

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
LD/VC/INTERIM APPLICATION NO.206A OF 2020
IN
LD/VC NO.206 OF 2020
(COMMERCIAL IP SUIT NO. OF 2020)**

M/s Anees Bazmee ProductionS LLP & AnrPlaintiffs

V/s.

Panorama Studio Pvt Ltd. & Ors.Defendants

Mr. Chirag Mody a/w Mr. Riashi Soni & Mr. Ashok Purohit i/b Purohit & Co,
for Plaintiffs

Mr. Simil Purohit a/w Mr. Saeed Khan and Ms Shyamli Hajela i/b H & M
Legal Associates for Defendant No.1

Mr. Rashmin Khandekar a/w Mr. Ameet Naik, Ms Madhu Gadodia and Mr.
Vikramaditya Chavan i/b Naik Naik & Co. for Defendant No.2

Dr. Birendra Saraf, Senior Advocate a/w Mr. Thomas George, Ms Tanvi
Sinha and Mr. Manas Gaur i/b Saikrishna & Associates for Defendant No.3

**CORAM : K.R.SHRIRAM, J.
DATED : 31st AUGUST 2020**

PC. :

1 Plaintiff is a film Writer and Director, who has written the story and directed the film "PagalPanti" of which, defendant no.2 was the producer.

2 Plaintiff has filed this suit to recover a sum of Rs.1,08,00,000/-. The way the plaint is structured and particularly considering page 51 Exhibit B annexed to the Interim Application, it appears more as a suit against defendant no.1 than defendant nos.2 and 3. Mr. Mody submitted that plaintiff was to receive a remuneration of Rs.8 crores from defendant no.2, which was the producer of the film Pagalpanti. Against Rs.8 crores, plaintiff has received only Rs.7 crores and when the balance amount of Rs.1 crore was payable by defendant no.2, plaintiff, defendant nos.1 and 2 came to an

arrangement as reflected in Exhibit-B, a letter dated 14-11-2019. As per this letter, defendant no.2 has been absolved of its liability to plaintiff and defendant no.2 handed over a sum of Rs.1 crore that was payable to plaintiff to defendant no.1 and that amount together with another Rs.8,00,000/-, making a total of Rs.1,08,00,000/-, was payable by defendant no.1 to plaintiff within 90 days of the release of the film Pagalpanti. Mr. Purohit appearing for defendant no.1 agreed with the court that suit basically is a money claim against defendant no.1. Mr. Purohit relied on paragraph 1 of Exhibit-C, which is a notice dated 5-3-2020 from plaintiff's advocate under Section 138 of the Negotiable Instruments Act 1881, because defendant no.1 has given a post dated cheque of Rs.1,08,00,000/- to plaintiff and that cheque got dishonoured. The reason for dishonour of the cheque as stated in the legal notice at Exhibit-C is "account blocked", which according to Mr. Purohit is because Yes Bank, on whom the cheque was drawn was in moratorium. Except Mr. Purohit's statement, there is nothing on record to indicate that.

3 Therefore, admittedly defendant no.1 owes Rs.1,08,00,000/- to plaintiff.

4 In the agreement at Exhibit B, defendant no.1 has also agreed with plaintiff to create a lien and charge on the 50% share of Intellectual Property Rights in the film Pagalpanti in favour of plaintiff till the time the amount of Rs.1,08,00,000/- was fully paid.

5 Order 13-A of the Civil Procedure Code in rule (2) provides for the

stage for application for summary judgment. It provides that an applicant may apply for summary judgment at any time after summons has been served on the defendant and no application for summary judgment may be made by such applicant after the Court has framed the issues in respect of the suit. Therefore, time for plaintiff to apply for summary judgment is yet to arise.

6 At the same time, admittedly defendant no.1 owes Rs.1,08,00,000/- to plaintiff. On 17-8-2020 and 20-8-2020, defendant no.1 appeared through counsel but has not filed affidavit even opposing the interim application, whereas other two defendants have filed. The only prima facie conclusion I can arrive at is defendant no.1 has no defence, otherwise would have filed an affidavit in the last two weeks. Even from the submissions from Mr. Purohit, except for stating that there are no averments in the plaint for an attachment before judgment, no other defence as to defendant no.1's liability, was raised.

7 Mr. Purohit states that the film Pagalpanti did not do well in the box office and defendant no.1 has suffered loss of about Rs.20 crores. It is all the more reason, why I must grant ad-interim in terms of prayer clause (a), which reads as under:

“(a) That pending the hearing and final disposal of the present suit, this Hon’ble Court be pleased to order and direct the defendant no.1 to deposit the amount of Rs.1,08,00,000/- (Rupees One Crore and Eight Lakhs only) or furnish Bank Guarantee of the Nationalised Bank of the said amount in favour of the Prothonotary and Senior Master, High court, Bombay for an initial period of one year and to be renewed thereafter for such additional period as this Hon’ble Court deems fit till the final hearing and disposal of the present suit.”

8 Since defendant no.1 has created a lien and charge on the 50% share of Intellectual Property Rights in the film Pagalpanti in favour of plaintiff, till the amount of Rs.1,08,00,000/- was fully paid, defendant no.1 shall also disclose on oath or affidavit all the modes and manner in which the various rights in the said film Pagalpanti has been exploited till date such as theatrical rights, DTH, Home viewing rights, satellite rights, internet rights, rights arising under any other media DVDs, Blu-ray or any other formats in any manner whatsoever and all the revenues earned by defendant no.1 from exploiting the said film. Defendant no.1 shall also deposit in this court all present and future revenues earned by it in any manner from exploiting the said film Pagalpanti on any of the available platforms such as OTT, DTH, Home viewing, satellite rights, internet rights, rights arising under any other media DVDs, Blu-ray or any other formats in any manner whatsoever.

9 Counsel appearing for defendants waive service of writ of summons. Due to Covid Pandemic, I will give 60 days time to file written statement instead of 30 days provided in the Civil Procedure Code.

10 Affidavit in reply / further affidavits to the interim application to be filed within three weeks from today. Rejoinder, if any, to be filed within two weeks thereafter.

11 Interim application to come up for hearing in due course after 6 weeks.

(K.R. SHRIRAM, J.)