

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****ORDINARY ORIGINAL CIVIL JURISDICTION****NOTICE OF MOTION NO. 1247 OF 2013****IN****SUIT (I) NO. 513 OF 2013**

Dhirendra Kumar

...Applicant

In the matter between:

Dhirendra Kumar

...Plaintiff

vs.

Ronnie Screwvala and another

...Defendants

Mr. Satish R. Mishra, for the Plaintiff.

Mr. Gaurav Joshi along with Mr. Nira V. Shah, Mr. Vivek Shetty and Mr. Rishikesh Soni, instructed by M/s. DSK Legal, for the Defendants.

**CORAM: S.J. KATHAWALLA, J.****DATE: 27<sup>th</sup> June, 2013****PC.:**

1. The above Suit is filed by the Plaintiff for a declaration that the Plaintiff is the exclusive copyright holder with respect to the story "Maal Kahan" and the Defendants have adopted and/or used his story for their movie titled "Ghanchakkar" to be released on 28<sup>th</sup> June, 2013. The Plaintiff has also taken out a Notice of Motion seeking urgent ad-interim reliefs restraining the Defendants from releasing the movie titled "Ghanchakkar" on 29<sup>th</sup> June, 2013. According to the Plaintiff, he had written a story (Exhibit B-1 to the Plaint) named "Maal Kahan" and had

registered the same with the Film Writers' Association on 9<sup>th</sup> May, 2011.

2. According to the Plaintiff, some time in the month of May 2013, he saw the promo of the film "Ghanchakkar" and found that each and every dialogue and character are on the basis of his story. The Plaintiff approached the Film Writers' Association with a complaint against the Defendants. However, the Film Writers' Association has failed to take any steps against the Defendants. The Plaintiff, therefore, by his Advocate's letter dated 17<sup>th</sup> June, 2013, addressed to the Defendants, recorded that the story in film "Ghanchakkar" is very much similar to his story "Maal Kahan" and that the Defendants had approached the Plaintiff and stated that they needed the Plaintiff's story "Maal Kahan" to produce a picture based on the said story. By the said notice, it was also alleged that the Plaintiff informed the Defendants that he was not interested in any picture being produced, based on his story. However, the Defendants managed to get his story and prepared the movie "Ghanchakkar" based on his story. By the said notice, the Advocate for the Plaintiff, inter alia, called upon the Defendants to cease and desist from releasing the film on 28<sup>th</sup> June, 2013, and to pay compensation and damages to the Plaintiff.

3. The Learned Advocate appearing for the Defendants has informed the Court that the story/script based on which the film "Ghanchakkar" is made by the Defendants was registered with the Film Writers' Association on 22<sup>nd</sup> July, 2009 i.e. much before the story of the Plaintiff "Maal Kahan" was registered. The Learned Advocate appearing for the Defendants has tendered the entire script of the movie "Ghanchakkar" and the same is taken on record. The Learned Advocate appearing for the Defendants has also submitted a chart showing, in brief, some of the

differences between the script of “Maal Kahan” and “Ghanchakkar” and has submitted that except for amnesia and robbery, there is nothing in common between the two movies. The Learned Advocate appearing for the Defendants has also pointed out that the Advocate's notice dated 17<sup>th</sup> June, 2013 addressed to the Defendants by the Plaintiff, is dealt with by the Defendants by their Advocate's letter dated 25<sup>th</sup> June, 2013, denying all the allegations made on behalf of the Plaintiff.

4. I have heard the Advocates appearing for the parties and have also gone through the story written by the Plaintiff and registered with the Film Writers' Association, as well as the script/story registered by the Defendants with the Film Writers' Association. The story “Maal Kahan” was admittedly written by the Plaintiff in the year 2010 and registered with the Film Writers Association on 9<sup>th</sup> May, 2011, whereas the story/script of the Defendants is registered on 22<sup>nd</sup> July, 2009. The question, therefore, of the Defendants using the story of the Plaintiff to make the movie “Maal Kahan” does not and cannot arise. It is also pertinent to note that in the complaint written by the Plaintiff to the Film Writers' Association, he has only alleged that he has found the concept of his story matching the story of the film “Ghanchakkar” produced by the Defendants. However, in the plaint, it is alleged by the Plaintiff that every dialogue and character of the film “Ghanchakkar” is based on his story “Maal Kahan” . In fact, the story “Maal Kahan” of the Plaintiff does not contain a single dialogue. The Plaintiff who claims to have seen the promo of the film “Ghanchakkar”, has not set out in his complaint before the Film Writers' Association or in the plaint in this suit as to what exactly is adopted and/or used by the Defendants from his story “Maal Kahan”.

5. I have perused the story of the Plaintiff as well as the Defendants and I am of the view that *prima facie*, the Defendants are correct in their submission that there are substantial differences between the concept of the Plaintiff and the work of the Defendants. Except for the aspects of amnesia and robbery, there is nothing in common between the two stories. In fact, the learned Advocate appearing for the Defendants has pointed out that there is also an English Movie titled "The Lookout", the story of which involves amnesia and robbery.

6. In the circumstances, in my view, the Plaintiff has failed to make out a *prima facie* case of infringement of his copyright as alleged. The movie "Ghanchakkar" is scheduled to be released tomorrow i.e. 28<sup>th</sup> June, 2013. The Defendants have spent a huge amount towards the cost of production and promotion and marketing of the film "Ghanchakkar". The balance of convenience and the issue of irreparable injury is, therefore, overwhelmingly in favour of the Defendants. In the circumstances, no case for urgent ad-interim relief is made out by the Plaintiff and the application seeking urgent ad-interim relief is rejected.

7. Place the Notice of Motion for hearing and final disposal on 5<sup>th</sup> July, 2013, First on Board.

(S.J. KATHAWALLA, J.)