* **IN THEHIGH COURTOF DELHIAT NEW DELHI**

% *Judgment delivered on: 30.04.2026*

\+ **CS(COMM) 706/2018**

MR. DAVID DAVIDAR .....Plaintiff

versus

MS. SIVASSUNDARI BOSE ....Defendants

\+ **CS(COMM) 581/2024**

SIVASUNDARI BOSE & ANR. .....Plaintiffs

versus

DAVID DAVIDAR ....Defendant

Advocates who appeared in these cases

Mr. Pravin Anand, Ms. Prachi Agarwal, Ms. Medha Singh and Mr. Manan Mondal, Advocates for Plaintiff in CS(COMM) 706/2018 and for Defendant in CS(COMM) 581/2024.

Ms. Ritu Singh Mann, Mr. Sohrab Singh Mann and Ms. Shivani, Advocates for Defendant in CS(COMM) 706/2018 and for Plaintiffs in CS(COMM) 581/2024.

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HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

1. CS(COMM) 706/2018 [Originally CS(OS) 1953/2011] has been filed by Mr. David Davidar against Ms. Sivasundari Bose seeking a permanent injunction against her from making baseless threats of legal proceedings for copyright infringement and from making defamatory statements against Mr. David Davidar and to seek damages from Ms. Sivasundari Bose.

2. CS(COMM) 581/2024 [Originally CS(OS) 2702/2012] has been filed by Ms. Sivasundari Bose against Mr. David Davidar seeking a declaration that the book 'The House of the Blue Mangoes' ("**David's Book**") authored by Mr. David Davidar was based on the manuscript of the book 'Golden Stag' ("**Sivasundari's Book**") authored by Ms. Sivasundari Bose and further seeking rendition of accounts of profits.

3. Mr. David Davidar sought to amend the Plaint in CS(COMM) 706 /2018 by way of an Application under Order VI Rule 17 of the CPC. As the Summons were yet to be issued in CS(COMM) 706/2018, this Court vide Order dated 15.09.2011, allowed the amendment to CS(COMM) 706/ 2018 allowing the addition of a Prayer Clause in Paragraph No. 28(ba) to the Plaint.

4. *Vide* Order dated 03.02.2012 passed in CS(COMM) 706/2018, both the Suits being CS(COMM) 706/2018 and CS(COMM) 581/2024 were directed to be consolidated.

5. *Vide* Order dated 18.03.2014, the following issues have been framed by this Court:

(i) Whether the plaintiff has infringed the copyright of defendant in the manuscript of the book 'the Gold Stag'? **OPD in CS(OS) 1953/2011**

(ii) Whether the legal notice followed by suit for mandatory injunction and damages for infringement of copyright, breach of trust and misappropriation of property filed by the defendant amounts to groundless threats, defamation and injurious false suit? **OPP in CS(OS) 1953/2011**

(iii) Whether the plaintiff is entitled to an order of permanent injunction against defamation and injurious falsehood against defendant? **OPP in CS(OS) 1953/2011**

(iv) Whether the plaintiff is entitled to damages of Rupees 21 lakhs from the defendant? **OPP in CS(OS) 1953/2011**

(v) Whether the suit of the plaintiff is barred by limitation? **OPD in CS(OS) 2702/2012**

(vi) Whether the book of the defendant 'The House of Blue Mangoes' is based upon the manuscript of plaintiff's book, the 'Golden Stag'? **OPP in CS(OS) 2702/2012**

(vii) Whether the defendant has committed breach of trust and illegally misappropriated the manuscript submitted by the plaintiff to M/s. Penguin India for his own use? **OPP in CS(OS) 2702/2012**

(viii) Whether the defendant has infringed the copyright of plaintiff in the manuscript of the book 'the Gold Stag'? **OPP in CS(OS) 2702/2012**

(ix) Whether the plaintiff is entitled to a decree of mandatory injunction directing the defendant to publicly acknowledge that the book of the defendant, 'The House of Blue Mangoes' is based upon the work and manuscript of the plaintiff? **OPP in CS(OS) 2702/2012**

(x) Whether the plaintiff is entitled to 50% of profits earned by the defendant from the sale of 'The House of Blue Mangoes'? **OPP in CS(OS) 2702/2012**

(xi) Relief

SUBMISSIONS ON BEHALF OF MR. DAVID DAVIDAR:

6. The learned Counsel for Mr. David Davidar made the following submissions:

6.1 Mr. David Davidar is an internationally well-known novelist and publisher. He has played an important role in developing the publishing industry in India and in bringing Indian paperback publishing to global standards, along with being a successful novelist. Mr. David Davidar set up the business of Penguin Books Publishing House India ("**Penguin India**") in 1985, as its first publisher, and remained with Penguin Books in India until August 2010. In David's Book, Mr. David Davidar narrates a fictional story which is essentially a family saga covering three generations set against the backdrop of nearly fifty years of South Indian history, i.e. from 1899 to 1947. Some of the fictional characters in the novel are inspired by Mr. David Davidar's own family, especially two famous ancestors, i.e., his paternal great grandfather and his paternal grandfather.

6.2 Mr. David Davidar began to write David's Book in 1988 as has been detailed in various newspaper interviews that he gave subsequently. The first draft of the book was nearly half a million words long. Over the next decade the book went through three more drafts and the final draft, approximately 250,000 words long, was ready in April 2000. The final draft was then edited for Mr. David Davidar by a famous author, Vikram Seth in mid 2000s, and was taken for representation by the famous international literary agent David Godwin in August 2000. On 17.11.2000, Mr. David Davidar

signed an agreement with the first publisher for David's Book, Phoenix House, a division of the Orion Publishing Group Ltd.

6.3 David's Book adopts the well-known and common place features of numerous such multi-generational family sagas, from the family tree and map, to the series of generational conflicts attendant on social change and the often contrasting generational responses to it, all in the context of the broader history of a country or a region, essentially, the interplay between social and/or political history and the individual characters of the novel, over a more or less extended period.

6.4 Mr. David Davidar never knew of Ms. Sivasundari Bose before receiving a legal notice dated 24.05.2011 ("**Legal Notice**"). It is through the Legal Notice that Mr. David Davidar came to know of Sivasundari's Book and that Ms. Sivasundari Bose had submitted the manuscripts of her book to Penguin India. Mr. David Davidar being the CEO of Penguin India neither saw the manuscript of Sivasundari's Book and nor infringed it while writing David's Book. Mr. David Davidar was CEO / Publisher of Penguin India. In that capacity, it was not his duty, nor would it have been possible for him, to see the thousands of unsolicited manuscripts which were received during his tenure. All such manuscripts were seen by junior editors.

6.5 Sivasundari's Book, which was not published until 2006, deals with the entire twentieth century in South India, and unlike David's Book which stops at 1947, Sivasundari's Book devotes only 45 pages to the period covered by David's Book. Upon comparison, Mr. David Davidar found absolutely no similarity between the two books except

for ones that are attributable to public-domain historical content. The two books are wholly dissimilar in text, style, plot structure, events described, characterization; there is no similarity between the two in this or any other literary feature. There is no question of copyright in any historical events either in general or in relation to any particular region, nor can there be any copyright in a whole genre of fiction such as the commonplace genre of multi-generational family sagas. Sivasundari's Book is even titled after the great poet Rabindranath Tagore's poem: 'I Hunt for the Golden Stag'. Sivasundari's Book is inspired by this poem and that is the basis of the entire theme of Sivasundari's Book, and this fact is also stated by Ms. Sivasundari Bose in Sivasundari's Book. The first title of Sivasundari's Book, as stated in the Legal Notice, was itself 'I Hunt for the Golden Stag'.

6.6 Ms. Sivasundari Bose never met Mr. David Davidar personally. Her averment was that she had met Ms. Sayoni Basu, then a Junior Editor at Penguin India. Mr. David Davidar therefore traced out and contacted Ms. Sayoni Basu who, like Mr. David Davidar himself, is no longer with Penguin India. Ms. Sayoni Basu has filed an affidavit in which Ms. Sayoni Basu confirms that Ms. Sivasundari's manuscript was never submitted to Mr. David Davidar. Only a few sample pages of Sivasundari's Book were sent to Penguin India in 1996 and not the whole manuscript as has also been admitted by Ms. Sayoni Basu in her cross-examination. Thus, Mr. David Davidar could not have copied the manuscript of Sivasundari's Book given to Penguin India in 1996.

6.7 Ms. Sivasundari Bose has claimed that on 24.01.2000, she met Ms. Sayoni Basu and gave her the manuscript of Sivasundari's Book in a floppy disc. Ms. Sivasundari Bose's only basis regarding meeting Ms. Sayoni Basu was a visiting card that could have been easily obtained from one of the numerous book fairs and seminars that publishers and aspiring authors attend. In order to prove copyright infringement Ms. Sivasundari Bose would have to prove that Mr. David Davidar had access to the manuscript for Ms. Sivasundari's Book as has been held in the judgment of ***Mansoob Haider v. Yashraj Films***, (2014) 59 PTC 292. Without access to Ms. Sivasundari's Book, the degree of proof required to establish an allegation of copying is much higher on Ms. Sivasundari Bose as has been held in the judgment of ***Shivani Tibrewala v. Rajat Mukerjee and Ors.***, (2020) 81 PTC 329.

6.8 The Supreme Court in ***RG Anand v. M/s Delux Films and Others***, (1978) 4 SCC 118, held that there can be no copyright in an idea, subject matter, themes, plots or historical or legendary facts. It has to be determined whether similarities are on fundamental or substantial aspects of mode of expression. There are no similarities between David's Book and Sivasundari's Book for the purpose of copyright infringement, which has been wrongly alleged by Ms. Sivasundari Bose. Sivasundari's Book deals with 20th century South India and only 46 pages out of the 299 pages deal with the same period as that of David's Book. The *prima facie* differences between the two books are as below, as per the comparison of the two books:

Particulars	Mr. David's Book	Ms. Sivasundari's Book
No. of pages	421	299
No. of lines	16, 349	10,854
Number of words	176754	119394
Period	1899-1947	1900-2002 (Out of 300 pages, only 46 deal with the period of Plaintiff's book- i.e 15%)
Sources cited	31	None
Not a single page, paragraph or line in the two books is identical. (Q. 5-8, 16 DW1's cross). DW 1 cites 'slipped into a diabetic coma' as identical. Q. 8; but the treatment of the phrase in the sentence is different- (Q. 13, 14, 16 DW 1's cross)		

6.9 Ms. Sivasundari Bose, in her letter dated 06.09.2003 to Ms. Chitra Banerji Divakaruni has admitted that Mr. David Davidar in David's Book has given different names to the characters, placed them in different surroundings, presented British India in a more elaborate manner and additionally added several pages of his own making. Further, she has claimed that there is a big chunk left of Sivasundari's Book, the post-independence period, which Mr. David Davidar might have reserved for a sequel. This also shows that the two works are absolutely dissimilar. Mr. David Davidar is a more successful writer than Ms. Sivasundari Bose and David's Book is commercially more successful than Sivasundari's Book.

6.10 It is always open to any person to choose an idea as subject matter and develop it in their own manner and give expression to the idea by treating it differently from others; where two writers write on the same subject, similarities are bound to occur, but the similarities or coincidences cannot by themselves lead to an allegation of

plagiarism. Minor or coincidental commonalities, or random similarities scattered throughout the works, do not equate to copyright infringement. The coincidence of certain elements, especially if they be of the scene a' faire variety, will not constitute copyright infringement. Stock scenes or scene a' faire, situations which naturally flow from a basic premise, are unprotectable as has been held in ***Wild v. NBC Universal***, 513 F. App'x 640 (2013). Even in the present case, Mr. David's Book is different in expression, treatment, context etc. in comparison to Sivasundari's Book.

6.11 Ms. Sivasundari Bose's case that some phrases have been copied by Mr. David Davidar in David's Book, is baseless. The common names used in both the books are names common in the state of Tamil Nadu.

6.12 The Legal Notice has been issued to Mr. David Davidar by Ms. Sivasundari Bose with the ulterior motive of causing harm by way of revenge for rejection of her manuscript by Penguin India of which Mr. David Davidar was the then CEO. Ms. Sivasundari Bose intended to benefit monetarily by selling more copies of her book by drawing public and media attention to herself and her unsuccessful book by attacking and maligning Mr. David Davidar, who is a well-known author and publisher. As evident from the above, Mr. David Davidar is a renowned writer and David's Book is far more successful as a commercial venture and a far greater literary achievement. On the other hand, Sivasundari's Book was rejected a total of 10 times by 8 publishing houses. Ms. Sivasundari Bose in her letter dated 06.09.2003 to Ms. Chitra Banerji Divakaruni has referred to Mr.

David Davidar as ‘influential and loaded’. This clearly shows that Ms. Sivasundari Bose has looked at Mr. David Davidar as a source of compensation and as a means of making a substantial amount of money with the ulterior motive to cause harm by way of revenge for rejection.

6.13 Malice is also borne out of the fact that Ms. Sivasundari Bose has also acted with defamatory intent to bring down Mr. David Davidar’s public image and reputation in the eyes of the literary world and the general public, by making utterly false statements publicly that Mr. David Davidar had copied Sivasundari’s Book, maliciously and without any cause. Ms. Sivasundari Bose even defamed Mr. David Davidar in front of Chitra Banerji Divakaruni, who is an author and a public figure, as well as Ms. Beulah Shekhar, National General Secretary of YWCA. Since Ms. Sivasundari Bose has made false statements to third parties maligning the reputation of Mr. David Davidar, Ms. Sivasundari Bose is liable for defamation.

6.14 A charge of plagiarism can destroy the credibility, honour and reputation of a writer/publisher in and outside the literary world and it is even worse when the same is false and thus defamatory. A good name is worth more than good riches as has been held in the judgment of ***Ram Jethmalani v. Subramaniam Swamy***, AIR 2006 Delhi 300. It was held in the case of ***Hindustan Unilever Limited v. Reckitt Benckiser***, 207 (2014) DLT 713 (DB), that generally damages are “at large” in case of defamation.

6.15 In the present case, Ms. Sivasundari Bose has intentionally defamed Mr. David Davidar publicly by accusing him of plagiarism

and, thus, affecting his morality, honour, and professional integrity and reputation. It has been held in the judgment of ***DP Choudhary & Ors. v. Kumari Manjulata***, AIR 1997 Raj 170, that if a person has in fact injured another's reputation, they are liable even if they did not intend to do so and the words are actionable if false and defamatory, even if published accidentally or inadvertently. In the instant case, the defamatory statements are intentional. The intention of Ms. Sivasundari Bose appears to be to take undue advantage of Mr. David Davidar's position as a means of making a substantial amount of money as is also evident from the fact that she referred to him as 'Loaded'.

6.16 Mr. David Davidar is entitled to compensatory damages for the damage to his reputation, mental agony and suffering, hurt and humiliation, many years in litigation and the fact that there can be nothing worse for an author than a false charge of plagiarism. Moreover, the fact that Ms. Sivasundari Bose has repeatedly defamed the author and continued to do so even during the pendency of the dispute makes Mr. David Davidar entitled to exemplary damages. It has been held in ***Hindustan Unilever*** (supra) that where the disparaging content was shown repeatedly, and with an aim to denigrate the plaintiff's goodwill and reputation, punitive and exemplary damages are warranted.

6.17 The Suit, CS(COMM) 581/2024, filed by Ms. Sivasundari Bose, is barred by limitation. David's Book was published in 2002 and admittedly Ms. Sivasundari Bose became aware of the same in August 2003. Despite the same, the Legal Notice was sent in 2011

and the Suit CS(COMM) 581/2024 was filed in 2012. No explanation or justification has been given for such delay. In fact, even in her cross-examination, Ms. Sivasundari Bose could not explain such massive delay and acquiescence. Further, the said action is barred by limitation under Clause 88 of the Schedule of the Limitation Act, 1963 ("**Limitation Act**"), wherein an action for compensation for infringing copyright ought to have been filed within 3 years of the date of infringement. Even if the limitation period is computed from the date of knowledge, which is August, 2003, and not the date of publication of Mr. David's Book in the year 2002, the limitation period expired in the year 2006.

SUBMISSIONS ON BEHALF OF MS. SIVASUNDARI BOSE:

7. The learned Counsel for Ms. Sivasundari Bose made the following submissions:

7.1 In the year 1987, Ms. Sivasundari Bose, inspired by the lives of some of her ancestors, decided to write a book, spanning over 5 generations, choosing South Tamil Nadu, her birth place, where she had grown up, as the backdrop. This book encompassed a period of 50 years before and after independence. The character 'Mayan' in Sivasundari's Book was based on her grandfather's grandfather of the same name and 'Nagalingam' in her book is also an ancestor. Ms. Sivasundari Bose wished to share with the readers the intrinsic flavour of the region, focusing upon both, its strengths and weaknesses. Ms. Sivasundari Bose started gathering material for her proposed book in the year 1987 and spent almost 4 years carrying out extensive research and collecting reference material. During said period

between the years 1987 to 1990, Ms. Sivasundari Bose also made notes on loose papers in her diaries for the purpose of use in the manuscript.

7.2 In the year 1991, the first draft of Sivasundari's Book was ready and Ms. Sivasundari Bose also wrote the epilogue for the book. During the period 1992 to 1995, Ms. Sivasundari Bose approached Tamil movie makers, Mr. Kamal Hassan and Ms. Suhasini Maniratnam, hoping that the said movie makers may perhaps be interested in using Sivasundari's Book for a Tamil movie. However, no positive response was received from the said persons. Thereafter, Ms. Sivasundari Bose approached several publishers including Penguin India. Penguin India, vide their letter dated 03.10.1996 signed by one Mr. Krishan Chopra, returned the sample pages of Sivasundari's Book stating that they had a very limited slot for fiction. On 24.01.2000, Ms. Sivasundari Bose approached Penguin India once again for publication of Sivasundari's Book with a manuscript of the book in a floppy disk. However, neither an acceptance nor rejection of the manuscript submitted to Penguin India on 24.01.2000 was received by Ms. Sivasundari Bose. On 24.07.2003, Ms. Sivasundari Bose, once again sent a manuscript of Sivasundari's Book to Penguin India. However, Penguin India was not interested in publishing Sivasundari's Book.

7.3 Sometime in early August 2003, Ms. Sivasundari Bose's son, who was visiting India, came across David's Book. Ms. Sivasundari Bose's son pointed out to Ms. Sivasundari Bose, the similarity in the story outline on the paperback of David's Book to the story of

Sivasundari's Book. The map and the family tree in the beginning of David's Book had also clearly been lifted from the manuscript for Sivasundari's Book. While Mr. David Davidar had changed the names of the characters, the similarities in the story were too striking to be a matter of coincidence. The similarities in David's Book and Sivasundari's Book are as under:

Sr. No.	**"Golden Stag"**	**"The House of blue Mangoes"**
1.	PAGE 1/LINE 4. It was the sand grains that hurt the most. ***Searing heat*** they could bear and thunder storms too. A sandstorm was a different matter altogether"	PAGE 69/LINE 11. "And then a ***searing*** wind that was locally known as the Fire wind would start blowing in from the Teri wasteland, carrying with it dust and ***heat*** until you could hardly breathe.
2.	PAGE 1/LINE 17 The palm fruits were ripe ***and the toddy calling to be collected. How could a man rest..***	PAGE 58/LINE 16. ***The toddy tappers were already at work, for they couldn't leave their trees unattended, even briefly when the sap was flowing..***
3.	PAGE 3/LINE 5 Had not his folk weathered the great ***famine that had swept*** the countryside and said to have razed to ground whole communities…..***smallpox*** had swept the whole countryside and Kaayal was not spared. ***Aatha is angry again the villagers cried and tried to appease the Goddess*** with…..	PAGE 7/LINE 27 ***Smallpox*** had followed drought and ***famine had swept away*** another twelve thousand… all sacrificed to the ***ferocious goddess Mariamman***

4.	PAGE 4/LINE 24 The ***cross dotted the countryside*** all along the South Eastern Coast of India…	PAGE 64/LINE 17 The edifice was little different from the hundreds of village ***shrines that dotted the countryside…***
5.	PAGE 4/LINE 34 The British of course had been in virtual control of the state ***since the19th century*** except for occasional skirmishes with brave ***chieftains like Kattabomman…***	PAGE 239/LINE 25 "It's actually the remains of a fort" Daniel said, from the time of **Kattabomma Nayaka** ***nearly hundred and fifty years ago.***
6.	PAGE 5/LINE 9 But he was undeniably impressed by the kindness that seemed to emanate from the ***bright blue eyes of the priest;*** by the gentle voice that spoke in a ***chaste but studied Tamil that had vastly amused*** the village folk. ***The soft white hair*** had blown all about ***the rose hued face***. Mayan could plainly see that the ***heat was playing havoc with the foreign constitution .....***	PAGE 27/LINE 5 The Reverend Paul Ashworth was a short man comfortably proportioned, with a few threads of ***graying hair straying*** across his otherwise bald head. His ***eyes seemed almost too blue*** for his face which was ***burnt a dark red by the sun.*** PAGE 87/LINE 25 …the priest. ***How is the old man's Tamil? He used to sound so funny,*** as though he had pebbles in his mouth
7.	PAGE 12/LINE 20 ***He was the only one among the siblings who had attended school,*** but beyond that…	PAGE 28/LINE 9 ***None of the Dorais of Solomon's generation had ever studied beyond the fourth standard*** … With Father Ashworth's support, ***Daniel*** had managed to get his

		father to send him to the Government secondary school
8.	PAGE 15/LINE 17 The town was bestirring itself for the ***annual festival*** of '***Panguni*** Pongal' celebrated every year with great fanfare from ***mid-March to mid-April***.	PAGE 55/LINE 16 …everyone looked forward to the ***great festivals of March and April*** – Ram Navami, ***Pangunni*** Uthiram, the beginning of the Tamil NewYear.
9.	PAGE 16/LINES 4, 12 More gruesome was the incongruous sight of a frail man pulling a ***small chariot*** with cords attached to ***metal hooks*** that hung to his ***bare flesh at the shoulder blades and the lower back.*** ***A sudden flush of goose pimples spread all over his body and he spluttered....*** PAGE 16/LINE 12. ". . . the fearful sight of yet another devotee ***piercing his cheeks*** with a small ***spear*** and having smouldering pots suspended at either end. And ***walking normally too, ...***	PAGE 65/LINE 22, The first time that Father Ashworth had seen the God possessed, their bodies pierced by spears and ***metal hooks*** called alaku, he had ***felt faint***.... One man had inserted through the ***skin of his back*** and attached to the ***little wooden cart.*** PAGE 66/LINE 11 The piercer compressed the man's cheeks . . . holding the point of the spear to the dev0tee's ***cheek, pierced it*** swiftly and precisely. . . the devotee had his eyes open throughout the procedure and ***showed no signs of discomfort.***
10.	PAGE 20/LINE 7 But they do seem to know a lot of things thatha, all said and done." Nagayya, can't you see that this is only because they have ***had unchallenged access to the wells of knowledge from time immemorial?*** Because they have always been the learners and ***we the toilers?***	PAGE 186/LINE 4 The Brahmin has been ***for thousands of years the custodian and object of all intellectual culture,*** and the ***other castes*** in consequence been ***placed in a very disadvantageous position intellectually.***

11.	PAGE 23/LINE 5 ***"Great Britain that had come to trade and stayed on to rule,*** was livid. Furious. But the ***fires*** of ***patriotism*** were already lit, a steady ***blaze*** that seemed unquenchable."	PAGE 413/LINE 19 " …the precursors of John Company ***came to India to trade and decided to stay"*** PAGE 125/LAST LINE A phrase from one of the Nationalist leaders who had compared the ***Swadeshi movement*** to a raging ***fire*** occurred to him . . Would they all be incinerated in the ***blaze?***
12.	PAGE 30/LINE 29 A young girl, a field worker had fallen prey to the heartless philanderer and eventually ***killed herself.***	PAGE 42/LINE 22 Two days after the attack, Valli ***hanged herself*** from a tree at the edge of the Andavar quarter.
13.	PAGE 34/LINE 3 Saminathan did not have the faintest idea what it was that hit him, when he fell. ..... The seasoned rods played all over his body, ***broke the bridge of his nose and left him bleeding so profusely that the shining dagger that Mari drew from his waist band became superfluous.***	PAGE 106, LINE 5 . . . and then neatly side stepping a wild lunge by his opponent, he brought his staff smashing into the ***bridge of Joshua's nose, driving splinters of bone into his adversary 's brain.***
14.	PAGE 36/LINE 3 Her (Paechi) ***all consuming*** interest in life now was the toddler Manickam.	PAGE 215/LINE 34 The baby revitalized Charity, ***consuming all*** her time and energy.
15.	PAGE 44/LINE 27 She ***had early discerned*** the similarity in her father Sivaraman's and her husband's exhaustive	PAGE 33/LINE 25 She ***had learned, over two decades ago,*** that her job was to keep running the household smoothly, ***that she had no part to play in the***

	involvement with different business ***ventures that brooked no home interference and*** Lakshmi learnt to handle that aspect of her life with total indifference.	***affairs of the village***…. Shocked and fearful, ***she had agreed never to interfere in matters that did not concern her.***
16.	PAGE 49/LINE 10 The men had to spend days on end to remove the small boulders and hardy ***lantana bushes*** that mainly made the brushy undergrowth. ……. Sprinkled in-between, though closer to the ground, was the ***touch-me-not*** whose tiny leaves folded….	PAGE 239/LINE 15 …Daniel had vaguely thought about restoring the fort, but it had never happened. Over the years ***lantana, touch-me-not and other weeds and shrubs*** had almost completely overwhelmed the tumbledown mud walls…
17.	PAGE 50/LINE 22 When the local dealers delivered a ***copper sulfate car*** Manickam did have his misgivings…. PAGE 50/LINE 25 "It was an unusual colour. .....When on his regular trips to Kaaraiyar, Manickam whizzed past ***the dusty towns*** of Ambai and Singai. . . . several eyes ***noticed and remembered.***	PAGE 203/LINE 34 In a couple of years, the stately progress of his latest acquisition a ***laburnum-yellow Oldsmobile,*** through the ***dusty streets*** of the village was ***no longer remarked upon.***
18.	PAGE 52/LINE 20 He looked up once more and was overawed by the ***velvet*** blackness of the suspended ***sky***. Someone with exquisite taste seemed to have	PAGE 61/LINE 17. The moon, almost perfectly round was ***pinned*** to a ***velvety sky...***

	painstakingly ***fixed*** the myriads of sparkling gems up over there in the black screen.	
19.	PAGE 57/LINE 14 ***...the river Tambiragarani;*** to thunder down as the pleasant cascade of Kalyana theertham, to flow past Chitrur into ***Tirunelveli*** and to eventually reach the ***Bay of Bengal at Punnaikaayal.***	PAGE 57/LINE 23 " . . . the course of the river - down the Southern Ghats across the vast ***Tinnevelly*** plain and all the way to the ***Gulf of Mannar.*** River of pearls, rajahs and Rishis, the ***Tamiraparaniwas . . .***
20.	PAGE 63/LINE 8 They tried it in ***Caldwell High school*** only to have the Chemistry lab ruined.	PAGE 245/LINE 31 Kannan was in the second year of his Pre Degree Intermediate course at the ***Bishop Caldwell College*** in Meenakshikoil.
21.	PAGE 73/LINE 25 "Well, they believe that the sidhars of ancient folklore, those great men who had conquered death with their yogic powers and who knew the secret of ***kaayakalpam*** lived in these very same hills"	PAGE 148/LINE 9 "It is the duty of every practitioner of Sidha to devote himself, when the time is right, to the single minded quest for perfection- in sidha, in our lives, in our quest for the Lord, in our pursuit of ***kaya kalpa*** — it is time I freed myself from distraction. . .
22.	PAGE 74/LINE 27 It was much too early to make harsh decisions of course, but ***it worried him*** to think that ***the boy had not shown the least interest in their concerns,*** nor did he seem inclined towards….***And to think what he had been like at the age of eighteen...***	PAGE 244/LINE 18 . . . but what ***really worries*** me about Thirumoolar is that he ***has shown no interest in medicine, no interest in the colony's affairs . . . By the time I was his age I was already pretty sure what I wanted to do"***

23.	PAGE 76/LINE 11 ***"Varmam*** is simply a nerve point in the human body. ..... your grandfather knew how to treat sick men by merely touching or hitting on these specific points.	Page 147/Line 36. . . . and he even allowed him a glimpse into the dangerous therapy called ***varma***, where the physician manipulated the life centers of afflicted persons directly, . . .
24.	PAGE 83/LINE 34 On the way back they stopped at Theresamma's teashop and had a ***sumptuous supper*** of hot ***aapams,*** pancakes of ground rice and ***coconut milk,*** with delicious fish curry to dip into" PAGE 84/LINE 22 ***"They burnt the midnight oil that day, they did."***	PAGE 90/LINE 23 Joshua's stories grew wilder as ***the day stretched into evening.*** After they had dined ***Officeaapams*** and ***rich mutton stew simmered in coconut milk*** and spices, they wandered into the compound and stood around for a while listening to the ***sounds of the night.***
25.	PAGE 90, LINE 7 Annakka was content….***Naren's grandmother bustled about a happy kitchen*** since ***the whole family was under her roof***. .....old fashioned open ***wood stoves*** that did add a tang and flavour to the dishes.	PAGE 10, LINE 1 ..and measured out the day's food for the ***twenty or so family members in the..*** PAGE 10/LINE 11 As ***Charity bustled about the great kitchen*** tending to three of the five ***wood burning stoves...***
26.	PAGE 110/LINE 23 ***The humble cottage*** tucked away in the foot hills of the Western Ghats soon they were seated, father and son, in the beaten ***cane chairs*** placed out in the fr***ont yard.***	PAGE 118/LINE 6 She sank into the ***comfortablecane backed*** planter's ***chair*** on the ***tiny verandah of the cottage.***

27.	PAGE 117/LINE 23 The jeep whizzed past the empty ***bridge linking the twin towns of Chitrur and Ambasamudram*** with the silent stream of a river Tamiraparani winding its lazy way beneath.	PAGE 3/LINE 12 From there the village (Chevathar) struggles upriver for about a mile and a half, ending at the ***bridge that connects it to the town of Meenakshikoil on the opposite bank.***
28.	PAGE 121/LINE 12 ***Within the twinkling of Brahma 's eye, 2000 human years elapsed . . .***	PAGE 62/LINE 16 One of these related to ***a day in the life of Brahma which was equal to 4320 million years on earth.***
29.	PAGE 123/LINE 9 She had been the blending ***foil*** to the outspoken Manickam, a tempering medium to the boisterous, vibrant man....	PAGE 294/LINE 30 Mrs. Wilkins was short, plump and distinctly unthreatening. . . Mrs. Wilkins was the ideal ***foil*** for her friend.
30.	PAGE 175/LINE 7 ***He was now in Tirupathi, the terrestrial abode of Lord Venkateswara . . .*** PAGE 175/LINE 13 But, when he saw Akila, ***all-a-glitter in her wedding apparel,*** the nine yard Kooraipudavai, ***he was no longer despondent and all his doubts seemed to vanish*** with the morning dew.	PAGE 278/LINE 20 ***The wedding took place in the old church*** by the railway station. ***The golden light*** of late evening washed over ***Helen as she came up the aisle and the nervousness that Kannan had been beset by all evening vanished,*** to be replaced by exhilaration.

31.	PAGE 185/LINE 19 Waves of remorse and rage swept over him now and all the days of his life that had ***revolved*** only ***around Lakshmi*** flooded his consciousness.	PAGE 242/LINE 40 It was the first time in over a year that he had thought of ***the woman around*** whom his world had once ***revolved***.
32.	PAGE 191/LINE 12 . . . ***in this lifeless little town*** she said . . . Tuticorin meanwhile was anything but lifeless...	PAGE 306/LINE 1 You're so caught up in the romance of tea that you don't seem to see that ***this place is dull, so boring*** I could cry . . .
33.	PAGE 192/ LINE 20 But the sudden ***leap of anger*** in Narendran's eyes had ***frightened her.***	PAGE 306/LINE 19 She had never ***seen him this angry and it frightened her..***
34.	PAGE 212/LINE 26 When eventually ***Narasimhachari*** started discussing ***theology and the Principle of Belief***, Narendran was delighted...	PAGE 209/LINE 22 Born into a family of Tanjore scholars, ***Narasimhan*** had an ***encyclopedic knowledge of the classics*** as well as of current events...
35.	PAGE 214/LINE 12 They were ***like night and day*** and Narendran could not for the life of him understand how this had come to be. Or what could be done about it. ***And so they grew, like distinct trees, each in his own willful way though standing side by side in the same garden.***	PAGE 196/LINE 3 .. yet there had been ***little common ground between them from early on. They were different, so unlike each other that it was hard to believe that they were born of the same parents..***

36.	PAGE 230/LINE 19 A***nd for the sake of this person had he forsaken his birthright, his blood*** and all that had been precious to him until then.	PAGE 263/LINE 11 ***"And to think, I defied my father for someone as worthless as you" he shouted. . .***
37.	PAGE 230/LINE 21 ***White rage propelled him for a senseless moment, that was prolonged enough to make him slap Akila . .*** .....the vulnerable Lakshmi? The memory of the stricken face he had finally walked out on, gave rise to a harsh groan. Narendran winced imperceptibly ***as he thought of the gentle face lined with sorrow,*** having in a way, lost both her frustrated husband and indifferent son and grieving for all that was and never shall be again.	PAGE 358/LINE 34 ***An image bloomed in Kannan 's mind of his mother, the calm centre*** *in the midst of the frenzy that had attended Daniel 's death.* ***How noble*** she had seemed . . . PAGE 35 8/LINE 39 He got up from his chair, ***propelled by a fury so great*** that he barely registered his physical actions. ***He caught her, his fist raised to smash down into her face,*** to erase from his sight something that had suddenly grown hateful . .
38.	PAGE 235, LINE 7 "Manickam in his sixty third year had ***slipped into a diabetic coma"***	PAGE 228, LINE 21 Daniel Dorai tried everything but she ***slipped into a diabetic coma*** from which she never emerged..
39.	MANICKAM'S DEATH PAGE 237,/LINE 15 UP TO PAGE 241/19 ,,. he more often than less slept beside his big boned ***grandmother*** Paechi. . .	DANIEL'S DEATH PAGE 341/LINE 33 UP TO PAGE 344/LINE 27 "From where he sat Daniel's eyes filled with the clamour and joy of the past. He saw ***his father*** resting his arms on the cart . . .

	PAGE 237/LINE 25 How very grateful he was to Nagalingam, his savant of ***a father….*** PAGE 238/LINE 10 Wasn't he simply bowled over when ***his mother*** soon placed the squidgy little boy child in his broad palms? PAGE 241/LINE 16 "When his head hit the ground with a sickly thud, **a million stars seemed to burst inside him with blinding brightness...** PAGE 241/LINE 18 And strangely enough, was it ***peace*** that he felt, at last, making its tentative entry'?	PAGE 341/LAST LINE **He thought of his mother and the day she had gone . .** PAGE 345/LINE 23 "A **great light filled his head,** an instant after the pain swamped him ***with an intensity he knew signaled the end . ..*** PAGE 344/LINE 27 He was at ***peace*** now, the pain was bearable . . .
40.	PAGE 237/LINE 20 . . . the several jaunts to the roadside vendors, ***always riding on the pronounced hip . . .*** Manickam used to watch the dangling pambadams with fascination as Paechi strode down the dusty street..... ..	PAGE 215/LINE 35 As soon as he was weaned, he seemed ***to take up permanent station on his grandmother's hip.*** He went with her everywhere . . . for long walks through the mango groves and gardens of Doraipuram.
41.	PAGE 255/LINE 23 And then the ***sheer madness*** that shone out of those glazed eyes	PAGE 351/LINE 27. "For what the texts taught me was ***how to turn all tamasic matter into gold.***

	Rasavatham. ***Gold, the magic wand. In his hand.*** Limitless gold. .....***Alchemy*** was the aim and Sidha only a medium . …	
42.	PAGE 276/LINE 30 …… ***our life pattern is fxed at birth.*** Down to the number of years allotted to us with ***a few ups and downs*** thrown in. ***The written word cannot be changed*** but you can try and make what you can of the flicker of time given you, with some humility and generosity. You can do nothing else.”	PAGE 406/LINE 38 “. . .but sometimes you keep putting Office the inevitable knowing all the while that ***the decision has already been taken a long time ago,*** often without any conscious thought. It’s always been there, you have just taken a ***few twists and turns*** in the road before you arrive at it
43.	PAGE 279/LINE 10 The methods of diagnosis were no less impressive. ***The eight chief indicators of illness were listed as pulse, eyes, tongue, touch, colour, speech, faeces and urine.***	PAGE 117/ LINE 5 . . . the finest physicians were those who could make the best diagnoses and he patiently guided Daniel through the ***eight diagnostic methods in siddha medicine : the reading of the pulse, the examination of the eyes and the tongue, the interpretation of voice, touch and colour, the analysis of urine and faeces.***

44.	PAGE 279/LINE 28 The only proof of the Sidhars' expertise in extracting ***metals*** from their ores. In calcifying them and in quintessence preparations. PAGE 279/LINE 34 Then there is an intriguing section on poisons . . . ***these yogis seem to have been in the habit of taking small doses of arsenic on a regular basis!"***	PAGE 147/LINE 33. Dr. Pillai taught Daniel how to use **metals** like mercury and cinnabar to avert the corruption of cell: he showed him ***how poisons like arsenic and datura could be used to cure and not to kill;***
45.	PAGE 280/LINE 26. And to think ***doctors in Europe were bleeding their patients to death hardly a century ago!***	PAGE 149/LINE 33 . . . our ***medicine***, literature and language which were ***flourishing when Europe was still a place of savages..***
46.	PAGE 286/LINE 11 ***Naendran and Akila were at each other's throat.*** Almost all the time. PAGE 286/LINE 19 "But, listen carefully. My sons will not carry any caste marks upon them, yours or mine." "But they already do. All over. The way they speak. Walk . . . PAGE 286/LINE 28 "I want them to forget, to forswear whatever traces	PAGE 358/ LINE 20 ***I hate you, I hate the day I let you into my life, I hate the day I married you, I hate you, I hate you, you miserable pariah."*** "If I am a pariah, what do you think that makes you?" "Someone who will always be a thousand times better than you . .". "Oh really, and how's that, you stupid little fool?" "Simple. Does anyone know the great Kannan Dorai's ***ancestry***. Do you know how much your white colleagues would despise you if they knew?"

	they might retain of a . . . different ***ancestry***."	
47.	PAGE 1/LINE 16 Nagalingam, Mayan's ***third son is a misfit,*** standing out like a sore thumb ***in the midst of his outspoken brothers and blustering kinsmen***	PAGE 28/LINE 7 Studious and gentle, cosseted by his mother and aunt, ***Daniel was a misfit*** in the very ***male world of the Dis.***

7.4 The fact that Ms. Sivasundari Bose had submitted the manuscript of her work to Penguin India when Mr. David Davidar was the head at Penguin India and, as such, had free access to Ms. Sivasundari Bose's manuscript, left Ms. Sivasundari Bose in no doubt whatsoever that Mr. David Davidar had picked up her manuscript in 2000 and had turned and twisted the story around to write David's Book, which was published in 2002. Ms. Sivasundari Bose read David's Book and discovered that the setting as to region and time as well as the central theme of David's Book was the same as that of Sivasundari's Book. Practically each of the main characters in Sivasundari's Book has a corresponding character in David's Book, although David Davidar has adopted Christian names for his characters. The similarity in the role/nature of some of the main characters in each of the two books is too striking to be a mere coincidence.

7.5 Mr. David Davidar has submitted that David's Book was written being inspired by two of his family members, i.e., his paternal grandfather and paternal great grandfather. However, in the author's

note appended at the end of Mr. David's Book, he has claimed that his book is completely fictional and has not been inspired by anyone in his family. Further, Mr. David Davidar had submitted that he had started writing David's Book in the 1980s, however, in the interviews given by Mr. David Davidar, he had stated that he wrote David's Book in one year and in another interview stated that he had written David's Book in two and a half years. Therefore, Mr. David Davidar has made contrary statements every time that he was asked about the time it took to write David's Book.

7.6 The number of similarities in David's Book and Sivasundari's Book would leave no doubt whatsoever in the mind of an average reader that the earlier written work was available with the author of the subsequent work while writing his book. Mr. David Davidar does not deny the existence of the listed similarities but makes a futile attempt to explain these as an inevitable consequence of the two books of the genre being written regarding the same region in the same social and historical milieu.

7.7 Mr. David Davidar does not claim or assert that Ms. Sivasundari Bose has copied his work and only seeks a declaration that David's Book does not infringe any right of Ms. Sivasundari Bose, while Ms. Sivasundari Bose has averred and established that her manuscript was given to Penguin India of which Mr. David Davidar was then the CEO, while Mr. David Davidar has failed to establish that David's Book was conceived or written prior to January 2000.

7.8 In interviews given by Mr. David Davidar in 2000 and 2002 he confesses that David's Book was written in the last one/two and a half

years, which establishes that David's Book was written after the submission of the manuscript of Ms. Sivasundari's Book and after it arrived on Mr. David Davidar's desk, handed over to him by Ms. Sayoni Basu, a copy editor, in his office, who, knowing that Mr. David Davidar was a Nadar from south Tamil Nadu, would be interested in the work. Ms. SayoniBasu, a lowly copy editor, is generously rewarded with an acknowledgment in David's Book for this contribution.

7.9 The fact that Sivasundari's Book predates David's Book is established beyond doubt. The resemblance in practically all the central characters in the two books cannot be a mere coincidence. For two persons who have never met, to, more or less at the same time, conceive the same plot, use the same theme, social and political issues, traditions, concepts, names, and write books with central characters closely resembling the corresponding characters in each other's books, giving near-identical descriptions to several scenes, using an eerie number of common issues, and have the same thought process while writing the books, so much so that identical incidents happen in the same month cannot be a mere co-incidence. Some of the superfluous details, the frame of the two books is near identical.

7.10 There is no quarrel with the proposition that there is no copyright in an idea or a theme. However, when the idea takes a material form and is expressed in a literary work, itis no longer available to be usurped by infringers.Ms. Sivasundari Bose was undeniably the owner of the copyright in her original literary work which she handed over in the form of a manuscript to Ms. Basu. No

one can claim exclusive rights to common historical or legendary facts but when historical and legendary facts, common names, historical figures, subjects etc., are woven together in a unique manner by an author, conceptualized and articulated in an inventive form creating an original work, proprietary rights are undeniably created.

7.11 Sivasundari's Book was unpublished and the combination, scheme and arrangement of the region, period, characters, incidents, issues, traditions, concepts etc., were unique and not in the public domain. It has been held in the judgment of ***Twentieth Century Fox Film Corporation v. Sohail Maklai Entertainment Pvt. Ltd. and Another***, 2010 (7) Mh.L.J. 338, that if the totality of the impression is that the film is by and large, a copy of the original play, infringement is proved.

7.12 Ms. Sivasundari Bose submitted her work in trust to Penguin India which was headed by Mr. David Davidar. The work could be either rejected and returned to Ms. Sivasundari Bose or it could be published in the name of Ms. Sivasundari Bose. It was not open to anyone at Penguin India, or to Mr. David Davidar on whose desk the manuscript of Sivasundari's Book was placed by Ms. Basu to misappropriate it for their own use.

7.13 Significantly in 1996, Ms. Sivasundari Bose received a letter of rejection dated 03.10.1996, but did not receive a letter of rejection subsequent to the submission of manuscript on 24.01.2000.

7.14 In 2000, it was not rejected and in fact ended up on Mr. David Davidar's desk, and described by Mr. David Davidar himself as

interesting manuscript by an unknown novelist in his email to his agent, Mr. Godwin. It is evident that once Mr. David Davidar read the manuscript of Sivasundari's Book, it struck him that he too could write about his grandparents hailing from the same region, with the same Nadar background. He immediately seized the manuscript, and came up with David's Book. He was lifting the theme, the plot, the characters, specific incidents, scenes, phrases, expressions, and even minute though insignificant details such as leeches and tadpoles, lantana and touch-me-nots, which had no bearing on the story.

7.15 Mr. David Davidar, using his editorial skills, worked upon the manuscript of Sivasundari's Book and produced David's Book. Mr. David Davidar offers no explanation as to why he postponed writing a generational saga for more than a decade when it was on his mind as early as the 1980s. Surprisingly, Mr. David Davidar waited for years but he spurred into action as soon as a ready-made manuscript is handed over to him and sets about writing at a furious pace, a book set in the same region, in the same period of time, revolving around the same class of people beset by the same problems of class division. David's Book is a crafty manipulation of material in hand to produce a tome. Characterization is the essence of literature.

7.16 Mr. David Davidar has committed gross injustice to Ms. Sivasundari Bose by defrauding her by misusing her manuscript and copying its theme, presentation, structure and characterization, using the same social and political issues, to produce his own book, and has debased his position as a publisher by appropriating for his own use, the manuscript entrusted to him by Ms. Sivasundari Bose, thus

committing breach of trust/confidence, reliance in this regard has been placed on the judgments in ***Zee Telefilms Ltd. v. Sundial Communications Pvt. Ltd.***, 2003 (3) Mh.L.J. 695 and ***Kapil Chopra Vs. Kunal Deshmukh and Others***, 2013 (I) Mh.L.J. 343.

7.17 Ms. Sivasundari Bose sent the Legal Notice to Mr. David Davidar claiming that David's Book had been copied from the manuscript of Sivasundari's Book and the acts of Mr. David Davidar amounted to copyright infringement. Mr. David Davidar sent a reply to the Legal Notice dated 01.06.2011 ("**Reply to the Legal Notice**") wherein Mr. David Davidar denied the claims of Ms. Sivasundari Bose and stated that he will be proceeding with a Suit for defamation if the baseless allegations against Mr. David Davidar continued. On 28.07.2011, Ms. Sivasundari Bose sent Mr. David Davidar a response to the Reply to the Legal Notice stating that she will be filing a Suit before the Court for copyright infringement.

7.18 Based on Legal Notice and the Response to the Reply to the Legal Notice dated 28.07.2011 sent by Ms. Sivasundari Bose alleging that Mr. David Davidar had infringed her copyright, Mr. David Davidar filed CS(COMM) 706/2018 on 06.08.2011, seeking a declaration, permanent injunction restraining groundless threats, defamation and malicious / injurious falsehood, damages etc., invoking Section 60 of the Indian Copyright Act, 1957 ("**Copyright Act**"). The proviso to Section 60 of the Copyright Act provides that Section 60 of the Copyright Act shall not apply if the person making such threats, with due diligence, commences and prosecutes an action for infringement of the copyright claimed by him. Unaware that Mr.

David Davidar had filed CS(COMM) 706/2018, Ms. Sivasundari Bose filed a civil suit, being CS(COMM) 581/2024, before the District Court, Saket, Delhi, seeking direction against Mr. David Davidar for public acknowledgement that David's Book is breach of trust, and compensation for misappropriating Ms. Sivasundari Bose's property.

7.19 Prayer (ba) was sought to be added by Mr. David Davidar to CS(COMM) 706/2018 subsequent to receipt of CS(COMM) 581/2024 proposed suit, by way of an amendment application filed on 30.08.2011, without disclosing to this Court that Ms. Sivasundari Bose had already filed a suit for infringement against Mr. David Davidar. The amendment sought by the Plaintiff, citing inadvertence as the ground therefore, was allowed on 15.09.2011. In view of the fact that Ms. Sivasundari Bose already filed the Suit, CS(COMM) 581/2024 as contemplated under the proviso to Section 60 of the Copyright Act, the prayers (a), (b) and (ba) in the amended suit, CS(COMM) 706/2018, had become infructuous as on the date of issue of notice of CS(COMM) 706/2018 to Ms. Sivasundari Bose. Upon a reading of Paragraph No. 25 of CS(COMM) 706/2018 which details the cause of action, the Suit CS(COMM) 706/2018 is now infructuous.

7.20 After discovering that Sivasundari's Book has been misappropriated by Mr. David Davidar, Ms. Sivasundari Bose sought the help and advice of close friends and lawyers in pursuit of legal remedies. This cannot be said to constitute defamation. Even though Mr. David Davidar has failed to seriously allege or prove defamation, Ms. Sivasundari Bose was well within her rights to protect her interest

and seek the advice of those she trusted and those who were qualified to help. Her conduct is squarely covered by the exceptions to the definition of defamation, particularly, Ninth Exception to Section 499 of the Indian Penal Code, 1860, viz., imputation made in good faith by person for protection of his or other's interests.

7.21 The intent of Ms. Sivasundari Bose, at all times, was to protect her interest and not defame Mr. David Davidar. It is patent that Ms. Nilanjana Roy, whose blurb/quote praise finds top place on the back of David's Book, at the behest of Mr. David Davidar, wrote a scathing piece titled 'When it's Not Stealing in the Business Standard' in July 2012, or thereabouts, even while the Suits were pending, defending Mr. David Davidar, returning a verdict against Ms. Sivasundari Bose and recommending that false accusations of plagiarism should be made a crime.

7.22 Mr. David Davidar has claimed damages of an arbitrary amount of ₹21,00,000.00 without elaborating on the basis of either the claim or its computation. No instance of defamation is averred in the Plaint for CS(COMM) 706/2018, the plaint fails to disclose as to how mere sending of legal notices by Ms. Sivasundari Bose to Mr. David Davidar caused defamation and resulted in loss of reputation. The Plaint for CS(COMM) 706/2018 further fails to record any averment as to the particulars, nature or any other detail in respect of the alleged damages sustained by Mr. David Davidar.

7.23 The Suit CS(COMM) 581/2024, filed by Ms. Sivasundari Bose is within limitation as the present case falls within the exception of

Section 15(5) of the Limitation Act. Section 15(5) of the Limitation Act provides as under:

> "*15.Exclusion of time in certain other cases*
>
> *(5) In computing the period of limitation for any suit the time during which the defendant has been absent from India and from the territories outside India under the administration of the Central Government, shall be excluded.*"

7.24 Mr. David Davidar did not produce his passport but filed an affidavit dated 04.04.2013 stating that he had been living abroad from 03.01.2004 to 31.12.2010. Mr. David Davidar also stated that he visited India once a year but neither disclosed the dates of his alleged visits to India nor did he produce any documentary evidence of the same. Thus, whether January / March 2002, the date of publication of David's Book as disclosed by Mr. David Davidar, or the date of Ms. Sivasundari Bose's knowledge of the infringement by Mr. David Davidar in August 2003, is taken to be the date of accrual of cause of action, after excluding the period 03.01.2004 to 31.12.2010 when Mr. David Davidar was admittedly absent from India. Therefore, the Suit, CS(COMM) 581/2024 filed on 29.08.2011, is well within the limitation period of three years. The period for which a defendant is outside India can be excluded from the period of limitation, as has been held by the Supreme Court in the judgments of ***Satya Jain (Dead) Through LRS. and Others v. Anis Ahmed Rushdie (Dead) Through LRS. and Others***, (2013) 8 SCC 131 and in ***PC.K. Muthia Chettiar and Others v. V.E.S. Shanmugham Chettair and Another***, (1969) 1 SCR 444.

7.25 Section 55 of the Copyright Act, provides that the owner of a copyright shall be entitled to injunction, damages and accounts. Unfortunately, by the time Ms. Sivasundari Bose became aware of the fact that her story had been stolen by Mr. David Davidar, David's Book was already published and widely sold. Her efforts to file a Suit in 2003 did not fructify. By the time she was able to file the suit, the relief of injunction had become meaningless and the only manner in which Ms. Sivasundari Bose can be compensated for the wrong suffered by her is by being awarded damages of a quantum that would hurt Mr. David Davidar. It was held in the judgment of ***Dabur India Ltd. v. K.R. Industries***, 2008 SCC OnLine SC, that a person found guilty of copyright infringement will be liable to pay damages.

7.26 When Ms. Sivasundari Bose saw David's Book with a Map of Tamil Nadu and the family tree, she felt it was copied from Sivasundari's Book and after reading the first few pages, the horror of what had happened dawned upon her. This was her book, brutally twisted to give it a new face and appearance, and published under the name of none other than the CEO of Penguin India. In the present case, Mr. David Davidar is liable not only for infringing Ms. Sivasundari Bose's copyright but also for committing breach of confidence. Ms. Sivasundari Bose deserves to be compensated for having been wronged by Mr. David Davidar who received the manuscript in trust and owed her a duty to keep its contents confidential and not appropriate the contents for his own use. Mr. David Davidar is liable to compensate Ms. Sivasundari Bose for years

and years of dedication and toil put by Ms. Sivasundari Bose into her work which Mr. David Davidar lifted.

7.27 Not only is Ms. Sivasundari Bose entitled to a share in the profits earned by Mr. David Davidar from David's Book, the quantum of which he alone can disclose, Ms. Sivasundari Bose is also entitled to a public apology from Mr. David Davidar for having wronged her morally and materially accompanied by a public acknowledgement that David's Book is copied from Ms. Sivasundari's Book.

7.28 A detailed look through the cross examination of Mr. David Davidar and Ms. Sivasundari Bose would show that Mr. David Davidar's answers to all material questions are evasive and elusive, exhibiting arrogance while insinuating that he was being asked absurd questions while Ms. Sivasundari Bose comes across as an honest witness who answers all questions truthfully, unfazed and undaunted by the grilling she is put through.

REJOINDER SUBMISSIONS ON BEHALF OF MR. DAVID DAVIDAR:

8. The learned Counsel for Mr. David Davidar made the following submissions:

8.1 Ms. Sivasundari Bose's alleged manuscript, sample chapters and synopsis have not been exhibited despite the fact that Ms. Sivasundari Bose has stated in her cross-examination that the case is between her manuscript and David's Book. Ms. Sivasundari Bose's sample chapters, alleged manuscript submitted on 24.01.2000 and synopsis have not been exhibited in the present Suits. Ms. Sivasundari Bose has compared David's Book and Sivasundari's Book. In any case, even a direct comparison between both the books does not reveal any

substantial similarity in expression or structure. Besides differences in terms of characters, plots, sub-plots, writing style, and narrative progression, fundamentally. David's Book is a historical, generational saga that takes place in three wholly fictional places, drawn from the author's imagination, whereas, Sivasundari's Book does not create or invent any fictional places, she simply places her characters in real-life village and urban settings in Tamil Nadu.

8.2 There can be no monopoly over historical facts and ideas. Ms. Sivasundari Bose has alleged that 35 common issues have been copied by Mr. David Davidar in David's Book like: Freedom movement, Siddha Medicine, Women being subservient to men, Famine and small-pox, Diabetic coma etc. Ms. Sivasundari Bose being subsequent to the market, should be explaining similarities, if any. The alleged similarities are attributable to features like multi-generational saga, maps, family trees, that have been present in fiction from around the nineteenth century and have not been invented or are an original creation of Ms. Sivasundari Bose. Historical content, regional and time setting are public domain material and not a subject matter of copyright protection and themes like caste of the family, number of generations and social / political / religious trends etc., are also public domain material not subject to copyright protection that are to be found in various books and were prevalent during that period in the region.

8.3 No author can claim exclusive rights over historical or cultural facts that belong to the public domain. Both Mr. David Davidar and Ms. Sivasundari Bose belong to the Nadar community of Tamil Nadu.

Both were born and grew up in the coastal regions of Tamil Nadu and so share a common historical, cultural, and societal heritage. Inevitably, certain customs and traditions and religious observances appear in both books although there is no resemblance whatsoever in the way they are described or used in the narrative. Both authors are writing about Tamil Nadu's early 20th-century history, although only 46 pages of Ms. Sivasundari's Book correspond to the period covered by David's Book, thus there is bound to be some overlap in terms of historical events, personalities, customs, and traditions of the time. There is no similarity in the way these uncopyrightable historical and cultural facts are used.

8.4 It is argued by the learned Counsel for Ms. Sivasundari Bose that there is nothing on record to suggest that anything for David's Book has been written prior to January 2000. There is a famous short story called MIST, written by Mr. David Davidar, which was published in 1991, much prior to 2000. A word by word and line by line comparison between the MIST and David's Book shows that the MIST published in 1991 forms a large part of Section III in David's Book.

8.5 During Ms. Sivasundari Bose's cross examination, on asking from where she got the idea of a family tree, Ms. Sivasundari Bose replied that she has also read a few books that are generational sagas. Once Ms. Sivasundari Bose started her work, she realized that unless she put up a family tree the readers will find it difficult to follow the characters. Ms. Sivasundari Bose's own statement shows that she is well aware of borrowing from prior literary models. Her accusation that Mr. David Davidar copied the family tree from Sivasundari's Book

is not only hypocritical but factually baseless. Mr. David Davidar's inclusion of a family tree and geographical map are devices commonly used in multi-generational novels to aid reader comprehension, and their mere inclusion cannot be monopolised by Ms. Sivasundari Bose. These are historical contents in the public domain and features, like maps and family trees that are found in other books in the same genre.

8.6 Ms. Sivasundari Bose's 1996 submission consisted of only sample pages, not a manuscript. Ms. Sivasundari Bose's alleged January 2000 submission was likewise limited to sample chapters and synopsis. As has been admitted by Ms. Sivasundari Bose in her email dated 20.09.2003 to Mr. A.A. Mohan. Unconsolidated manuscripts were accepted at Penguin India in line with the Penguin India policy, which was still in place in the year 2000, according to which Penguin India's submission system was strictly filtered and where unsolicited submissions were concerned the submission of complete manuscripts was discouraged. Ms. Sivasundari Bose's 2003 submission contains only a synopsis and sample chapters, again confirming that she never submitted a full manuscript to Penguin India. Therefore, even on Ms. Sivasundari Bose's own showing, no full manuscript of Sivasundari's Book was ever received or accessible within Penguin India.

8.7 Even Ms. Sayoni Basu confirmed that she has no recollection of ever seeing Sivasundari's Book in manuscript or other form or having met her. Further, if Ms. Sivasundari Bose had submitted the manuscript / book or even sample chapters to Ms. Sayoni Basu from Penguin India, it is rather odd that no acknowledgment / rejection letter / email was sent by Penguin to Ms. Sivasundari Bose, when the

same was done in 1996 and even subsequently in 2003. Even assuming that in 2000 a floppy disc was submitted to Ms. Sayoni Basu on 24.01.2000 by the Defendant, the same, at best, comprised a synopsis and sample chapters, not the full manuscript by Ms. Sivasundari Bose's own admission in her letter to Mr. A.A Mohan dated 20.09.2003. The 2003 submission to Penguin India was also a synopsis and sample chapters, as proved by a perusal of the rejection letter from Penguin India dated 11.08.2003 as also admitted by Ms. Sivasundari Bose during her cross-examination.

ANALYSIS AND FINDINGS:.

Issue No. (v)

WHETHER CS(COMM) 581/2024 FILED BY MS. SIVASUNDARI BOSE IS BARRED BY LIMITATION

9. The learned Counsel for Mr. David Davidar has contended that the Suit, CS(COMM) 581/2024, filed by Ms. Sivasundari Bose is beyond the period of limitation as it was filed in 2011, well after the cause of action had arisen in 2002, i.e., when David's Book was published or after August 2003, i.e., when Ms. Sivasundari Bose became aware of David's Book.

10. *Per contra*, the learned Counsel for Ms. Sivasundari Bose has submitted that Mr. David Davidar had been living abroad from 03.01.2004 to 31.12.2010 as has been confirmed by Mr. David Davidar in his Affidavit, therefore, the period that Mr. David Davidar was living abroad ought to be excluded while computing the period of limitation as provided in Section 15(5) of the Limitation Act. If the period that Mr. David Davidar was living abroad is excluded then the Suit, CS(COMM) 581/2024, has been filed within the limitation period.

11. Upon a perusal of Section 15(5) of the Limitation Act and the judgments of the Supreme Court in ***Satya Jain*** (supra) and ***PC.K. Muthia Chettiar*** (supra) there is no cavil that the present case falls within the exception of Section 15(5) of the Limitation Act and the period that Mr. David Davidar was living abroad ought to be excluded while computing the period of limitation and therefore, CS(COMM) 581/2024 filed by Ms. Sivasundari Bose is held to have been filed within the limitation period.

12. Accordingly, Issue No. (v) has been decided in favour of Ms. Sivasundari Bose and against Mr. David Davidar.

Issue Nos. (i), (vi), (viii) and (ix)

WHETHER THE BOOK 'THE HOUSE OF BLUE MANGOES' WRITTEN BY MR. DAVID DAVIDAR INFRINGES THE COPYRIGHT OF MS. SIVASUNDARI BOSE IN THE BOOK 'GOLDEN STAG' AND WHETHER MS. SIVASUNDARI BOSE IS ENTITLED TO THE RELIEF OF MANDATORY INJUNCTION DIRECTING MR. DAVID DAVIDAR TO PUBLICLY ACKNOWLEDGE THAT THE BOOK 'THE HOUSE OF BLUE MANGOES' IS BASED ON THE MANUSCRIPT SUBMITTED BY MS. SIVASUNDARI BOSE

13. The learned Counsel for Ms. Sivasundari Bose submitted that Ms. Sivasundari Bose started working on Sivasundari's Book in the year 1987 and the first version of her book was complete by 1991, after which she pitched the manuscript to various movie producers from Tamil cinema to sell it as a script for a movie. As she could not find a deal to sell Sivasundari's Book as a script for a movie, it was modified so that she could get Sivasundari's Book published.

14. The learned Counsel for Ms. Sivasundari Bose submitted that Ms. Sivasundari Bose submitted her manuscript to several publishing houses, including Penguin India, whose Chief Executive Officer at the time was Mr. David Davidar. Her initial submission to Penguin India occurred in 1996 and was declined by letter dated 03.10.1996. She subsequently resubmitted the manuscript on 24.01.2000 but did not receive a response regarding this submission. The third submission was in 2003, which was after the publication of David's Book.

15. The learned Counsel for Ms. Sivasundari Bose submitted that upon submission of the manuscript for Sivasundari's Book to Ms. Sayoni Basu, Junior Editor at Penguin India, on 24.01.2000, the manuscript was subsequently provided by Ms. Basu to Mr. David Davidar, CEO of Penguin India. It is alleged that Mr. Davidar breached trust and misappropriated elements of Sivasundari's Book in the creation of David's Book. To support the claim of copyright infringement, it is noted that there are significant similarities between the story outline featured on the paperback of David's Book and that of Sivasundari's Book. Furthermore, the map and family tree included at the beginning of David's Book appear to have been directly taken from Ms. Sivasundari Bose's manuscript, with only character names being altered. The resemblance between the stories, character traits, and events is argued to be beyond mere coincidence. Although Mr. David Davidar has stated that he began writing David's Book in the 1980s, no evidence has been provided to support this assertion. Ms. Sivasundari Bose has also submitted a comparative list of characters, issues, concepts, historical facts, and events.

16. The learned Counsel for Mr. David Davidar has submitted that he had started writing David's Book in the 1980s, and the first draft of David's Book was ready in April 2000. On 17.11.2000, Mr. David Davidar signed an agreement with the first publisher for David's Book, Phoenix House, a division of the Orion Publishing Group Ltd. David's Book adopts the well-known and common place features of numerous such multi-generational family sagas, from the family tree and map, to the series of generational conflicts attendant on social change and the often contrasting generational responses to it, all in the context of the broader history of a country or a region, essentially, the interplay between social and / or political history and the individual characters of the novel, over a more or less extended period. Mr. David Davidar never knew of Ms. Sivasundari Bose before receiving the Legal Notice.

17. It was further submitted by the learned Counsel for Mr. David Davidar that a copy of the manuscript of Sivasundari's Book was not received by Penguin India on 24.01.2000, Ms. Sivasundari Bose has been unable to produce any evidence that the manuscript of Sivasundari's Book was submitted to Penguin India on 24.01.2000, except the visiting card of Ms. Sayoni Basu, which she could have procured from anywhere. Even if she had submitted the manuscript of Sivasundari's Book to Ms. Sayoni Basu, Penguin India receives hundreds of unconsolidated manuscripts every month, most of them are rejected by junior editors at Penguin India and only a few of them reach the desk of the CEO. Further, even if Ms. Sayoni Basu had forwarded a copy of the manuscript of Sivasundari's Book to Mr. David Davidar, the manuscript would have only contained a few sample chapters

and not the whole book, therefore it is impossible that Mr. David Davidar had access to Sivasundari's Book while writing David's Book.

18. It was further submitted by the learned Counsel for Mr. David Davidar that Sivasundari's Book, which was not published until 2006, deals with the entire twentieth century in South India, unlike David's Book which stops at 1947, Sivasundari's Book devotes only 45 pages to the period covered by David's Book. Upon comparison, Mr. David Davidar found absolutely no similarity between the two books except for ones that are attributable to public-domain historical content. The two books are wholly dissimilar in text, style, plot structure, events described, characterization; there is no similarity between the two in this or any other literary feature. There is no question of copyright in any historical events either in general or in relation to any particular region, nor can there be any copyright in a whole genre of fiction such as the commonplace genre of multi-generational family sagas. There are a lot of differences between David's Book and Sivasundari's Book even on a *prima facie* comparison between the two books like number of words, pages, lines and sources cited and the period of history covered by the two books.

19. Considering the above rival submissions, at the outset, it is noted that as per the case of Ms. Sivasundari Bose, she submitted only a manuscript to Penguin India on 24.01.2000. Ultimately, Sivasundari's Book was released sometime in 2006. The manuscript stated to have been submitted to Penguin India on 24.01.2000 is not produced on record. Admittedly, Ms. Sivasundari Bose made changes to her book even after the year 2000. Accordingly, a direct comparison between David's Book and Sivasundari's Book cannot be the basis of deciding copyright infringement and it is the manuscript that she

allegedly submitted to Penguin India on 24.01.2000 that should be the basis of comparison to ascertain copyright infringement. As Ms. Sivasundari Bose has been unable to produce the manuscript that was allegedly submitted to Penguin India on 24.01.2000, the claim of infringement of copyright by comparing David's Book and Sivasundari's Book cannot be sustained on that ground alone.

20. Furthermore, Ms. Sivasundari Bose has not demonstrated that Mr. David Davidar had access to the complete manuscript of Sivasundari's Book, which she claims to have submitted to Ms. Sayoni Basu, Junior Editor at Penguin India. Ms. Sivasundari Bose has provided no substantive evidence supporting her assertion that a full manuscript was delivered to Penguin India, apart from supplying Ms. Sayoni Basu's visiting card, which is insufficient to establish that the manuscript was in fact forwarded to Mr. David Davidar. The presumption that Mr. Davidar, as CEO of Penguin India, would have had access to the manuscript is unsupported by further proof. Additionally, in her affidavit, Ms. Sayoni Basu has stated that she did not forward a copy of Sivasundari's Book manuscript to Mr. Davidar. Consequently, Ms. Sivasundari Bose has not established that Mr. Davidar had access to the manuscript before the publication of David's Book in 2002, which was prior to publication of Sivasundari's Book in 2006. For a claim of copyright infringement to succeed, it must be shown that Mr. Davidar had access to the manuscript for Sivasundari's Book, as held in the judgment of ***Mansoob Haider*** (supra).

21. Even if it is assumed that Ms. Sayoni Basu received a manuscript from Ms. Sivasundari Bose on 24.01.2000 and forwarded a copy to Mr. David Davidar, the manuscript underwent revisions after that date prior to

the publication of Sivasundari's Book in 2006. The original manuscript purportedly submitted to Penguin India on 24.01.2000 has not been produced by Ms. Sivasundari Bose. As a result, it cannot be verified whether the elements of Sivasundari's Book, which are alleged to have been copied by Mr. David Davidar in his book, were present in the version submitted to Penguin India. Furthermore, in her letter dated 20.09.2003 addressed to Mr. A.A. Mohan, Ms. Sivasundari Bose acknowledged retaining floppy disks containing the sample chapters and synopsis sent to Penguin India. Therefore, it cannot be held that the complete manuscript of Sivasundari's Book was available to Mr. David Davidar, if at all.

22. Upon consideration of the arguments presented by both Parties and a review of David's Book and Sivasundari's Book including the comparative table of the similarities, it is evident that each work is a multi-generational saga set in Tamil Nadu, India, reflecting the shared heritage of Mr. David Davidar and Ms. Sivasundari Bose, both members of the Nadar community. Notably, David's Book covers the period from 1899 to 1947, while Sivasundari's Book spans 1900 to 2002. Given these overlapping contexts, similarities such as character names, traits, societal backgrounds, and historical references are to be expected. It is well established that copyright protection extends to the expression of ideas rather than the underlying ideas themselves. Accordingly, any comparative analysis should concentrate on similarities in expression rather than abstract concepts to determine whether copyright infringement has occurred.

23. In ***R.G. Anand*** (supra), the Supreme Court had held that ideas, principles, themes, and historical or legendary facts, being part of common knowledge, are not eligible for copyright protection. Individuals are permitted

to select such ideas as subjects and develop them through their own unique expression. When two authors address the same subject matter, some degree of similarity is unavoidable due to the shared central concept; however, these similarities or coincidences alone do not constitute piracy or plagiarism. A key test for infringement is whether an average reader, spectator, or viewer, after considering both works, is left with a definite and unmistakable impression that the later work replicates the original. Consequently, the primary question is whether the defendant has simply adopted the underlying idea from the copyrighted work, or has also appropriated its expression including the manner, arrangement, and sequence from situation to situation and scene to scene, even if minor variations exist.

24. The differences between David's Book and Sivasundari's Book significantly outweigh any purported similarities, which alone are inadequate to support a claim of copyright infringement in favour of Ms. Sivasundari Bose. The inclusion of maps and family trees is common in multi-generational sagas and cannot be uniquely attributed to Ms. Sivasundari Bose. Therefore, she does not have exclusive copyright over such elements.

25. Even if it is accepted that Ms. Sivasundari Bose submitted the complete manuscript of Sivasundari's Book to Penguin India on 24.01.2000, and a copy subsequently reached Mr. David Davidar, a comprehensive comparison of the two books does not substantiate the allegation of copyright infringement. In the absence of access to Ms. Sivasundari's Book by Mr. David Davidar, Ms. Sivasundari Bose bears a heightened burden of proof regarding her claims of copying, as recognized in the judgment of ***Shivani Tibrewala*** (supra), a standard she has been unable to satisfy.

26. Accordingly, Issue Nos. (i), (vi), (viii) and (ix) are decided in favour of Mr. David Davidar and against Ms. Sivasundari Bose.

Issue No. (vii)

WHETHER MR. DAVID DAVIDAR HAS COMMITTED BREACH OF TRUST AND ILLEGALLY MISAPPROPRIATED THE MANUSCRIPT SUBMITTED BY MS. SIVASUNDARI BOSE TO M/S. PENGUIN INDIA FOR HIS OWN USE?

27. The learned Counsel representing Ms. Sivasundari Bose submitted that she submitted the manuscript of Sivasundari's Book to Penguin India on three occasions: initially in 1996, which was returned with a rejection letter dated 03.10.1996; subsequently on 24.01.2000 via floppy disk, after which Penguin India neither rejected nor accepted it for publication; and finally on 24.07.2003, when the manuscript was again rejected by letter dated 11.08.2003. As the manuscript submitted to Ms. Sayoni Basu was not returned to Ms. Sivasundari Bose, the same was forwarded to Mr. David Davidar, who allegedly used its contents in composing David's Book.

28. The learned Counsel for Mr. David Davidar has submitted that he never had access to the manuscript submitted by Ms. Sivasundari Bose. Ms. Sayoni Basu in her affidavit has also stated that she does not remember seeing the manuscript submitted by Ms. Sivasundari Bose in the year 2000 and neither did she forward it to Mr. David Davidar. Ms. Sivasundari Bose has only submitted the visiting card of Ms. Sayoni Basu to show that she had met her, however, she could have obtained the visiting card of Ms. Sayoni Basu from anywhere and does not prove that Ms. Sivasundari Bose submitted her manuscript to Ms. Sayoni Basu. Further, Penguin India received numerous unconsolidated manuscripts and all of them do not reach

the CEO of Penguin India. Usually, Junior Editors reject most of the unconsolidated manuscripts and only a certain few with great potential reach the desk of the CEO. Without proving that Mr. David Davidar had access to the manuscript submitted by her, Ms. Sivasundari Bose cannot prove a case of breach of trust and misappropriation of the manuscript submitted to Penguin India on 24.01.2000.

29. Further, it has been submitted by the learned Counsel for Mr. David Davidar that even if it is agreed that Ms. Sivasundari Bose submitted her manuscript to Penguin India on 24.01.2000, she would have only submitted sample chapters and synopsis to Penguin India and not a copy of Sivasundari's Book, therefore, Mr. David Davidar could not have copied Sivasundari's Book to write his book. Ms. Sivasundari Bose in her letter dated 20.09.2003 sent to Mr. A.A. Mohan has stated that she only sent sample chapters to Penguin India in the year 2000.

30. Considering the submissions of the Parties on this Issue, it is evident that Ms. Sivasundari Bose has not produced any evidence that Mr. David Davidar had access to the manuscript, let alone access to the full manuscript for Sivasundari's Book. Ms. Sivasundari Bose was unable to prove that Mr. David Davidar had access to the manuscript submitted by her to Penguin India on 24.01.2000 and that Mr. David Davidar had misappropriated the manuscript submitted by her to write David's Book. Further, the manuscript allegedly submitted to Penguin India by Ms. Sivasundari Bose on 24.01.2000 has not been filed along with the present Suit and the side-by-side comparison between David's Book and Sivasundari's Book cannot be the basis for claiming breach of trust and misappropriation of the manuscript submitted by Ms. Sivasundari Bose on 24.01.2000 when

Sivasundari's Book was published in the year 2006, i.e., around four years after David's Book was published in the year 2002.

31. Further, as has already been observed above, David's Book does not infringe the copyright of Ms. Sivasundari Bose in Sivasundari's Book. Accordingly, the claim that Mr. David Davidar has committed breach of trust and illegally misappropriated the manuscript submitted by Ms. Sivasundari Bose on 24.01.2000 is devoid of merit.

32. Accordingly, Issue No. (vii) is decided in favour of Mr. David Davidar and against Ms. Sivasundari Bose.

Issue No. (x)

WHETHER MS. SIVASUNDARI BOSE IS ENTITLED TO 50% OF PROFITS EARNED BY MR. DAVID DAVIDAR FROM THE SALE OF DAVID'S BOOK 'THE HOUSE OF BLUE MANGOES'

33. Given the determination that David's Book does not infringe upon the copyright of Ms. Sivasundari Bose's work and that Mr. David Davidar has neither breached trust nor wrongfully appropriated the manuscript submitted by Ms. Sivasundari Bose to Penguin India, there is no basis for Ms. Sivasundari Bose to claim damages from Mr. David Davidar.

34. Accordingly, Issue No. (x) is decided in favour of Mr. David Davidar and against Ms. Sivasundari Bose.

Issue No. (ii)

WHETHER MR. DAVID DAVIDAR IS ENTITLED TO A PERMANENT INJUNCTION AGAINST GROUNDLESS THREATS OF LEGAL PROCEEDINGS

35. Mr. David Davidar filed CS(COMM) 706/2018 seeking a declaration, permanent injunction restraining groundless threats, defamation and

malicious / injurious falsehood, damages etc., invoking Section 60 of the Copyright Act. The learned Counsel for Ms. Sivasundari Bose has submitted that as she has filed the Suit, CS(COMM) 581/2024 with due diligence, the Suit, CS(COMM) 706/2018, filed by Mr. David Davidar has become infructuous and ought to be dismissed. The proviso to Section 60 of the Copyright Act provides that Section 60 of the Copyright Act shall not apply if the person making such threats, with due diligence, commences and prosecutes an action for infringement of the copyright claimed by him.

36. The Proviso to Section 60 of the Copyright Act remains applicable even when a subsequent suit for copyright infringement is filed, provided that such action is undertaken with due diligence and in such a situation, the original suit challenging groundless threats will not be maintainable. In instances involving composite suits, only the prayer for an injunction against groundless threats becomes infructuous. A defendant initiating a suit for copyright infringement in response to a suit seeking an injunction against groundless threats must proceed with due diligence, ensuring the proceedings are well-structured and not subject to unreasonable delay. Any undue delay may indicate that the defendant lacks a genuine claim and was issuing threats without merit. In the present case, Ms. Sivasundari Bose instituted CS(COMM) 581/2024 for copyright infringement in accordance with the Legal Notice sent to Mr. David Davidar, acting with due diligence and without any undue delay. Consequently, the prayer for an injunction against groundless threat of legal proceedings has become infructuous.

37. A review of the reliefs sought in CS(COMM) 706/2018 indicates that the prayer for a permanent injunction against groundless threats of legal proceedings constitutes only one element of the composite suit. The other

claims, specifically those seeking injunctive relief and damages for defamation, subsist notwithstanding the fact that the prayer concerning groundless threats has become infructuous. The surviving claims related to defamation and the damages, which are outside the scope of Section 60 of the Copyright Act, continue to be maintainable. Accordingly, CS(COMM) 706/2018 has not become infructuous in its entirety; only the prayer for a mandatory injunction against groundless threats of legal proceedings is now infructuous.

38. Accordingly, Issue No. (ii) is decided in favour of Ms. Sivasundari Bose and against Mr. David Davidar.

Issue No. (iii)

WHETHER MR. DAVID DAVIDAR IS ENTITLED TO A RELIEF OF PERMANENT INJUNCTION AGAINST DEFAMATORY STATEMENTS MADE BY MS. SIVASUNDARI BOSE

39. The learned Counsel for Mr. David Davidar has submitted that Ms. Sivasundari Bose has made public statements defaming Mr. David Davidar. Ms. Sivasundari Bose acted with defamatory intent acting with malice to bring down Mr. David Davidar's public image and reputation in the eyes of the literary world and the general public, by making utterly false statements publicly that Mr. David Davidar had copied Sivasundari's Book, maliciously and without any cause. Ms. Sivasundari Bose defamed Mr. David Davidar in front of Chitra Banerji Divakaruni, who is an author and a public figure, as well as Ms. Beulah Shekhar, National General Secretary of YWCA. Since Ms. Sivasundari Bose has made false statements to third parties maligning the reputation of Mr. David Davidar, Ms. Sivasundari Bose is liable for defamation. Further, Ms. Sivasundari Bose gave an interview to Outlook

Magazine, after the institution of the present Suits, wherein she was asked if she believed that David's Book was based on her manuscript to which she answered that she believed that it is the truth and the matter is *sub-judice* and the decision depends on the Court.

40. It was further submitted by the learned Counsel for Mr. David Davidar that Ms. Sivasundari Bose has intentionally defamed Mr. David Davidar publicly by accusing him of plagiarism and thus affecting his morality, honour, and professional integrity / reputation. It has been held in the judgment of ***DP Choudhary & Ors.*** (supra) that if a person has in fact injured another's reputation, they are liable even if they did not intend to do so and the words are actionable if false and defamatory, even if published accidentally or inadvertently. In the instant case, the defamatory statements are intentional.

41. *Per contra*, the learned Counsel for Ms. Sivasundari Bose asserted that, upon discovering the alleged misappropriation of her work by Mr. David Davidar, Ms. Sivasundari Bose appropriately sought guidance from trusted friends and legal professionals to consider available remedies. Such actions do not constitute defamation. Further, Mr. David Davidar has neither substantively alleged nor proven any defamatory conduct. Ms. Sivasundari Bose acted within her rights to safeguard her interests by consulting those qualified and trustworthy. Her actions are explicitly covered by exceptions to defamation, as her intent was solely to protect her interests rather than to damage the reputation of Mr. David Davidar.

42. Based on the foregoing submissions, it is determined that Ms. Sivasundari Bose's communications with Ms. Chitra Banerji Divakaruni and Ms. Beulah Shekhar were for seeking advice and constituted outreach to

third parties for grievance redressal rather than acts of defamation against Mr. David Davidar. The statements in question, alleged to be defamatory, were made by Ms. Bose in good faith as part of her efforts to seek resolution for perceived injustice. In this context, good faith entails acting with due care, caution, and prudence, considering the relevant circumstances. The standard of such care and caution is influenced by the position of the individual making the statement. Ultimately, assessing whether good faith was exercised requires careful consideration of the facts and circumstances specific to each case. This includes examining the nature and context of the statements, the status of the person making them, any potential malice involved, the extent of enquiries made prior to their communication, and whether there are reasonable grounds to believe that the party acted diligently and was satisfied regarding the veracity of the imputation.

43. Accordingly, Ms. Sivasundari Bose's communications regarding her grievance to her close associates and friends were conducted in good faith and served the purpose of safeguarding her rights. There is insufficient evidence to establish a claim of defamation arising from Ms. Bose's interactions with Ms. Chitra Banerji Divakaruni and Ms. Beulah Shekhar.

44. With regard to Ms. Sivasundari Bose's interview with Outlook India, a person claiming in good faith that she believes that her case has merits and the matter is *sub judice* before the court cannot constitute defamation of the defendant in the case. Ms. Sivasundari Bose has not defamed Mr. David Davidar by answering the query and claiming that she believes her case to be true. Hence, no case of defamation is made out against Ms. Sivasundari Bose by Mr. David Davidar.

45. Accordingly, Issue No. (iii) is decided in favour of Ms. Sivasundari Bose and against Mr. David Davidar.

Issue No. (iv)

WHETHER MR. DAVID DAVIDAR IS ENTITLED TO RECEIVE DAMAGES FROM MS. SIVASUNDARI BOSE

46. Given the conclusions reached in Issue Nos. (ii) and (iii) - namely, that Mr. Davidar's claim for groundless threats of legal proceedings was rendered moot upon the filing of CS(COMM) 581/2024 by Ms. Sivasundari Bose and that Mr. David Davidar has not established a case for defamation, the issue of awarding damages to Mr. David Davidar does not arise.

47. Accordingly, Issue No. (iv) is decided against Mr. David Davidar.

Issue No. (xi)

RELIEF

48. In view of the above findings, Ms. Sivasundari Bose has failed to make out a case of copyright infringement against Mr. David Davidar and she is accordingly, neither entitled to mandatory injunction as sought for nor for rendition of accounts.

49. Mr. David Davidar has also failed to establish a case for defamation against Ms. Sivasundari Bose and his claim for groundless threats of legal proceedings does not survive upon filing of CS(COMM) 581/2024 by Ms. Sivasundari Bose. Accordingly, Mr. David Davidar is not entitled to recover any damages from Ms. Sivasundari Bose.

CONCLUSION:

50. Accordingly, in view of the above analysis, it is held that:

i. CS(COMM) 581/2024, filed by Ms. Sivasundari Bose is not barred by limitation.

ii. The Book ‘House of Blue Mangoes’, written by Mr. David Davidar does not infringe the Copyright of Ms. Sivasundari Bose in her Book ‘Golden Stag’.

iii. Mr. David Davidar has not made out a case of defamation against Ms. Sivasundari Bose.

iv. The mandatory injunction sought by Mr. David Davidar against Ms. Sivasundari Bose against groundless threats of legal proceedings does not survive upon filing of CS(COMM) 581/2024 by Ms. Sivasundari Bose.

v. None of Parties are entitled to the relief of Damages.

51. In view of the above findings, the Parties shall bear their own costs.

52. Accordingly, both the Suits being CS(COMM) 706/2018 and CS(COMM) 581/2024 are hereby dismissed. Pending Applications, if any, also stand disposed of.

TEJAS KARIA, J

APRIL 30, 2026
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