

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

AND

HONOURABLE SRI JUSTICE T.AMARNATH GOUD

Civil Miscellaneous Appeal Nos.355, 356, 357 and 358 of 2020

CMA.No.355 and 356 of 2020

Between:

M/s Super Cassettes Industries Private
Limited(T-Series) and another.

...Appellants

And

Nandi Chinni Kumar and 12 others.

...Respondents

CMA.No.357 and 358 of 2020

Between:

Mr.Nagraj Manjule.

...Appellant

And

Nandi Chinni Kumar and 13 others.

...Respondents

Date of Judgment pronounced on :19 .10.2020

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

AND

HONOURABLE SRI JUSTICE T.AMARNATH GOUD

1. Whether Reporters of Local newspapers
May be allowed to see the judgments? : Yes/No
2. Whether the copies of judgment may be marked
to Law Reporters/Journals: : **Yes**
3. Whether His Lordships wishes to see the fair copy
Of the Judgment? : Yes/No

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> HEAD NOTE:

!Counsel for the Appellants in all the Appeals : Sri Venkatesh Dhond, Senior Counsel and Sri S.Niranjana Reddy, Senior Counsel for Sri Rusheek Reddy

^Counsel for the 1st respondent in all the appeals : Sri Sunil B.Ganu

^ Counsel for other respondents : None

? Cases referred

1. 2015 SCC online Bom.3373
2. (2017) 8 S.C.C. 592
3. AIR 1964 SC 538
4. (2003) 8 S.C.C. 673
5. (2007) 6 S.C.C. 401
6. AIR 1968 SC 1413
7. (2012) 8 S.C.C. 148 Para no.12
8. 1978(4) SCC 118 sub-para (2) and (3) of para-46 page 140
9. 2017 SCC Online Bom 345
10. Interim order dt.03-12-2019 of Gupte J, in I.A.No.1 of 2019 in Commercial I.P.Suit (L) No.1247/2019.
11. 2012 SCC Online DEL 2382
12. 2002 F2d 866
13. 447 F Supp 723
14. CS (OS) No.893 of 2002
15. 2015(1) Law Weekly 701(Madras)
16. 2003(26) PTC 245
17. 2003(270) PC 81 Bombay
18. MANU/DE/3672/2013
19. MANU/TN/0546/2005 (DB)

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COMMON JUDGMENT: *(Per Sri Justice M.S.Ramachandra Rao)*

Since common issues of fact and law arise between the same parties in these four Civil Miscellaneous Appeals, they are being disposed of by this common order.

2. We shall refer to the parties as per their array in the Trial Court for the sake of convenience.

3. Akhilesh Prakash Paul (1st defendant) who is alleged to be initially a gangster / Don, is said to have turned into a soccer player after being coached by Vijay Barse (the 2nd defendant). He later became Captain to the Indian Slum Soccer Team in the Slum Soccer World Cup and thereafter also became a Football Coach. He was Guest of Honor in a well-known T.V. Show by name, ‘Satyameva Jayathe – Season 3’ hosted by popular Bollywood actor Mr. Aamir Khan. The said show was covered by various T.V. Channels and Magazines.

The plea of the plaintiff in the plaint/IAs

4. The plaintiff claimed that he also watched the episode of the said show featuring the 1st defendant, was interested in the inspiring

life story of the 1st defendant, and approached the 1st defendant and entered into a Life Story Rights agreement dt.19.11.2017 (Ex.P1) for assignment of 1st defendant's true life story events in favor of the plaintiff so as to enable the plaintiff to direct/make a feature film in any language in the world as against which the plaintiff had agreed to pay Rs.12 lakhs; later another Life Story Rights agreement dt.19.3.2018 (Ex.P3) was entered into by plaintiff with the 1st defendant to enable the plaintiff to make a biopic/feature film based on the true life story of 1st defendant. The 1st defendant also executed Ex.P.4 - 'No Objection Certificate' and a declaration letter dt.19.03.2018 in favour of the plaintiff stating and confirming that the plaintiff had bought / acquired *exclusive* True Life story events of the 1st defendant to make a biopic / feature film and that the plaintiff is the *only* authorized person to make a screenplay / story of true life story events of the 1st defendant. Under Ex.P.5 – Acknowledgment, part consideration of Rs.5.5 lakhs was also paid by the plaintiff to the 1st defendant for the transfer of the true life story of the 1st defendant to the plaintiff. According to the plaintiff, he intended to make a feature film on the real life story of the 1st defendant.

5. The plaintiff claimed that he improvised the story line and modified the sequence of true life story events of the 1st defendant by adding more characters / plots and got registered a film script / screen story with the title 'Slum Soccer' with the Telangana Cinema Writers' Association (Ex.P.7) on 11.07.2018.

6. The plaintiff claimed that in April, 2018, it was widely published in the Print and Electronic Media that a Hindi film 'Jhund' starring the defendant no.12, a renowned movie actor, and produced by defendant nos.4 to 11 and directed by defendant no.3 was in production / shooting stage. He alleged that in the said film, defendant no.12 would play the role of the 2nd defendant who was football Coach / Mentor of the 1st defendant, and that the said film would be based on the core concept of 'Slum Soccer' and real life incidents of the 2nd defendant.

7. Correspondence through e-mails and letters was exchanged by plaintiff with defendant nos.1 to 12 (Ex.P.9) informing them about the agreements entered into by him with the 1st defendant; and contending that he holds copyright in respect of the true life story events of the 1st defendant. The plaintiff requested the latter to desist from indulging in any such infringement of copyright vested in favour of the plaintiff in respect of the true life story events of the 1st defendant.

8. The plaintiff also claimed that he contacted the 1st defendant to find out whether the latter had assigned his rights in favour of 3rd defendant, and the 1st defendant had assured him that he did not assign his true life story events and also did not permit 3rd defendant to exploit his rights by furnishing to the plaintiff copy of the legal notice dt.22.11.2017 (Ex.P.10).

9. The plaintiff contended that he learned from Print and Electronic Media that the film 'Jhund' is based allegedly on the real life incidents of the 2nd defendant and it also shows / depicts his real life pupils / students including the 1st defendant as various characters in the film. The plaintiff claimed that he apprehends that in the guise of making the film 'Jhund', defendant nos.1 to 12 would infringe upon his copyright over the real life incidents of 1st defendant by making use of the name of the 1st defendant, his image, likeness, life story and / or identity in relation to the said film. He filed Ex.P.16 – social media articles reporting about the said film referring to real life incidents allegedly of the life of the 2nd defendant.

10. He also filed Ex.P.17 – transcripts of conversations exchanged on mobile phone by himself with the 3rd defendant on 14.07.2018 and 16.07.2018 and pleaded that the 3rd defendant admitted to have given amount to 1st defendant and obtained rights from the 1st defendant so as to incorporate the scenes / character of 1st defendant in the film 'Jhund'. He also contended that in Exs.P.18 and P.19 – Copy of transcripts of conversations exchanged on mobile phone with defendant nos.7 and 8 / co-producers of the above film in August,2018, they also admitted that the character / image / identity of the 1st defendant is also part of the said film at length and that they also paid consideration to the 1st defendant.

11. The plaintiff then issued a legal notice Ex.P.20 dt.07.10.2019 to defendant nos.1 to 12 and asked them to cease and desist from

shooting, producing, doing post-production work, marketing and also releasing the said film. He also contended that in the reply notice Ex.P.21 dt.11.11.2019, the 1st defendant did not respond to the contents of Ex.P.20 but supported defendant nos.2 to 12. He alleged that defendant nos.1 to 10 are colluding with each other and had proceeded with the production of the film 'Jhund' by incorporating the character / image / identity and scenes which resemble the 1st defendant so as to prejudice his rights. He also stated that 1st defendant admitted to him that he had signed an agreement with defendant no.3 subsequent to assignment of rights in favour of the plaintiff by receiving substantial consideration and also permitted 3rd defendant to incorporate the character of 1st defendant in the said film.

12. He stated that a teaser of the said film was also uploaded on YouTube on 20.01.2020; on watching it, the plaintiff found resemblance with the true life story events of 1st defendant which had been assigned in plaintiff's favour under Ex.P.3 on 19.03.2018. In para 41 of the plaint, he gave a set of comparative tables showing the similarities between his script and the teaser released by the defendants 3,5,6 and 7.

13. He stated that he came to know that the said film 'Jhund' directed by defendant 3 and produced by defendant 5 was slated for release on 08.05.2020.

14. The plaintiff contended that he owns the concept, thought, characterization, image, identity and expression apart from copyright in respect of true life story events of 1st defendant; that the action of defendant nos.1 to 12 in making the said film with a character / image / identity and scenes based on the true life story events of the 1st defendant constitutes infringement of the copyright of the plaintiffs original work 'Slum Soccer'; that defendant nos.1 to 12 have unauthorisedly without his consent used the literary work and / or its constituent elements contained in the plaintiff's copyrighted story.

15. He therefore filed the suit OS.No.62 of 2020 on the file of the XV Additional District Judge, Ranga Reddy District on 13.05.2020 seeking the following reliefs :

(i) grant of relief of perpetual injunction in favour of plaintiff and against the defendant nos.3 to 12, their men, agents, assignees, successors in interest and all other persons / entities claiming on behalf of the defendant nos.3 to 12 from exhibiting or broad-casting the movie 'Jhund' starring the defendant no.12 in 'Hindi' Language from all the theatres in India as well as abroad;

(ii) grant of relief of perpetual injunction in favour of plaintiff and against the defendant no.13 and defendant no.14 thereby restraining the defendant no.13 and defendant no.14 from uploading or streaming the film 'Jhund' starring defendant no.12 in 'Hindi' language on its 'over the top platform'.

(iii) award costs of the Suit to the plaintiff; and

(iv) grant any such relief or reliefs as deemed fit and proper in the circumstances of the case and to which the plaintiff is legally entitled to in the interests of justice."

IA.No.1829 and 1830 of 2020 filed by the plaintiff:

16. Along with the suit, the plaintiff filed

(i) IA.No.829 of 2020 under Or.39 R.1 and 2 CPC for a temporary injunction pending suit restraining the respondents / defendant nos.3 to 12, their henchmen, etc., from exhibiting or broadcasting the movie 'Jhund' starring respondent no.12 in 'Hindi' language in any theatres in India and abroad, pending disposal of the main suit; and

(ii) I.A.No.830 of 2020 under Or.39 .R.1 and 2 CPC for a temporary injunction pending suit restraining respondent nos.13 and 14, their henchmen, etc., from uploading or streaming the film 'Jhund' starring respondent no.12 in 'Hindi' language on its 'over the top platform', pending disposal of the main suit.

17. The plaintiff reiterated the contents of the plaint.

The stand of the defendants 3,5,6 and 7 in the counter affidavits filed in the IAs 1829 and 1830 of 2020

18. Defendants 3, 5, 6 & 7 filed a common counter affidavit raising the following contentions.

19. They contended that no case had been made out by the plaintiff for grant of injunction against them and other defendants from proceeding with the release of the film, titled 'Jhund' ; that the 5th respondent-company is a co-producer of the film and is vested with the exploitation rights of the said film; that it had been in the business of production and distribution of music and cinematograph films since

1983 and it had produced several commercially successful and critically acclaimed movies; that the 5th respondent is entitled to use any real life instances of 2nd defendant as they had acquired requisite rights from him and they are entitled to use the said information and/or incidents which are readily available in the public domain in relation to projecting their story and incorporating it in the film in relation to the 2nd defendant; and that they also seek leave to refer and rely on the agreement with the 2nd defendant in that regard.

20. They contended that they did not access the screen story of 'SLUM SOCCER' registered by the plaintiff with the Telangana Film Writers Association and there is no question of copyright infringement by the defendants of the plaintiff's story.

21. They admitted that the filming of 'Jhund' movie began in April, 2018 and it was announced that the release of the film would be 8-5-2020, and that several articles in various newspapers and magazines apart from online articles discussed about the release of the film and also analyzed the instances that inspired the film. They alleged that the petitioner/plaintiff despite all the said information being in public domain, waited till 13-05-2020 to file this instant suit, just prior to the release of the film and that too at a belated stage.

22. According to them, the said unexplained delay on the part of the plaintiff is malafide and is an attempt to prejudice the said film once it reaches an advanced stage of completion and exploitation.

23. They claim that 5th defendant had spent approximately Rs.30 Crores in the production of the said film apart from Rs.36 Crores towards marketing/promotions/ advertisement of the film and that it is scheduled to be released in May, 2020 in numerous screens domestically and internationally in several Countries, through third party distributors.

24. According to them, owing to unforeseeable circumstances of COVID-19, 5th defendant was compelled to release the film on the OTT plot form on 08.05.2020 and that it had already created third party rights by licensing satellite and digital rights in the said film to various third parties. They pleaded that the factors of irreparable injury and balance of convenience tilt heavily in favour of the defendants, who would be severely prejudiced if any of the reliefs sought in the suit are granted. According to them, no irreparable loss, harm or injury would be caused to the plaintiff.

25. According to them, on the plaintiff's own admission, the lead protagonist in the said film is the 2nd defendant's character and that relevant life story rights have been granted to the 5th defendant through an agreement dt.19.05.2018. They claim that the film introduces fictionalized events also and contended that incidents in relation to the 1st defendant can also be used by them since no person can claim monopoly over any facts or events that are available or known in public domain.

26. According to them, the film is a work of fiction and does not depict the character of the 1st defendant in any manner whatsoever and the character/image/identity of the 1st defendant is not part of the said film.

27. They admitted that they replied to the legal notice Ex.P20 dt.07.10.2019 issued by the plaintiff under Ex.P27 dt.07.05.2020 and Ex.P-30 dt.12.05.2020.

28. They denied communications between the plaintiff, the 1st defendant and the 3rd defendant for want of knowledge and put the plaintiff to strict proof.

29. They also asserted that the film is partly inspired by the real life story of the 2nd defendant and no case is made out for copyright infringement by the plaintiff. They contended that they are not required to provide the DVD version of the film as it is a work of fiction and reiterated that the principal protagonist in the film is based on the 2nd defendant. According to them, facts are not subject matter of copyright protection.

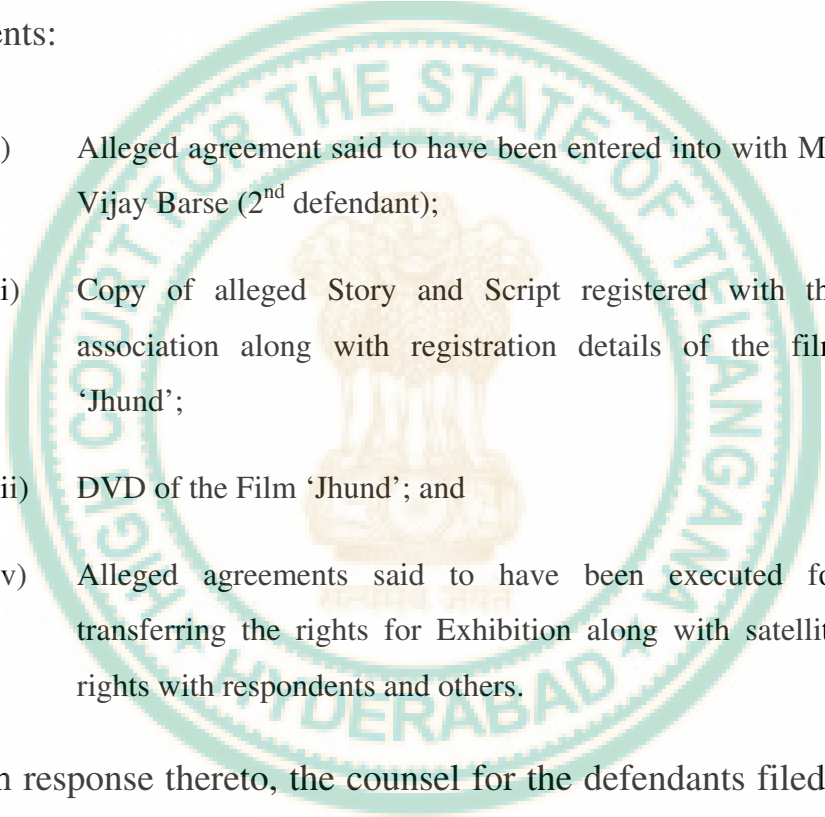
30. With regard to certain similarities pointed out by the plaintiff in paragraph 41 of the interim applications, they were denied.

31. They therefore sought for the dismissal of the applications.

Events which occurred during the pendency of the IAs in the trial court

32. In the trial court the plaintiff marked Ex.P1 to P31 but the defendants did not file any documents.

33. During the pendency of the matters before the trial court, the plaintiff through his counsel served on the Counsel for the defendants 3,5,6 and 7 a notice on 27.5.2020 under Or.11 Rule 14, Or.11 Rule 15, Or.11 Rule 16 r/w Or.12 Rule 8 CPC to produce the following documents:

- 
- (i) Alleged agreement said to have been entered into with Mr. Vijay Barse (2nd defendant);
 - (ii) Copy of alleged Story and Script registered with the association along with registration details of the film 'Jhund';
 - (iii) DVD of the Film 'Jhund'; and
 - (iv) Alleged agreements said to have been executed for transferring the rights for Exhibition along with satellite rights with respondents and others.

34. In response thereto, the counsel for the defendants filed a reply dt.5.6.2020 refusing to produce the said documents for the consideration of the court below pleading privilege, secrecy and confidentiality.

35. The plaintiff, through his counsel also got served on the counsel for defendants 3,5,6,7,8,9 and 11 another notice dt.2.7.2020 to cause production of the agreement entered into by the said defendants with

defendant no.1 whose existence was admitted by the Senior Counsel representing the defendants.

36. The defendants filed a Memo dt.11.7.2020 through their counsel refusing to produce the same.

The common order 17.9.2020 of the trial court in both IAS

37. By a Common order dt.17.9.2020, the court below allowed IA No.1829 and 1830 of 2020.

38. The Court below noted that the agreement Ex.P3 dt.19.03.2018 entered into by the plaintiff with the 1st respondent is not in dispute as also payment of Rs.5,50,000/- out of Rs.12,00,000/- by plaintiff to 1st defendant. It also took note of Ex.P6 which showed that 1st defendant had issued No Objection Certificate and Declaration dt.19.03.2018 acknowledging the plaintiff to go ahead with his life story biopic and that under Ex.P7 dt.11.07.2018, plaintiff got registered his story with M/s Telangana Cinema Writers Association with the name “SLUM SOCCER”.

39. Reference was also made to Ex.P28 press interviews and articles of the defendants which indicated that the film ‘Jhund’ is a biopic of 2nd defendant and that the 2nd defendant claimed that he felt honored to have the 12th defendant play his role in the said film.

40. It then referred to Ex.P16, social media articles that both defendants 2 and 12 met each other and that the media reports indicate that the 12th defendant met him for character insights.

41. It then noted that the defendants never agreed to the allegation that the subject matter of SLUM SOCCER script prepared by the plaintiff was being infringed by defendants 3 and 12. It also referred to the notices and replies exchanged between the parties.

42. It then referred to the contention of the defendants that :

(i) even the plaintiff admitted that the film 'Jhund' had been in production by April, 2018, even prior to the registration of the script on 11.07.2018 under Ex.P7 by the plaintiff and their contention is that the film is therefore not being made by infringement of copyright;

(ii) the 2nd defendant is only a coach/mentor of the 2nd defendant in the football game, that the 1st defendant is only a player in the game and that they are in the relationship of GURU and SHISHYA and that their lifestyles can be taken differently;

(iii) the plaintiff should have filed a suit for specific performance of contract against the 1st defendant;

(iv) earlier there was a movie by name 'BIGIL' and WHISTLE' based on the similar platform as SLUM SOCCER, which had been released in 2019 and so there was no copyright in favour of the plaintiff anymore;

(v) plaintiff had allegedly taken Rs.75 lakhs for affecting a compromise in a suit filed by him seeking stoppage of release of the film 'WHISTLE', and "BIGIL";

(vi) that after the 3rd defendant has started working with his associates in making film 'Jhund', which had nothing to do with the story of 'SLUM SOCCER', plaintiff filed the suit at a belated stage and any injunction would be financially ruinous to the defendants.

43. It then referred to the contentions of the plaintiff that:

(i) plaintiff had issued notice to 3rd defendant under Ex.P20 on 07.10.2019 when he came to know about the film of 'Jhund' being made by 3rd defendant touching the subject matter of 'SLUM SOCCER' and the fact that defendants requested time to answer the allegations made by him and asked him not to file a suit;

(ii) that plaintiff took time to fetch the documents to file the suit, and because of COVID-19 restrictions from March, 2020, the suit was filed only in May, 2020 and there was no delay in filing the suit;

(iii) no suit for specific performance is necessary to be filed against the defendants 1 and 2 since there are only vague denials pertaining to Exs.P1 & P3 and in fact the signatures on the said agreements were not denied by the defendants;

(iv) that there was no proof that plaintiff took Rs.75 lakhs from the persons connected with two movies WHISTLE and BIGIL and

that the 'SLUM SOCCER' story is not to be considered as kept in public domain and such argument cannot be taken into account at the present stage of the suit.

44. It took note of the service of notice by the plaintiff on the defendants to produce agreement between 1st defendant and their clients and the fact that the defendant did not produce it before the trial Court.

45. It held that the subject matter being in public domain or not, is the controversial aspect in the case and that the observations relating to the matter being in public domain would apply in regard to the right of privacy, but they cannot be applied in relation to copyright infringement; that even according to the defendants their movie story was not available in public domain; and even incidental reference of character of 1st defendant at the present stage would be unlawful copying of the plaintiff's original.

46. It then observed that in regard to release of the films 'WHISTLE' and 'BIGIL', though it might appear that the plaintiff's story could be in public domain, it is premature to completely base on the said opinion and deny relief to the plaintiff on the said ground alone, because it is not known what is the script of the defendants since they did not choose to place it before the Court. It held that there is suppression of material facts and record on behalf of the

defendants and that the case of the plaintiff deserves to be considered when compared to the contentions of the defendants.

47. It held that strict burden of proof cannot be based on the plaintiff to prove that there is infringement of copyright; and standard of proof appears to be '*prima facie proof*' by relying on the decision of the Bombay High court in **Jyoti Kapoor & Another v. Kunal Kohli Ors.**¹.

48. It held that allegation made by the plaintiff against the defendants are true and there is every likelihood of *prima facie* infringement and breach of copyright. It rejected the plea of the defendants that burden of proof on the plaintiff is heavier in *QUIA TIMET* actions by observing that there appears to be collusion among the defendants with the 1st defendant; and there are similarities in depiction which are apparent even from the teaser of the film "JHUND" itself and the defendants were refusing to assist the Court by giving further details of their movie.

49. It then referred to other cases cited by both parties and observed that instant case is one where there is no commercial exploitation by the plaintiff but the defendants were going ahead with their film 'Jhund' by infringing the copyright.

50. It concluded that the teaser of the film 'Jhund' from its contents *prima facie* shows that there are distinct similarities in the plot,

¹ 2015 SCC online Bom.3373

depiction and the life and story of the protagonist of the film as with the registered script of 'SLUM SOCCER' of the plaintiff. Though such specific similarities are mentioned by the plaintiff, there is no specific denial regarding them by the contesting defendants and the mobile conversations Exs.P17 to P19 support the plaintiff's case and they tilt the case in favour of the plaintiff.

51. It then concluded that if no interim order is granted in favour of the plaintiff, the defendants would go ahead and release their film and in such event, the plaintiff would suffer more than the defendants, for which he cannot be compensated in terms of money.

52. It therefore directed maintenance of *status quo* against the defendants in I.A.No.829 of 2020. It also allowed IA.No.830 of 2020 and granted temporary injunction against defendants 13 and 14 until further orders.

The present CMAs

53. Defendants 5 and 7 filed CMA No. **356** of 2020 challenging the order dt.17.9.2020 in IA No.829 of 2020 and CMA No. **355** of 2020 challenging the order dt.17.9.2020 in IA No.830 of 2020; the defendant 3 filed CMA No. **358** of 2020 challenging the order dt.17.9.2020 in IA No.830 of 2020 and CMA No.**357** of 2020 challenging the order dt.17.9.2020 in IA No.829 of 2020.

54. Sri Venkatesh Dhond and Sri S.Niranjan Reddy, Senior Counsel made submissions on behalf of the defendants 3,5 and 7

/ appellants and Sri Sunil B.Ganu made submissions on behalf of the plaintiff/1st respondent in the appeals.

55. Both sides counsel raised several contentions both on fact and law and cited several decisions of the Supreme Court and various High Courts. To avoid repetition, we shall refer to them while considering the correctness of the order passed by the trial court.

56. Before we deal with the merits of these CMAs, we wish to state that whatever findings and observations we make in this order are only intended for the disposal of these appeals and are not intended to be final expression of opinion on the respective contentions of the parties and the trial court should decide the suit uninfluenced by them.

Consideration by the Court

57. The suit is essentially based on alleged breach of copyright said to be vested with the plaintiff in the real life story/events connected with the 1st defendant. It is the plaintiff's case that they were assigned to him exclusively by the 1st defendant under Ex.P1 dt.19.11.2017 and Ex.P3 agreement dt. 19.3.2018 entered into by the plaintiff with the defendant no.1. The existence of these agreements is not disputed by the defendants. Based on them, the plaintiff claims to have got a script registered with the Telangana Cinema Writers Association with the title 'Slum Soccer' under Ex.P7 dt.11.7.2018.

58. The counsel for the appellants/defendants 3,5,6 and 7 contended that the film 'Jhund' was based *on the life of the 2nd defendant*, the coach of the 1st defendant, and *there is no character in the said film relatable to the 1st defendant*; and the plaintiff's claims in the plaint and the I.A.s are based on the false and baseless assumption that the film is based on the life of 1st defendant. According to them, the character / image / identity of 1st defendant is not at all a part of the film, which is a work of fiction and they did not depict the character of 1st defendant in any manner whatsoever (para no.24 of the counter).

59. But, in the counter-affidavit, in para no.8.1.2., the defendants 3, 5 to 7 say that the film is *partly inspired by the real life story of the 2nd defendant*, weaving into it several fictionalized characters and sequences.

60. So the plea in the arguments about the film 'Jhund' being based *only* the life story of the defendant no.2 is not supported by the pleading in the counter affidavit.

61. Further the plea of the appellants/ defendants 3,5,6 and 7 is also belied by the transcripts of the mobile phone conversations between the plaintiff and the 3rd defendant (who was the director of the said film)- which have been filed as Ex.P17. In the conversations, the 3rd defendant admitted in July 2018 that *there is a big role in the film for the character of the 1st defendant*. He also stated that if the plaintiff

were to give legal notice to him (defendant 3), he would respond that that the character of 1st defendant is not there.

62. Again in August,2018, the plaintiff had a conversation on mobile phone with Sri Shiv Chanana, the Senior Vice President of T Series (7th respondent) (part of Ex.P18 transcripts) where the latter admitted that the 3rd defendant had taken the rights of the 1st defendant to make the film and there was also an agreement entered into by defendant No.3 with defendant no.1 , and stated that *if required, he will change the character of the 1st defendant in the film* and bring in another character. By implication he too thus admitted that there was a character in the film ‘Jhund’ based on 1st defendant.

63. In September, 2019, the plaintiff’s potential producer one Vijay Ram had a conversation on a mobile phone with Ms.Savita Raj, also an employee of 5th respondent (part of Ex.P18 transcripts) where the latter admitted that 1st defendant had transferred his life story details to them and that they have his rights too, and that the character of Akhilesh Paul (1st defendant) is there in the film.

64. In para nos.16 and 17 of the plaint / I.A. there is specific reference to these conversations between the plaintiff and defendants 3, 7 and 8, but in the counter-affidavit filed by respondent nos.3, 5, 6 and 7, there is an *evasive* denial at para no.21 and 22 to the effect that there is want of knowledge and the petitioner is put to strict documentary proof. It is also stated that the contents of para nos.16

and 17 are completely divorced from the facts of the matter. The absence of specific denial about these conversations by defendants nos.3, 5, 6 and 7 is an important circumstance against them.

65. In fact we may say that when the counsel for the appellants/defendants nos.3, 5, 6 and 7 first addressed arguments before us, they did not mention any of these conversations and deal with them. Only after the counsel for the plaintiff drew our attention to these conversations, during reply arguments they sought to explain them.

66. In **Jaspal Kaur Cheema vs. Industrial Trade Links**², the Supreme Court held that a defendant is required in terms of Order VIII Rule 3 to deny or dispute the statements made in the plaint categorically, as *evasive* denial would amount to an admission of the allegation made in the plaint in terms of Order VIII Rule 5 of the Code. It referred to the decisions in **Badat and Co. vs. East India Trading Company**³, **Sushil Kumar vs. Rakesh Kumar**⁴ and **M. Venkataramana Hebbar vs. M. Rajagopal Hebbar**⁵.

67. In view of Section 141 of C.P.C., the procedure which is to be adopted in a regular suit, as far as possible, has to be followed while dealing with interlocutory matters also subject to certain exceptions.

We see no reason why the principle of Order VIII Rule 3 and 5 cannot be applied to the instant interlocutory applications. So the absence of

² (2017) 8 S.C.C. 592

³ AIR 1964 SC 538

⁴ (2003) 8 S.C.C. 673

⁵ (2007) 6 S.C.C. 401

specific denial about Ex.P17 to P19 in the counter affidavit would amount to an admission of the allegation made in the plaint in terms of Order VIII Rule 5 of the Code regarding the occurrence of the said conversations. No doubt a detailed consideration of the same would be done by the trial court after trial.

68. We may also point out that though the 1st defendant gave Ex.P10 legal notice on 22.11.2017 to 3rd defendant asking the latter to clarify whether his character would be part of the film 'Jhund' and gave a copy of it to the plaintiff, later when the plaintiff got issued Ex.P-20 legal notice to the 1st defendant, he started defending and supporting defendant Nos.2 to 12 stating that the film "Jhund" started in 2018 and the plaintiff was making vexatious claims. The conduct of the 1st defendant in initially assuring plaintiff that he did not assign his true life story events nor did he permit the 3rd defendant to exploit the same, but subsequently revealing his transactions with the 3rd defendant also is a factor in accepting the plaintiff's case prima-facie. It suggests collusion between the defendant no.1 and the defendants 3, 5, 6 and 7.

69. In our opinion, there is prima-facie material on record in the form of Exs.P.17 and P.19 to show that the character of 1st defendant exists in the film 'Jhund' being made by the defendants 3, 5 and 7, and that the 1st defendant, after he entered into the agreement Ex.P1 dt.19.11.2017 and Ex.P3 dt.19.3.2018 with the plaintiff

exclusively selling his life story events to him, also sold his life story rights to the defendant no.3 for use by defendants 5 and 7.

70. Therefore, *prima facie*, the case set up by the plaintiff in the plaint/IAs appears to be true and the case set up by defendants 3, 5 to 7 in the counter-affidavit appears to be not true.

71. Admittedly, the plaintiff had filed Ex.P.3- Agreement dt.19.03.2018 entered into by him with 1st defendant and screen story of 'Slum Soccer' registered under Ex.P.7 with Telangana Cinema Writers' Association on 11.07.2018.

72. *In contrast*, in spite of notice dt.2.7.2020 served by the plaintiff on the counsel for the defendants to produce the agreement which was entered into by the defendant no.3 with the defendant no.1, the defendants refused to produce the same. They also did not produce the documents such as the agreement with the 2nd defendant, script of the film "JHUND" or it's DVD when notice was served on them by the plaintiff on 27.5.2020.

73. When there is prima-facie material to show that the film being made by the defendants 3, 5 and 7 had a character of the 1st defendant and the role was substantial, it was the duty of the defendants to dispel the said view and place material before the trial court to prove their plea that the film being made by them had no role of 1st defendant.

74. They cannot contend that the plaintiff has the burden to prove his case and even if the defendants do not produce any material before

the trial court and suppress it (in spite of being given opportunity to produce evidence), no adverse inference can be drawn against them.

75. In **Gopal Krishnaji Ketkar vs. Mohamed Haji Latif and others**⁶, the Supreme Court declared that even if the burden of proof does not lie on a party, the Court may draw an adverse inference against him if he withholds important documents in his possession which can throw light on the facts at issue; that it is not in its opinion, a sound practice for those desiring to rely upon a certain state of facts to withhold from the Court the best evidence which is in their possession which could throw light upon the issues in controversy and to rely upon the abstract doctrine of onus of proof. This principle was reiterated in **Union of India vs. Ibrahim Uddin**⁷.

76. Therefore, it is the duty of the party to lead the best evidence in his possession, which could throw light on the issue in controversy and in case such material evidence is withheld, the court may draw adverse inference under Section 114 Illustration (g) of the Evidence Act notwithstanding that the onus of proof did not lie on such party and even if it was not called upon to produce the said evidence.

77. This Court is *prima facie* inclined to draw an adverse inference against the defendants 3,5,6, and 7 / appellants under Section 114(g) of the Evidence Act that the film 'Jhund' made by them not only contains the character of Akhilesh Paul (1st defendant), but also that

⁶ AIR 1968 SC 1413

⁷ (2012) 8 S.C.C. 148 Para no.12

he has a substantial role in the movie, and that it infringes the copyright of the plaintiff; and that if they had produced before the Court below in response to notice dt.27.05.2020 given to them by the plaintiff, the agreement entered into by them with 2nd defendant, the copy of the story and script of the movie, the DVD of the movie, such material would have not supported their case.

78. Admittedly, the plaintiff has only some publicity material such as press interviews, reports and articles, and a teaser about the movie 'Jhund' and he had no access to the story and script or the movie made by defendants 3, 5, 6 and 7. Even the Court below had only the said material to go by.

79. In the plaint, the plaintiff had set out the similarities in several tabular columns at para 41 of the plaint between the screenplay SLUM SOCCER prepared by him and the 'teaser' of the film 'Jhund' released on 20.1.2020 by the defendants.

80. In **R.G.Anand Vs. Delux Films**⁸, the Supreme Court had held:

*“where the same idea being developed in a different manner, it is manifest that the source being common, **similarities** are bound to occur. In such a case the Courts should determine whether or not the **similarities** are on fundamental or substantial aspects of the mode of expression adopted in the copyrighted work. If the defendant's work is nothing but a literal imitation of the copyrighted work with some variations here and there it would amount to violation of the copyright. In other words, in order to be actionable the copy must be a substantial and material one*

⁸ 1978(4) SCC 118 sub-para (2) and (3) of para-46 page 140

which at once leads to the conclusion that the defendant is guilty of an act of piracy; and

*One of the surest and the safest test to determine whether or not there has been a violation of copyright is to see if the reader, spectator or the viewer after having read or seen **both the works** is clearly of the opinion and gets an unmistakable impression that the subsequent work appears to be a copy of the original*
(emphasis supplied)

81. To decide *prima facie* whether there is a violation of the copyrighted work of the plaintiff by the defendants 3, 5, 6 and 7, **it is necessary to consider *both* the copyrighted work of the plaintiff and the work of the defendants 3, 5, 6 and 7.**

82. By suppressing from the Court below the agreement entered into by them with 1st and 2nd defendants, the story and script of their movie 'Jhund' and also the DVD of the said film, the defendants 3, 5, 6 and 7 disabled the Court below from looking into the aspects of similarities between their work and the copyrighted work of the plaintiff.

83. The defendants 3, 5, 6 and 7 cannot contend that "take our word" at face value, but doubt everything the plaintiff says or every document he produces. They cannot be allowed to take advantage of their own wrong in not placing material evidence exclusively available with them for consideration of the Court below.

84. No doubt there was an offer made by counsel for the appellants at the end of the hearing before us that they would make these

documents available or even show us the film, but we do not deem it appropriate to accept the said offer, because having withheld the same from the trial court, they cannot ask us to decide the correctness of the order passed by the trial court on the basis of material suppressed from the trial court.

85. We shall now deal with contention of the learned Senior Counsel appearing for defendants 3, 5, 6 and 7/appellants that there is no copyright in real life events or life story of any person, particularly if they are already in public domain. According to the defendants, the details regarding the life of 1st defendant as well as 2nd defendant were in public domain having been shown in the episode of “Satyameva Jayate” anchored by Sri Aamir Khan, renowned actor. It is the contention of the defendants 3, 5, 6 and 7 that matters which are already in public domain cannot be made a subject matter of a copyright infringement action.

86. No doubt in **R.G. Anand** (8 supra), the Supreme Court did say that there can be no copyright in an idea, subject matter, themes, plots or historical or legendary facts and violation of the copyright in such cases is confined to the form, manner and arrangement and expression of the idea by the author of the copyrighted work. Likewise, in **Dashrath B.Rathod and others Vs. Fox Star Studios India Pvt. Ltd and others**⁹ and **Vishwas Patil Vs. M/s.Vision World Films**

⁹ 2017 SCC Online Bom 345

LLP and others¹⁰ also it was held that there can be no copyright for a mere idea or concept and that it is in expression of that concept or idea and manner in which it is presented that enjoys protection under the Copyright Act. The said principle is unexceptionable.

87. But it is also laid down in **R.G.Anand** (8 supra), that it is always open to any person to choose an idea as a subject matter and develop it in his own manner and give expression to the idea by treating it differently from others; and the fundamental fact which has to be determined where a charge of violation of the copyright is made by the plaintiff against the defendant is to determine whether or not the defendant not only adopted the idea of the copyrighted work but has also adopted the manner, arrangement, situation to situation, scene to scene with minor changes or super additions or embellishment here and there.

88. In para 7 of the plaint the plaintiff did plead that after acquiring the true life story events of 1st defendant he improvised the storyline and modified the sequence of the true life story events of the 1st defendant so as to make it more engaging and took cinematic liberty by adding up more characters/plots and themes. Obviously this could not be achieved without consultation with the 1st defendant.

89. It cannot be doubted that the 1st defendant did share with the 3rd defendant what he shared with the plaintiff after again taking

¹⁰ Interim order dt.03-12-2019 of Gupte J, in I.A.No.1 of 2019 in Commercial I.P.Suit (L) No.1247/2019.

remuneration from the 3rd defendant. So there is thus a probability of the ideas, expression, manner, arrangement, additions or embellishments made by the plaintiff to the life story events of the 1st defendant coming to the knowledge of the defendant 3, 5, 6 and 7. Thus they could violate the plaintiff's copyright.

90. The defendants 3, 5, 6 and 7 also contended that it is possible to make a movie only on the coach, the 2nd defendant, without having the character of the 1st defendant, the alleged Don turned Footballer who captained the Indian Slum Soccer Team in the Slum Soccer World Cup.

There is undoubtedly a theoretical 'possibility' of such a thing being done, but the 'probability' of the doing it is low because the marketability of a movie about a celebrity sportsman is far higher than the marketability of a movie about his coach *without* the celebrity pupil/sportsman; and being a commercial venture, the risk of the film only about the coach *without* the celebrity pupil ending in a flop, is much more. Prudent businessmen spending lot of money are unlikely to take such risks.

91. We may also point out alternatively that *prima facie* the 1st defendant, having admittedly been the Captain of the Indian Slum Soccer Team in the Slum Soccer World Cup, is a sportsman of considerable repute and is in the nature of a "Celebrity", particularly

after he featured in the program “Satyameva Jayate” anchored by the actor Sri Aamir Khan.

92. Indian law does recognize the publicity right of a celebrity.

93. In **Titan Industries Limited Vs. Ram Kumar Jewellers¹¹**, the plaintiff, a Company, had a well known brand name Tanishq in relation to jewellery and had got endorsement done for its diamond jewellery collections by Mr.Amitabh Bachchan and Mrs.Jaya Bachchan, who are renowned movie actors. The defendant, who was also in jewellery business, also put up hoardings all over the City of Muzaffarnagar in Uttar Pradesh depicting the above two actors endorsing its jewellery. The said hoardings put up by the defendant were exact copies of the plaintiff’s hoardings put all over the country for promoting Tanishq jewellery featuring the above two actors.

The plaintiff filed the suit alleging that the defendant is guilty of infringing its copyright in its advertisement by misusing and misrepresenting and misleading the public into believing that the defendant’s jewellery is associated with the plaintiff’s Tanishq brand of jewellery and the defendant is passing off its goods as that of the plaintiff.

The Delhi High Court held that the plaintiff had an exclusive licence from the actors through an agreement for endorsement of its Tanishq Diamond Jewellery for a specific period and owned the

¹¹ 2012 SCC Online DEL 2382

copyright in all the works/material conceived, created, reduced to any medium of expression and/or produced pursuant to the said agreement. It relied on the judgment in **Haelan Laboratories Vs. Topps Chewing Gum**¹² wherein it was held:

“A man has a right in the publicity value of his photograph, i.e., the right to grant the exclusive privilege of publishing his picture, and that such a grant may validly be made ‘in gross’ i.e. without an accompanying transfer of a business or of anything else.

This right might be called a ‘right of publicity’. For it is common knowledge that many prominent persons (especially actors and ballplayers), far from having their feelings bruised through public exposure of their likenesses, would feel sorely deprived if they no longer received money for authorizing advertisements, popularizing their countenances, displayed in newspapers, magazines, busses, trains and subways. This right of publicity would usually yield them no money unless it could be made the subject of an exclusive grant which barred any other advertiser from using their pictures”(emphasis supplied)

The Delhi High Court also quoted the decision in **Ali v. Playgirl**¹³ where it was held that common law recognizes *commercial value of the picture or representation of a prominent person or performer, and the common law protects his proprietary interest in the profitability of his public reputation or person.* It quoted **D.M.Entertainment Pvt.Ltd v. Baby Gift House**¹⁴, where it was held that *no one was free to trade on another’s name or appearance and claim immunity.* It granted the decree of permanent injunction sought by the plaintiff.

¹² 2002 F2d 866

¹³ 447 F Supp 723

¹⁴ CS (OS) No.893 of 2002

94. This principle was also accepted by the Madras High Court in **Shivaji Rao Gaikwad (also known as Mr.Rajinikanth) Vs. M/s.Varsha Producers¹⁵**.

In that case, the plaintiff, a famous and well acclaimed actor, filed the suit seeking injunction restraining the defendant from using his name in a movie “Main Hoon Rajinikanth” contending that the defendant cannot use his name, image, caricature, style of delivering dialogues without any permission or authorization whatsoever from him; that the defendant had deliberately used his name etc. in its forthcoming feature film only with a malafide intention to derive illicit benefits based upon the goodwill emanating from the well known personality status of the plaintiff, that such an unauthorised use amounts to infringement of copyright, infiltration of personality rights and passing off besides being a gross violation of privacy, being defamatory, slanderous and causing considerable confusion in the public as to association between the plaintiff and the defendant.

The Madras High Court held that Courts in India had recognized the personality rights in the name in various judgments such as **ICC Development (International) Limited Vs. Arvee Enterprises and another¹⁶**, **Titan Industries (11 supra)** and **Star India (P) Limited Vs. Leo Burnett (India) (P) Limited¹⁷**.

¹⁵ 2015(1) Law Weekly 701(Madras)

¹⁶ 2003(26) PTC 245

¹⁷ 2003(270) PC 81 Bombay

The Madras High Court quoted the following passage in Quoting **ICC Development** (16 supra):

“The right of publicity has evolved from the right of privacy and can inhere only in an individual or in any indicia of an individual’s personality like his name, personality trait, signature, voice etc. An individual may acquire the right of publicity by virtue of his association with an event, sport, movie etc. However, that right does not inhere in the event in question, that made the individual famous, nor in the corporation that has brought about the organization of the event. Any effort to take away the right of publicity from the individuals, to the organizer (non-human entity) of the event would be violative of Articles 19 and 21 of the Constitution of India. No person can be monopolized. The right of Publicity vests in an individual and he alone is entitled to profit from it. For example, if any entity, was to use Kapil Dev or Sachin Tendulkar’s name/persona/indicia in connection with the ‘World Cup’ without their authorization, they would have a valid and enforceable cause of action.” (emphasis supplied)

It also quoted with approval the passage in **Titan Industries Limited** (11 supra) that no one was free to trade on another’s name or appearance and claim immunity and the following passage from **Star India (P) Limited** (17 supra):

“It is necessary for character merchandizing that the characters to be merchandized must gain some public recognition that is, achieved a form of independent life and public recognition for itself independently of the original product or independently of the milieu/area in which it appears.”

It therefore held that personality right vests on those persons who have attained the status of celebrity; that the defendant admitted that the plaintiff is a well acclaimed actor with high reputation and he is a doyen of the film Industry in India; therefore, the defendant

cannot say that the name “Rajinikanth” is a common name and as such, it does not refer to the plaintiff alone. It held that a celebrity must be identifiable from defendant’s unauthorized use; and infringement of right of publicity requires no proof of falsity, confusion or deception, especially when the celebrity is identifiable.

95. In the instant case also, *prima facie* the 1st defendant Akhilesh Paul would fall in the category of celebrity, and when he has executed Ex.P-1 dt.19.11.2017 and Ex.P3 dt.19-03-2018 Life Story Rights Agreements with the plaintiff after receiving consideration from the plaintiff assuring the plaintiff that the plaintiff will be exclusive rights owner for filming his true life story events on screen in any language in the world and he also sold/assigned to the plaintiff exclusively for ever all motion picture rights for filming his true life story events, the plaintiff is certainly entitled to enforce the same as his assignee.

96. Since the 1st defendant is a celebrity Sportsman *prima facie*, and his personality right of publicity was exclusively assigned to the plaintiff, and it appears to be *prima facie* violated through the making of the movie ‘Jhund’ by defendant Nos.3, 5, 6 and 7, and since the defendants are not free to trade on the 1st defendant’s name or appearance and claim immunity, the contention of the learned Senior Counsel for the said defendants/appellants, cannot be *prima facie* accepted.

97. We are also not impressed by the contentions of the Senior Counsel for the appellants that the plaintiff took Rs.75 lakhs from the producers of the film “WHISTLE”/”BIGIL” and withdrew the suit O.S.No.1030 of 2019 because no evidence is placed on record in support of the said plea and the plaintiff had denied it.

98. A further contention was raised by the learned counsel for the appellants/ defendant Nos.3, 5, 6 and 7 about the instant suit being a *quia timet action* and that in such actions, the burden of proof is much heavier on the plaintiff than in any other case where the threat of infringement has already materialized. According to them, in a *quia timet action* the averments in the plaint would invariably express only an apprehension of infringement and the Court can only examine whether such apprehension is *prima facie* credible enough for entertaining the suit, postponing the testing of veracity of such averment at the stage of trial. Reliance is placed on the decision of the Delhi High Court in **Bristol Myers Squibb Company and Ors Vs. V.C.Bhutada and Ors**¹⁸.

99. In **P.G. Narayanan vs. The Union of India (UOI) and Ors**¹⁹, a Division Bench of the Madras High Court held :

“ 26. *Quia timet* is an extraordinary relief granted by Courts to prevent irreparable harm. It gives relief to parties

¹⁸ MANU/DE/3672/2013

¹⁹MANU/TN/0546/2005 (DB)

who face imminent threat or danger of a tortious harm for which there is no adequate legal relief available later. They are actually writs of prevention which require three conditions - (a) no actual present injury, (b) reasonable fear of future harm, and (c) irreparable harm, if relief is not granted.”

100. In our opinion, all the above 3 conditions are fulfilled in the instant case and the apprehension expressed by the plaintiff is *prima facie* credible enough for entertaining the suit and the facts and the prima-facie collusion among the defendants and other circumstances narrated above in the instant case justify grant of interim relief to the plaintiff.

101. Next it is contended by the counsel for appellants/defendants 3,5,6 and 7 that the suit was filed on 13-05-2020 by the plaintiff just before the release of the movie “Jhund” in the month of 8-5-2020. According to them, the movie shooting had commenced in 2017 itself though it was discontinued for some time and was revived again in April, 2018.

102. It is to be seen that the plaintiff had been in touch with the defendants since 2017, through 2018 and continued to do so till just before the filing of the suit on 13.5.2020. The e-mails exchanged by the plaintiff with the 1st defendant under Ex.P-6 and P-9 from January, 2018 including legal notices Ex.P-20 dt.07-10-2019 issued by the plaintiff are not seriously disputed by the defendant Nos.3, 5, 6 and 7. The transcripts of the mobile conversations Exs.P-17 to P-19 which occurred in July, August 2018 had already been referred to by us.

103. In their reply notice Ex.P-23 dt.19.10.2019, the 5th defendant stated that they are examining the issues raised by plaintiff in his legal notice Ex.P-20 dt.7.10.2019, and promised to respond to the issues raised by the plaintiff and requested the plaintiff not to initiate any legal proceedings till then. The defendants then kept quiet till May, 2020 without any response, and then woke up on 12.5.2020 to send Ex.A30 legal notice. Also the advent of COVID-19 and the disruption of proceedings caused by it in the courts below since 24.3.2020 on account of lock down declared by the State and Central Governments is also a valid reason to explain the reason for filing the suit on 13.5.2020.

104. The inaction of defendants 3, 5, 6 and 7 from October 2019 till May, 2020 appears to be deliberate and it gives an impression that they intended to lull the plaintiff into a false sense of security, complete the film in the meantime, and then plead equities thereafter.

105. More particularly it is to be noted that the movie 'Jhund' had not been released on any platform till the order was passed on 17-09-2020 in I.A.Nos.829 and 830 of 2020 by the court below and there was also no prior *ex parte* temporary injunction granted by the Court from 13-05-2020 till 17-09-2020.

106. Therefore *prima facie* they are not entitled to contend that there were any laches on the part of the plaintiff in approaching the Court for appropriate relief.

107. The fact that the 1st defendant had shared *in confidence* his life story events with the plaintiff under Ex.P3 dt.19.3.2018 and also prior thereto under Ex.P1 dt.19.11.2017 is on record.

108. In **Jyoti Kapoor and Another (1supra)**, the Bombay High Court held that at an Interlocutory Stage, the Court has to see if there is an arguable case as to use of confidential information by the defendant, whether there are circumstances to show that it was unlikely that the defendant could have, around the time he did, on his own come to the same combination of key elements or similarities. It observed that these aspects can be brought out more fully at the trial but at the Interlocutory stage, Courts have made a distinction between (a) the existence of the right (imparting of confidential information to the defendant), and (b) its infringement by the defendant. It held that **while there must be a strong *prima facie* case as to the existence of a right but, for infringement, it is necessary to show simply a *prima facie* case and reasonable likelihood of success at the trial.** It also observed that the use of the material by the defendant need not be dishonest or even deliberate and it would be sufficient to show that there could be even an unintentional use of the material by the defendant.

It observed that in the case of violation of copyright in an unpublished work of the plaintiff, which is sought to be made into a cinematograph film, if the defendants were permitted to exhibit and distribute their film, whatever novelty is there in the plaintiff's

screenplay and script, it would be lost altogether; and it is difficult in such a case to work out the damages suffered by the plaintiffs. It held that such damages would be irretrievable and not capable of being compensated in money and the only remedy for the plaintiff is to secure an interim injunction restraining the defendants from releasing the offending film.

109. *Prima facie*, we agree with the view of the court below that the teaser of the film 'Jhund' from its contents shows that there are distinct similarities in the plot, depiction and the life and story of the protagonist of the film as with the registered script of 'SLUM SOCCER' of the plaintiff; though such specific similarities are mentioned by the plaintiff, there is no specific denial regarding them by the contesting defendants and the mobile conversations Exs.P17 to P19 support the plaintiff's case and they tilt the case in favour of the plaintiff.

110. We are of the opinion, the plaintiff, in the facts and circumstances of the instant case, has shown a strong *prima facie* case as to the existence of a right and also a *prima facie* case as regards infringement, and that he has reasonable likelihood of success at the trial. We also hold that if the defendants are permitted to exhibit and distribute their film, whatever novelty there is in the plaintiff's screenplay and script would be lost, and it would be difficult to compensate him by way of damages.

111. We accordingly find no error in the common order passed by the court below in IA.No.s 829 and 830 of 2020 in O.S.NO.62 of 2020 of the XV Additional District Judge, Ranga Reddy District warranting our interference in the exercise of appellate jurisdiction.

112. We place on record our appreciation for the elaborate arguments and assistance by counsel on both sides.

113. We may also state that the points raised in the additional grounds filed were not urged by the counsel for the appellants.

114. Accordingly, the Civil Miscellaneous Appeals are dismissed.
No costs.

115. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

JUSTICE T. AMARNATH GOUD

Date: 19 .10.2020

Ndr/gra/vsv