said to be carrying on business of issuing and granting such license and, therefore, the Plaintiff is required to register itself before being able to issue license for the Original Works.

109. The Plaintiff has contended that Section 33 of the Copyright Act only regulates the management of copyright societies and reserves the right of the owner of the copyright to grant licenses in his individual capacity. Accordingly, the owner of copyright is not excluded from issuing license in respect of the copyrighted works owned by the owner himself. It was submitted on behalf of the Plaintiff that ***Azure Hospitality*** (*supra*) deals with the issue of right to license the work by copyright societies on behalf of the copyright owners and thereafter distribute the royalties to its members. In

the said case PPL was carrying the business of collective licensing without being registered as a copyright society under Section 33 of the Copyright Act, whereas the Plaintiff is the assignee of the Original Works in terms of the Assignment Deed and is, therefore, entitled to issue license in its individual capacity without registering itself as a copyright society under Section 33 of the Copyright Act.

110. In view of the above, it is clear that Section 33 of the Copyright Act does not prohibit the individual copyright owners or assignees to issue licenses of the copyrighted works owned by or assigned to them. As the Plaintiff is not in the business of issuing or granting licenses in respect of the works in which the copyright subsists, the Plaintiff is not required to register itself as a copyright society as the Plaintiff is entitled to issue the license in its individual capacity being the owner of the copyright in the Original Works.

111. Hence, the objection of the Defendants with regard to the necessity of the Plaintiff being a registered copyright society for being able to issue licenses in respect of the copyright in the Original Works is rejected being misplaced. Furthermore, the fact that Defendant Nos. 1 and 2 had approached the Plaintiff for grant of license of the Original Works shows that their objection that it is necessary for the Plaintiff to be a registered copyright society is entirely an afterthought.

Original Works not being original and independent work

112. The Defendants have submitted that the film, “Nyaya Ellide” is not an original work as it is merely a remake of Tamil Film “Sattam Oru Irrutarai”, wherein the title of the song has an identical musical composition as that of the Original Works and the cinematographic work is also identical.

113. *Per contra*, the Plaintiff has submitted that the song "Nyaya Ellide" is an original and independent work distinct from the Tamil Song "Sattam Oru Irrutarai" as the audio-visual elements, musical composition and the underlying literary works of both the songs are different.

114. The issue with regard to whether the Original Works are original and independent works distinct from the previous Tamil Film requires examination of evidence and at this *prima facie* stage, it is not possible for this Court to determine the same. Further, the Defendants have only made bald averments without producing any supporting material to appreciate the objection raised by the Defendants. Hence, this objection of the Defendants is rejected at this stage.

Lapse of copyright in the Original Works as per Section 19(4) of the Copyright Act

115. The Defendants have submitted that the Plaintiff's copyright in the Original Works had lapsed as on the date of the Suit as per Section 19(4) of the Copyright Act. Section 19(4) reads as under:

> "***19. Mode of assignment.—***
> *(1) …*
> *(2) …*
> *(3) …*
> *(4) Where the assignee does not exercise the rights assigned to him under any of the other sub-sections of this section within a period of one year from the date of assignment, the assignment in respect of such rights shall be deemed to have lapsed after the expiry of the said period unless otherwise specified in the assignment.*"

116. As per Section 19(4) of the Copyright Act, the assignee has to exercise the right assigned to him within a period of one year from the date of assignment and failure to do so would result in deemed lapse of the

assignment after the expiry of one year unless it is specified in the assignment otherwise.

117. The Plaintiff has submitted documentary evidence demonstrating their use of the Original Works, which, *prima facie*, indicates continued usage following assignment to the Plaintiff. Additionally, extracts from YouTube dated 15.05.2021 and 16.06.2021 have been filed, evidencing exploitation of the Original Works. This documentation establishes that Section 19(4) of the Copyright Act is not applicable under the current circumstances. Consequently, the Defendants' objection regarding lapse of copyright due to alleged non-use by the Plaintiff is deemed unfounded and is accordingly rejected.

Requirement of graphical representation

118. The objection taken by the Defendants that as the Original Works were conceived and released prior to the Copyright (Amendment) Act, 1994, the same cannot be considered as a valid “musical work” in absence of the Original Works being graphically produced or reduced to writing. The Defendants have submitted that the definition of “musical work” in Section 2(p) of the Copyright Act as it stood prior to the amendment in 1994 will be applicable to the Original Works and, therefore, the Original Works are not “musical works” as the same are not printed, reduced to writing or otherwise graphically produced or reproduced.

119. The Plaintiff has submitted that since the cause of action for the present Suit arose subsequent to the 1994 amendment, the Copyright Act as on the date of the cause of action would be applicable and, therefore, the requirement of graphical representation is not essential for the Original Works to acquire copyright protection as a “musical work”.

120. In view of the above, the objection of the Defendants with regard to the applicability of the definition of "musical work" as it stood prior to the amendment of 1994 of the Copyright Act is rejected as the law on the date of institution of this Suit would be applicable for granting protection to the copyrighted work and not as on the date when such work was conceived or released.

121. Accordingly, it is held that there is no requirement for graphical representation of the Original Works under the Copyright Act in view of the definition of "musical work" post amendment of 1994.

Reasonableness and timing of the license fee demanded by the Plaintiff

122. The Defendants have claimed that the license fee demanded by the Plaintiff was unreasonable, excessive and exorbitant. Further, it is stated by the Defendants that the license fee was communicated only one day prior to the theatrical release of the Impugned Film and, therefore, there was no time available to Defendant Nos. 1 and 2 to negotiate the license fee with the Plaintiff.

123. The Plaintiff has submitted that the license fee of ₹10,00,000/- per song of the Original Works was reasonable as the same are classic evergreen songs having extensive popularity across platforms. Further, the Plaintiff being the copyright owner was entitled to quote the license fee as per the market rates. As regards the timing, the Plaintiff has contended that it is incorrect that the Defendants had made any telephonic enquiries around December 2023 and the Plaintiff communicated the amount of license fee only a day prior to the theatrical release of the Impugned Film as there is no documentary evidence to show that the Defendants had approached the Plaintiff in the month of December 2023.

124. As regards the quantum of the license fee and the reasonableness thereof, the Defendants have not given any justification for calling the quoted license fee as unreasonable and exorbitant. The Defendants have also not given any counteroffer to the Plaintiff if the Defendants found the offer of the Plaintiff excessive. The fact that the Defendants themselves claim to have approached the Plaintiff for grant of license for the Original Works shows that the Defendants were aware that they are liable to take license prior to using the Original Works in the Impugned Film. The conduct of the Defendants demonstrates *mala fide* intent on behalf of the Defendants to not pay anything to the Plaintiff for using the copyrighted Original Works belonging to the Plaintiff by raising the objection with regard to excessiveness of the license fee quoted by the Plaintiff.

125. As regards the timing of the offer by the Plaintiff, there is no evidence produced by the Defendants to ascertain at this *prima facie* stage as to whether the Defendants had approached the Plaintiff in December 2023. On the contrary, the Plaintiff has produced screenshots of the communications exchanged between the Plaintiff and Defendant Nos. 1 and 2 a day prior to the theatrical release of the Impugned Film. In any event, it is inconceivable that Defendant Nos. 1 and 2 would have incorporated the Original Works in the Impugned Film only a month prior to its release. Therefore, the objection of Defendant Nos. 1 and 2 that there was a delay in communicating the license fee by the Plaintiff cannot be accepted. Furthermore, there was sufficient time between the theatrical release and the release on the OTT platforms of the Impugned Film, however, there was no communication from Defendant Nos. 1 and 2 or any response to the messages sent by the Plaintiff. This clearly shows that the objection with regard to the excessive

license fee and delayed communication thereof, is nothing but an afterthought.

126. As *vide* Order dated 12.08.2024 this Court has directed deposit of ₹20,00,000/- towards the license fee quoted by the Plaintiff, which amount has been belatedly deposited by Defendant Nos. 1 and 2, the issue with regard to the reasonableness of the license fee can be determined at the final stage of the Suit after the evidence is led by the Parties.

Pecuniary and territorial jurisdiction of this Court to entertain the present Suit

127. The Defendants have contended that this Court does not have territorial jurisdiction in accordance with Section 20(c) of the CPC solely on the basis that the office of Defendant No. 3 is located in Delhi and the Impugned Film can be accessed, viewed and downloaded within the jurisdiction of this Court. It is further submitted on behalf of the Defendants that the Plaintiff has indulged in forum shopping as the cause of action has arisen in Bengaluru, Karnataka and the place of business of Defendant Nos. 1 and 2 is also in Bengaluru, Karnataka. In any event, the Defendants have relied upon the nature of the OTT platforms to contend that the same is based on subscription, search, payment, request and delivery and, therefore, the availability of content on OTT platforms does not amount to specifically targeting the viewers in Delhi. Accordingly, if the test of sliding scale laid down in ***Banayan Tree Holding*** (*supra*) is applied to the facts of the present case, there is no injury suffered by the Plaintiff as there was no specific targeting of the viewers in the forum State. Accordingly, the Defendants have sought return of the Plaint under Order VII Rule 10 of the CPC.

128. The Plaintiff has submitted that this Court has jurisdiction as the Impugned Film is accessible on the platform of Defendant No. 3. The Plaintiff has relied upon ***Nilesh Girkar*** (*supra*) to submit that the Impugned Film being available on the OTT platform of Defendant No. 3 is sufficient to confer the jurisdiction under Section 20(c) of the CPC. The Plaintiff has also relied upon ***Sholay Media*** (*supra*) and ***GE Power India*** (*supra*) to submit that whenever there is an infringement of copyright, the cause of action would arise and the Court where such cause of action has accrued, howsoever minimal it may be, will have the jurisdiction irrespective of the same content being available throughout the internet. The Plaintiff has also relied upon Section 62 of the Copyright Act as the subordinate office of the Plaintiff is also located within the jurisdiction of this Court as held in ***Burger King*** (*supra*) and ***Elite Blenders*** (*supra*). Further, the Plaintiff has submitted that the principles of forum convenience are not applicable in the domestic civil suits governed by the CPC as held in ***Horlicks Limited*** (*supra*). The Plaintiff has submitted that the decision in ***Banayan Tree Holding*** (supra) is not applicable as the same was for infringement of trade mark and not copyright. In addition, it was submitted on behalf of the Plaintiff that "targeting" as found in ***Banayan Tree Holding*** (*supra*) is not required to be an aggressive act of marketing and mere looming presence and availability of the copyrighted works for access is sufficient as held in ***Tata Sons*** (*supra*) and ***Sun Pharmaceutical*** (*supra*).

129. Upon consideration of the Parties' submissions, it is pertinent to review the arguments presented by the Defendants regarding the nature of OTT platforms and whether content accessibility on these platforms establishes jurisdiction for the Court where such access occurs. The

Defendants assert that OTT platforms utilise client-driven protocols, such as HLS and DASH, which segment media into smaller units delivered upon user request during playback. As a result, the Defendants maintain that users access content on OTT platforms through subscription, searches, and explicit requests, rather than by any form of solicitation or targeting by the Defendants. Furthermore, the Defendants referenced a chapter in the book "Digital Peripheries," which addresses the territoriality of copyright law and differentiates between unidirectional and bidirectional communication.

130. The above arguments do not help the Defendants to contend that this Court does not possess territorial jurisdiction as the availability of the content on the OTT platforms is sufficient to confer jurisdiction on this Court. This Court in ***Tata Sons*** (*supra*) and ***Sun Pharmaceutical*** (*supra*) has held that the mere looming presence in a geography and ability of the customers to access the content is sufficient.

131. Although OTT platforms provide content to subscribers without specifically targeting individual viewers, the location where the content is accessed determines where copyright infringement occurs. There is no distinction between content availability on OTT platforms and other websites concerning copyright violations. The mere accessibility of content on OTT platforms by individuals within a Court's territorial jurisdiction establishes the jurisdiction of that Court over matters related to copyright infringement.

132. In addition, the Plaintiff has relied upon Section 62 of the Copyright Act as the Plaintiff’s subordinate office is located in Delhi as well as Defendant No. 3 has its office in Delhi. Hence, this Court would have the jurisdiction to hear and determine the present Suit.

133. The Defendants have also raised the issue with regard to lack of pecuniary jurisdiction as there is no declaration of the specified value by the Plaintiff. It was submitted by the Defendants that the Plaintiff has quoted license fee of ₹20,00,000/- and not provided any justification for the damages sought.

134. The Plaintiff has submitted that the Plaintiff is entitled to value its relief and given the harm caused by the Defendants, the Plaintiff is entitled to recover the losses suffered by the Plaintiff. In any event, the license fee is above the specified value under the CC Act and there is no requirement to specifically mention the same as the Plaint has to be read as a whole as held in ***M/s Kranti Shop*** (*supra*).

135. Given that the present suit is commercial in nature and the amount in dispute exceeds the prescribed minimum threshold, the objection regarding this Court's lack of pecuniary jurisdiction is not sustainable. Pursuant to the IPD Rules, multiple factors are specified for determining the quantum of damages, and the Court is authorised to seek expert assistance due to the complexity involved in such assessments. Consequently, it cannot be determined at this preliminary stage that the Plaintiff is not entitled to the damages claimed, as this will be adjudicated after both Parties have had the opportunity to present evidence. Provided the Suit is valued above the mandatory minimum required to confer jurisdiction, the Plaint cannot be returned on grounds of insufficient pecuniary jurisdiction at the outset. Accordingly, the Defendants have not established any valid case for lack of pecuniary jurisdiction before this Court in relation to the current proceedings.

136. Accordingly, IA No. 40421/2024 under Order VII Rule 10 read with Section 151 of the CPC is dismissed.

Plaintiff's entitlement to the relief of injunction

137. The Plaintiff is recognised as the exclusive copyright owner of the Original Works under the Assignment Deed executed by Sangeetha in perpetuity. The Defendants have acknowledged their use of the Original Works in the Impugned Film without obtaining a licence from the Plaintiff, thereby constituting *prima facie* copyright infringement. Given that the Defendants have not satisfactorily established any applicable defences as discussed above, the result of this infringement is that they must be restrained from using the Original Works in the Impugned Film.

138. The Defendants have not provided adequate justification for their unauthorised use of the Original Works and failed to demonstrate the absence of a requirement for a licence from the Plaintiff. Notably, the Defendants initially approached the Plaintiff to obtain a licence for the copyright in the Original Works. However, their actions following the Plaintiff's quotation of the licence fee indicate deliberate infringement, citing the fee's alleged excessiveness and delayed communication as justifications. Furthermore, the Defendants' assertion regarding the Plaintiff's entitlement to grant a licence appears to be an afterthought and lack merit.

139. Accordingly, the Defendants are liable to be restrained from using the Original Works in the Impugned Film. However, since the alternative prayer of the Plaintiff for grant of license was payment of ₹20,00,000/- as the license fee, and the same having been deposited by Defendant Nos. 1 and 2 albeit belatedly, it would be sufficient if the same amount is directed to be

disbursed to the Plaintiff in lieu of granting injunction against the Defendants.

140. Therefore, to balance the equities, it would be expedient in the interest of justice to direct the Registry to release the amount of ₹20,00,000/- to the Plaintiff subject to the outcome of the present Suit in view of the alternative prayer of the Plaintiff and the submission of Defendant Nos. 1 and 2 during the course of the arguments that the Defendants may not be injuncted from displaying the Original Works in the Impugned Film in view of the deposit of ₹20,00,000/- by Defendant Nos. 1 and 2.

Willful disobedience by the Defendants

141. The Plaintiff has filed IA No. 40876/2024 under Order XXXIX Rule 2A read with Section 151 of the CPC and Section 12 of Contempt of Courts Act, 1971 alleging that the Defendants have committed willful disobedience of the Order dated 12.08.2024 as the Defendants actively committed the contempt of the direction passed by this Court despite being fully aware about the same.

142. It was submitted by the Plaintiff that merely filing an Application for modification of Order dated 12.08.2024 does not justify non-compliance of the direction contained in the said Order. As held in ***Samee Khan*** (*supra*) and ***Tayyabbhai*** (*supra*), the contempt once committed will be punishable even though the order which is not complied is subsequently set aside.

143. The sole explanation provided by the Defendants for their non-compliance with the Order dated 12.08.2024 is their assertion of a *bona fide* belief that compliance was unnecessary while the Application for modification of the said Order remained pending. In their affidavit dated 31.10.2025, Defendant Nos. 1 and 2 asserted that there was no intention to

disregard the Court's direction and expressed regret for any misunderstanding resulting from the delay in depositing the amount as directed *vide* Order dated 12.08.2024.

144. It is well-established law that filing an application for modification or vacation of an order neither excuses nor dispenses with compliance with its directions. The rationale advanced by the Defendants for their failure to deposit ₹20,00,000/- pursuant to this Court's Order is entirely misplaced. The Defendants were fully cognizant of the requirement but elected not to comply. Their position that they are not obliged to make the deposit in compliance with the Order dated 12.08.2024 is untenable, as the claimed *bona fide* belief regarding non-compliance during the pendency of the modification application cannot be accepted.

145. The position adopted by Defendant No. 2 in the social media post, as cited by the Plaintiff, indicates clear knowledge of the Order dated 12.08.2024. Nonetheless, the Defendants elected not to comply with the said Order. This constitutes intentional and deliberate non-compliance, for which the Defendants are accountable for contempt.

146. However, upon consideration of the Affidavit dated 31.10.2025 submitted by Defendant Nos. 1 and 2 expressing regret for their actions, the Court is inclined to exercise leniency. Rather than imposing simple imprisonment on Defendant No. 2 for contempt of the Order dated 12.08.2024, Defendant Nos. 1 and 2 are directed to remit an exemplary cost of ₹5,00,000/- to the Plaintiff within two weeks to purge the contempt committed.

147. Consequently, IA No. 40876/2024 is allowed in accordance with these directions.

CONCLUSION:

148. In view of the above analysis, it is held that this Court has territorial and pecuniary jurisdiction to entertain the present Suit. IA No. 40421/2024 filed on behalf of Defendant Nos. 1 and 2 under Order VII Rule 10 read with Section 151 of the CPC for return of the Plaint is hereby dismissed.

149. It is held that the Plaintiff has the exclusive copyright in the Original Works being the audio-visual recording, sound recording and underlying literary and musical works of two songs namely "Nyaya Ellide" and "Omme Ninnanu" being original and independent works and the Plaintiff's copyright had not lapsed on the date of filing of the Suit as per Section 19(4) of the Copyright Act. It is also held that the Defendants' usage of the Original Works did not fall under the category of fair use and *de minimis*. It is further concluded that the Plaintiff was not prohibited from issuing license although not being a registered copyright society or a member of a copyright society as per Section 33 of the Copyright Act and the license fee demanded by the Plaintiff was not excessive, unreasonable or exorbitant and there was no delay in communicating the same. Accordingly, IA No. 36229/2024 filled by the Plaintiff under Order XXXIX Rules 1 and 2 read with Section 151 of the CPC is allowed and as the Plaintiff is held entitled to the relief of injunction as prayed. Consequently, IA No. 22870/2025 filed on behalf of Defendant Nos. 1 and 2 under Order XXXIX Rule 4 of the CPC for vacation of *ex parte* ad-interim injunction granted *vide* Order dated 12.08.2024 is dismissed. However, since Defendant Nos. 1 and 2 have already deposited the amount of ₹20,00,000/- pursuant to the Order dated 12.08.2024, the Registry is directed to release the said amount to the Plaintiff subject to outcome of the present Suit within a period of one week in lieu of the

injunction against the Defendants from using the Original Works in the Impugned Film given the alternative prayer of the Plaintiff and submissions of Defendant Nos. 1 and 2.

150. It is held that Defendant Nos. 1 and 2 have committed willful disobedience of Order dated 12.08.2024 and, therefore, they are liable to pay exemplary costs of ₹5,00,000/- to the Plaintiff within a period of two weeks. IA No. 40876/2024 filed on behalf of Plaintiff under Order XXXIX Rule 2A read with Section 151 CPC read with Section 12 of the Contempt of Courts Act, 1971 is allowed with the aforesaid directions.

151. Accordingly, I.A. 36229/2024, I.A. 40421/2024, I.A. 40876/2024 & I.A. 22870/2025 stand disposed of.

TEJAS KARIA, J

MARCH 28, 2026
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