

**IN THE COURT OF THE LXXXIII ADDITIONAL CITY CIVIL  
AND SESSIONS JUDGE AT BENGALURU CITY [CCH-84]**

:Present:

**Ravindra Hegde,**

**M.A., LL.M.,**

**LXXXIII Addl. City Civil & Sessions Judge,  
Bengaluru**

**Dated on this 20<sup>th</sup> day of July 2023**

**COM.OS.No.812/2023**

**Plaintiff**

Ms.Divya Spandana  
Alias Ramya  
Aged about 40 years,  
No.27, 3<sup>rd</sup> Floor,  
1<sup>st</sup> Main Road,  
Subramanyanagar,  
Dr. Rajkumar Road,  
Rajajinagar,  
Bengaluru-560055

**(By Sri.C.C, Advocate)**

**// versus //**

**Defendants**

- 1.** Gulmohur Films Pvt Ltd  
Registered office at:  
No.308, Brindavana Nilaya,  
7<sup>th</sup> cross, Ramesh Nagar,  
Bengaluru-560037
- 2.** ZEE Entertainment Enterprises  
Private Limited  
Registered office at: 18<sup>th</sup> Floor,  
'A' wing, Marathon Futurex  
NM Joshi Marg, Lower Parel,  
Mumbai-400013
- 3.** Mr.Varun Kumar Gowda,  
Aged major, Father's name:  
Not known to the plaintiff,  
C/o Gulmohur Films Pvt. Ltd.,  
No.308, Brindavana Nilaya,  
7<sup>th</sup> cross, Ramesh Nagar,  
Bengaluru-560037



*(Handwritten signature)*

4. Mr.Nithin Krishnamurthy,  
Aged major, Father's name:  
Not known to the plaintiff,  
C/o Gulmohur Films Pvt. Ltd.,  
No.308, Brindavana Nilaya,  
7<sup>th</sup> cross, Ramesh Nagar,  
Bengaluru-560037,
5. Mr.Arvind S Kashyap,  
Aged major, Father's name:  
Not known to the plaintiff,  
C/o Gulmohur Films Pvt. Ltd.,  
No.308, Brindavana Nilaya,  
7<sup>th</sup> cross, Ramesh Nagar,  
Bengaluru-560037
6. Mr.Prajwal BP,  
Aged major, Father's name:  
Not known to the plaintiff,  
C/o Gulmohur Films Pvt. Ltd.,  
No.308, Brindavana Nilaya,  
7<sup>th</sup> cross, Ramesh Nagar,  
Bengaluru-560037
7. A2 Music (Ashwini Media Networks)  
Registered office at:  
A2 Music, No.13, 2<sup>nd</sup> Floor,  
2<sup>nd</sup> Stage Road, Chandra Layout,  
Bengaluru-560040
8. Paramvah Studios  
Registered office at:  
No.276, 2<sup>nd</sup> floor, 3<sup>rd</sup> Main,  
4<sup>th</sup> Cross, SRR Layout,  
Nagadevanahalli,  
Jnanabharathi Post,  
Bengaluru-560056.

(D.1 by Sri.O.J, Advocate,  
D.3 & D.4 by Sri.K.V.D, Advocate)

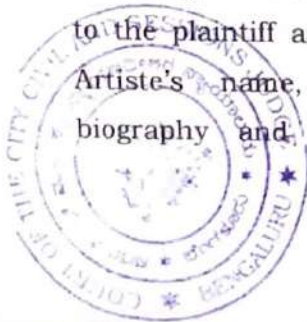


**ORDER ON IA No.I TO III**

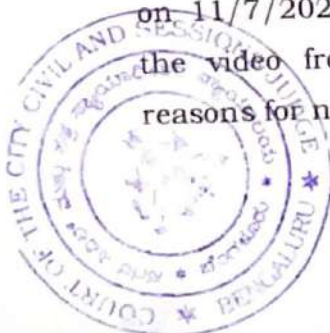
Plaintiff has filed this suit for permanent injunction restraining the defendants from using the plaintiff's name/image/video clips in the film 'Hostel Hudugaru Bekagiddare' and for mandatory injunction to take down the trailer of the film which contains unauthorized clips/scenes of the plaintiff and to direct the defendants to remove all references, press releases, videos, posters, advertisements etc containing the plaintiff's name and praying compensation of Rs.1' crore.

2. Plaintiff has filed I.A.No.I seeking temporary injunction to direct defendants to take down all the trailers of the film from various social media platforms and also filed I.A.No.II seeking temporary injunction restraining the defendants from releasing the film with any of plaintiff's video clips/images/GIFs incorporated directly or indirectly till disposal of the suit.

3. Plaintiff has stated that she is film actor and has received several awards in recognition of her contribution to film industry and on defendants approaching the plaintiff, she agreed to provide professional acting services for a special appearance in the film 'Hostel Hudugaru Bekagiddare' and artiste agreement was entered between the parties. According to the plaintiff as per the agreement the producer can use Artiste's name, photographs, likeness and approved biography and simulate Artiste's voice, signature and



appearance in connection with the film and the promotion, merchandizing and other exploitation as approved by Artiste and the creatives shall be shared with the Artiste and it was agreed that prior to release of the film, Artiste will watch the film. According to the plaintiff, though shooting of the scenes were done, plaintiff and defendant mutually agreed in November 2022 that plaintiff will not be a part of the main film and she would be only be part of the promotional video and the plaintiff uploaded a promotional video which clearly show that the plaintiff will not be 'starring' in the film. In spite of this, according to the plaintiff, in June 2023, defendant No.4 sent video clips of the scenes featuring the plaintiff for her review and confirmation and plaintiff asked defendant to halt the process until the plaintiff's further confirmation and inspite of that, defendants went on to lock in and confirm the edits and also fix the date of release of the movie and the poster. It is also plaintiff's case that plaintiff repeatedly informed defendant No.4 from 19/6/2023, that she will not be part of the said film in any manner and instructed that the scenes featuring her be removed. According to plaintiff, on 8/7/2023 defendant No.7 has unauthorisedly released trailer of the film and her video clips, GIFs and images were shown multiple times in the trailer and trailer was also uploaded on the instagram accounts of defendants No.2,4 and 8. Though on 11/7/2023 plaintiff asked defendant No.4 to take down the video from every platform, defendant gave untenable reasons for not removing the trailer video.



4. According to the plaintiff, there is willful breach of agreed terms under the Artiste agreement as plaintiff's approval was not sought as required under the agreement and the defendant even against her specific disapproval has breached the clause of the agreement by dropping the trailer of the film. Plaintiff contends that in utter disregard of agreed terms and plaintiff's celebrity/personality rights in law and plaintiff's moral rights under the Copyright Act, defendants have released the movie trailer with the plaintiff's scenes and are also releasing the movie with the plaintiff's scenes and thereby the moral right of the artiste as per the provisions of the Copyright Act are violated and it will affect the reputation of the plaintiff. With these averments, plaintiff filed this suit and is seeking interim orders of injunction in I.A.No.I and II. Plaintiff has stated that she has made out prima facie case for grant of Injunction prayed in I.A. No.I and II and balance of convenience is in her favour and she will suffer irreparable injury if injunction is not granted. It is also stated that if Film is released with her Video clips/Images/GIFs, her reputation and goodwill will be ruined.

5. At the initial stage, after hearing learned counsel for the plaintiff on IA No.I and II, on 18.07.2023, this court had granted interim order of mandatory injunction and temporary injunction and directed the defendants to take down all the trailers of the film showing plaintiff's name, video clips/images/GIFs and photographs from social media

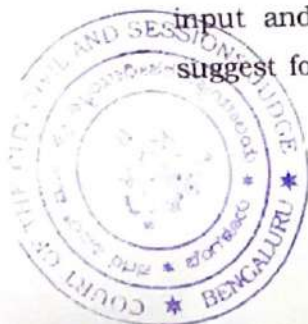


DL

platforms and restrained defendants from releasing the Film with any of plaintiff's video clips/images/GIFs.

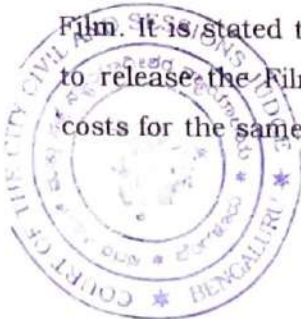
6. On 19.07.2023 learned counsel for the defendant No.3 and 4 has advanced the case and filed IA.No.III u/O 39 Rule 4 CPC and prayed for vacating of the Temporary Injunction granted on 18.07.2023 and also adopted this application as objection to I.A.No.I and II. Since urgency is pleaded, as disputed Film is scheduled to be released on 21.07.2023 and defendants are insisting for vacating of interim order granted. As Plaintiff's case is already pleaded in plaint, without waiting for objection to IA.No.III, all these applications are taken for consideration. Learned counsel for plaintiff and defendant No.3 and 4 have fairly conceded and addressed arguments on IA. No.I to III and accordingly, IA No.I to III are taken for orders.

7. Case of defendant No.3 & 4 as stated on Affidavit in support of I A No.III are that relationship between the parties is governed by 'Ariste Agreement' executed in April 2022. It is stated that this Film is shot and filmed for past 2 years and producers and directors are young aged and have invested hard earned money for making of the Film. It is stated that as per Clause 1.2.8 of agreement, Creative decision rights vest with producer and in the event of disagreement, producer's decision is final. It is stated that in compliance with agreement, relevant clips were sent to the plaintiff for her input and consideration. It is stated that plaintiff did not suggest for any changes nor a request for re-considering her



*[Handwritten signature]*

portrayal. It is stated that plaintiff undertaken to act in cinematographic Film and clause 1.1 do not impose any restriction on the length of her board and the consequential perception if any. Defendants have stated that claim of the plaintiff that her role in the Film would be wrongly interpreted by public to mean that plaintiff is re-entering the acting career with this Film is an irrelevant consideration for interpreting the covenants of the said contract. Defendants have stated that plaintiff was aware of her role in the Film in November 2022 and plaintiff dubbed her voice, knowing well that her role features in the Film. It is also stated that plaintiff was provided opportunity to view entire Film on 03.10.2022. It is stated that promotion video release was to generate curiosity among the public and terms of contract are not amended by such promo. Defendants have stated that Central Board of Film Certification on 14.07.2023 has accorded U/A Certification to the Film. It is stated that plaintiff's demand that her part of acting in the Film be removed through judicial order would cause grievous injury to the defendants. It is stated that defendants have spent several Crores of Rupees for production of Film and have incurred expense of Rupees One Crore for publicity and release to be made on 21.07.2023. It is stated that they have incurred Rs.40,00,000/- for shooting the parts of the plaintiff in the Film. It is stated that defendants have made all preparations to release the Film on 21.07.2023 and have incurred huge costs for the same and if injunction order continued, they will



be put to grave hardship and irreparable injury. With these contentions they have prayed to vacate the interim order granted on 18.07.2023.

8. After posting the case for orders, today defendant No.1 has also appeared through counsel and filed objection to IA.No.I and II on similar lines. .

9. Now the points that arise for my consideration are:

1. **Whether the plaintiff has made out prima facie case?**

2. **In whose favour the balance of convenience tilts ?**

3. **Who will suffer irreparable injury, if temporary injunction is continued?**

4. **What order?**

10. Heard learned counsel for Plaintiff and also Learned counsel for defendant No.3 and 4. Learned counsel for defendant No.1 has adopted arguments of Defendant No.3 and 4. both counsels. Perused records.

11. My answer to the above points are :

**Point No.1 : In the negative.**

**Point No.2 : Balance of convenience tilts in favour of defendants.**

**Point No.3 : Defendants will suffer irreparable injury, if Interim Orders dated 18.7.2023 are continued .**

**Point No.4 : As per final order for the following:**

### **REASONS**

**12. Points No.1 to 3:** All these points are taken together for discussion to avoid repetition.



*[Handwritten signature]*



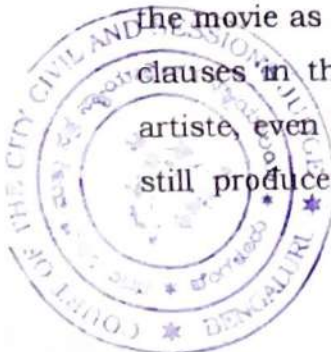
13. On consideration of the contentions of both the parties as discussed above, there is no dispute that Artiste agreement was entered into between plaintiff and defendant No.1 in April 2022. It is not in dispute that the plaintiff had agreed to provide professional service of the Artiste for a special appearance in the film 'Hostel Hudugaru Bekagiddare' produced by defendant No.1. The agreement relied by both the parties contains several terms and conditions including the clauses regarding consideration and even termination. The case of the plaintiff is that the clauses of this agreement are breached by the defendants. Admittedly, as per in terms of the agreement the shooting of the portion of the film containing plaintiff's role was done in 2022. Plaintiff has produced the screen shot of the Promotional video which is said to have been launched on 3/11/2022. In this promotional video, plaintiff is appearing and plaintiff has no dispute for the same. In one of the screen shot in hand written page 41, it is appearing with title as 'Welcome Back Ramya' and in another screen shot at page 42 it is appearing as "Unfortunately Ramya madam is not starring" in this film. Plaintiff contends that for several reasons she has informed the producer that she will not be part of the film and it was even agreed between the parties and accordingly in Promo video it is mentioned that she is not starring in the film. Defendants have denied the same and stated that it was only

to create curiosity.

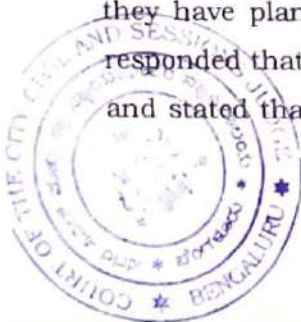


Q

14. Artist Agreement produced by the plaintiff show that plaintiff agreed to provide her professional service in terms and conditions of the agreement. The plaintiff is rely on clause 1.2.5 which states that the producer shall have the right to use Artiste's name, photographs, likeness and approved biography and right to simulate Artiste's voice, signature and appearance by any means as approved by the Artiste. It is also stated that the creatives shall be shared with the artiste and mutually agreed and prior to release of the film the artiste will watch the film, on the film featuring the artiste will be incorporated. Plaintiff contends that she has not given approval for use of her name, photograph etc in the film and trailer and has even objected for using it. In spite of this, according to the plaintiff, defendants have proceeded to release the trailer and also now planned to release the film on 21/7/2023. Therefore, the plaintiff alleges breach of terms of the agreement. Defendant on the other hand contends that as per clause 1.2.8, creative decision rights shall at all time be that of the producer and if there is any disagreement producers decision shall be final and finding on the parties thereto. In this connection, defendant contends that the plaintiff who has agreed to the terms of agreement cannot now dispute right of producer to release the trailer or the movie as contended and also stated that though there are clauses in the agreement seeking requiring approval of the artiste, even if it is considered that artiste has not approved, still producer's decision is final in view of clause 1.2.8.

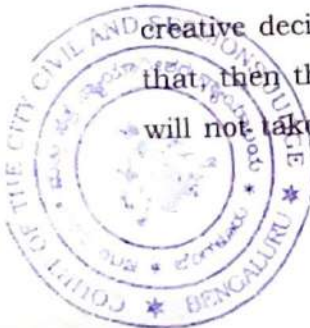


15. Plaintiff has produced several whatsapp chats had with the Nithin Krishnamurthy who is defendant No.4 in the suit and is also seeking vacating of the order. This defendant No.4 is one of the producer of the film as appearing in the discription of the movie in the screen shot at page No.47 produced by the plaintiff. Therefore though defendant No.1 has not sent any such whatsapp chats, whatsapp messages that are sent by the defendant No.4 who is also producer of the movie would even bind the defendant No.1. The contention of the learned counsel for the defendant that the defendant No.1 is a private limited company and if some directors of the company make some statement that may not bind the defendant No.1 cannot be accepted. The defendant No.1 since being a private limited company have to speak through its directors and in the present case the defendant No.4 is shown as one of the producer of the film and therefore the words of defendant No.4 has its own value. In the whatsapp chats of 20/6/2023 the defendant No.4 has stated that he has sent a video link with the compiled clips of the movie which has the presence of the plaintiff and also sent the clips of the editor who had a heroine clipped in the btw and this role was played by another actor and the same was sent to understand why he keeps adding the clips of the btw and requested the plaintiff to watch them and also stated that they have planed to release of the movie on 21st. Plaintiff responded that she has asked to hold on to till she came back and stated that she would not be part of this movie and she



don't want to this to be come back to screen. Thereafter the defendant No.4 has sent message stating about the difficulties faced and the amount spent and also that a team of 500 would be devastated by this stand of the plaintiff etc. These are done from 19/6/2023.

16. As stated above, in clause 1.2.5 of the agreement, it is mentioned that the artiste approval is necessary and the creative shall be shared with the artiste and mutually agreed. Therefore, by this whatsapp message defendant No.4 Nithin Krishnamurthy has shared such clips with the plaintiff which may be in compliance with clause 1.2.5. However, on receiving the clips, immediately the plaintiff has informed that she would not be part of the film and she had asked to hold on and she has stated that she don't want this to be a come back screen etc. Therefore, it is clear that in terms of clause 1.2.5 the defendants have shared the clips of the shooting of the plaintiff and the plaintiff has not approved the same. Contention of the learned counsel for the defendant that even if she has not consented or not approved, still in view of clause 1.2.8 the decision of the producer is final cannot be accepted for many reasons. The clause 1.2.5 and 1.2.8 are different clauses and Clause 1.2.8 do not take away the effect of clause 1.2.5. Even if there is any conflict between these two clauses, earlier clause will prevail. Clause 1.2.8 is regarding creative decision rights and if there is any dispute regarding that, then the decision of the producer would be final. That will not take away right of plaintiff to give approval and also



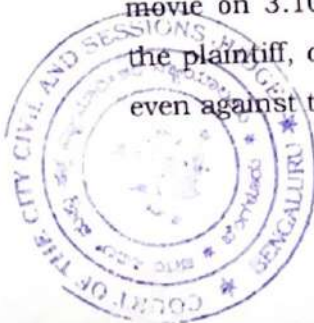
her right to see the film before its release. Therefore regarding video clips etc sent by Defendant No.4 on 19.6.2023, plaintiff has not approved and therefore, prima facie Producer cannot have right to use it in terms of clause 1.2.5.

17. Defendants have contended that entire Film including her portion of acting was shown to the plaintiff on 3.10.2022 in Renukamba Theater. Regarding this Whatsapp messages dated 2.10.2022 fixing the screening of the Film is produced by defendants. Learned counsel for the plaintiff, in the Chronological orders and events filed today has stated about screening of the rough cut/first cut on 3.10.2022. This is not stated in the plaint by the plaintiff. In view of this screening of film including plaintiff's portion of acting on 3.10.2022, it is clear that film was shown to the plaintiff. Plaintiff contends that after this screening, both parties agreed that plaintiff will not be part of the film but will only promote the film. However, plaintiff has not produced any documents to substantiate such agreement between the parties. The contention that mentioning in promo video that plaintiff will to be part of the movie cannot be termed as amendment to the agreement and defendant contends that it was only to create curiosity in public. In the promotional video no doubt it is mentioned that she will not not be starring in the movie and as rightly said by the defendant, on looking to the clips that are produced this is only advertisement strategy that has been used by the defendant to promote the film



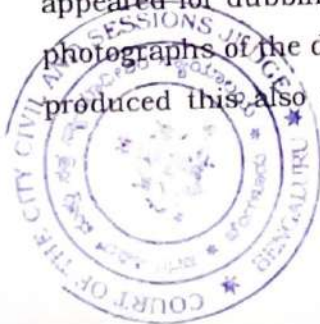
because in page No.42 the clip where in it is mentioned that plaintiff is not starring, this is at 0.06 seconds of the movie, but subsequently in 0.09 it is mentioned as welcome back Ramya which shows that after showing that she will not be starring the move, it is shown that she is coming back and 0.40 seconds she is shown and this is clearly a advertisement strategy for the film made by the defendants and as rightly said the terms of the agreement cannot be changed by the promotional video.

18. After all this, on receiving clips from Defendant No.4 and plaintiff stating that she do not want to be part of the movie, on 22/6/2023 defendant No.4 has made request to the plaintiff stating that they will retain only the first shot which is around 25 seconds and will delete all other GIFs and even they will not show the plaintiff in the trailer. Even for this the plaintiff has not agreed. However, plaintiff contends that inspite of this message dated 22/6/2023 the defendants have proceeded to release the trailer in the YouTube channel on 8/7/2023 and other channels on 12/7/2023, in utter disregard to their own promise. Plaintiff has produced the screen shots showing that such trailer showing plaintiff is released. These messages show that she has objected for use of her name and refused to be part of the movie and has not given approval as per clause 1.2.5. though she has seen the movie on 3.10.2022. In spite of non approval, according to the plaintiff, defendants have proceeded to release the trailer even against their promise and have also planned to release of



the movie which is totally breach of the contract. These whatsapp chats show that as per the artiste agreement, plaintiff had participated in the shooting of the movie and as per the agreement the plaintiff was required to attend the shooting for two days and she had attended and after shooting as per the agreement the clips are to be shown to the plaintiff and the defendant have shared the clips, but the plaintiff at that time has refused to be part of the movie and asked the defendants to remove her role and she don't want to be part of this movie and has agreed only to do promotional video. On looking to the documents, there are no materials to show that parties have mutually agreed that she will not be part of the movie and she will be only in the promotional video.

19. The defendants contend that though movie was shown to plaintiff on 3.10.22, plaintiff has filed the suit after more than 9 months when the date of release of the movie has been fixed. However, contention of the plaintiff show that the plaintiff she has not approved to the clips that are sent to her on 19.6.2023 and inspite of vountary statement of defendant No.4 that she will not be shown in trailor, she has been shown in the trailor released on 8.7.2023. Her approval is required as per clause 1.2.5. Defendant also contends that the plaintiff after shooting of the movie had even appeared for dubbing as per the agreement. Regarding this 3 photographs of the dubbing of the voice by the plaintiff is also produced this also show that the plaintiff at that time was



186

aware of the shooting which was already done of her acting and she had given voice for this acting. Therefore by that time the plaintiff was aware of her role in the movie and how she will be shown in the movie.

**20.** These all documents show that after shooting of the movie with plaintiff's participation in cameo role, defendant has even prepared sent the clips to the plaintiff and at that time in June 2023 plaintiff raised objection. However, in the entire objection raised by the plaintiff there is no any personal allegation or its contention that the plaintiff was not part of the movie or that she has not consented for shooting particular scenes or that against her will particular scene has been taken etc.. Clause 3.4 of the Agreement, which is one of the ground for challenging the releasing of the movie by the plaintiff, provides that the artist moral rights as per the provision of the Copy right Act shall be available to the artist in the event of any distortion or mutilation of her services in the film which are prejudicial to her honor or repute. On looking to entire plaint averments, there is no allegation of distortion of mutilation of her services in the film. Since, clips showing the plaintiff scene was shared by the defendant no.4 has seen in the whatsapp chat produced by the plaintiff herself and even after that the plaintiff has not taken any contention in the present suit, it is clear that there is no such allegation coming under clause 3.4.

**21.** More over, film has taken the U/A certification from Central Board of Film Certification on 14.07.2023 which



*[Handwritten signature]*





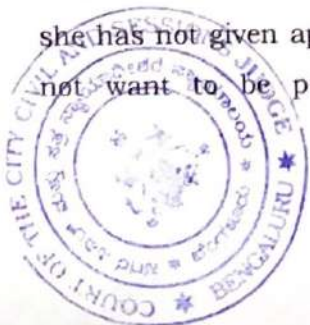
portion of the movie and cannot add anything and it is to be exhibited in the form in which it is certified. Therefore, the observation of the court in this order that the defendant can proceed with the release of the film without showing the plaintiff involvement these scenes may not be possible. Both the learned counsels have agreed on this point and learned counsel for the plaintiff has submitted that after removing the scenes of the plaintiff in the Film as per the order, defendant can again get the revised Censor certificate and then release the movie. However, the defendant contends that for getting revised certificate after deleting the plaintiff scenes it will take considerable time and as the movie is already fixed for release on 21.07.2023, if such scenes are to be removed it cannot be released on 21.07.2023 and the defendant would suffer irreparable loss. The defendant has also produced several documents to show the expenses incurred by the defendant for promoting of the film.

**23.** On looking to all these materials, it is clear that as per the Artiste agreement entered between the parties, plaintiff has participated in the shooting of the scenes for this Film as agreed. The plaintiff though is doing a cameo performance in the movie, there is consideration provided. As as per the agreement 5% of the satellite and digital income is to be paid to the plaintiff as her consideration for her performance in the Film. Defendants also are stated to have incurred expenses for payment of the remuneration to the crew of the plaintiff as per the agreement. Plaintiff has



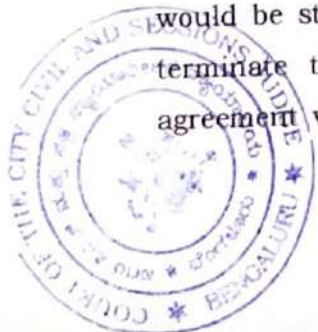
participated in the shooting of the movie and has done her role and after that she has also appeared for dubbing and given her voice, dubbed her voice and thereafter the movie with her scene was even shown to the plaintiff and the clips with her acting is also shared with the plaintiff. Then, plaintiff appears to have raised objection and decided to come out of this Film only on 19.06.2023 and thereafter, there were communications in which the defendant no.4 even stated that he will not show in her trailer and requested her to give consent for the first scene and for which plaintiff has not agreed for the same. In spite of gentlemen's promise of not showing her in the trailer the defendants appears to have released the trailer on 08.07.2023 to the youtube and then other social platforms by showing the plaintiff scene.

24. On looking to all these aspects of the case prima facie, there appears to be some breach of terms of agreement by the defendants and even gentleman's promise is not adhered to. Since plaintiff has not given approval as required in clause 1.2.5, plaintiff has at his stage made out a prima facie case of breach of terms of Contract by the defendants. The defendants who claim to be young team were not expected to treat the celebrity of the plaintiff's stature in the way they have treated subsequent to 19.6.2023. Even statement that she will not be shown in trailer is not honoured. Latest Whatsapp messages show that she has not given approval and she has stated and she is do not want to be part of the movie and in spite of that,



defendants appear to have proceeded to release the trailer and have planned release of the movie in the film theaters and even obtained censor board certificate. At the same time, though the plaintiff has objected for her role in the film, plaintiff has not raised any objection on the ground that the role shown there is any distortion of mutilation of her services which is prejudicial to her honor on her repute. Therefore, there could be only allegation of breach of clause 1.2.5. which is prima facie made out.

**25.** Therefore, though Plaintiff has made out a prima facie case showing that some portion of the agreement has been violated and there is a breach of contract, agreement do not provide for any action on the basis of such breach of contract. In the agreement there is a termination clause. This termination right available to the artiste is only if the producer fails or refuses or neglects to pay consideration and if the film is abandoned, banned etc and in the event of producer files for bankruptcy or protection from his creditors etc. Therefore, this breach of contract term is not provided as ground for termination of the contract. Hence, plaintiff though has prima facie made out breach of a clause of agreement, that do not permit the plaintiff to repudiate the contract and terminate the agreement. Hence, termination clause cannot be taken use of the plaintiff. Therefore, plaintiff would be still bound by the contract. When plaintiff cannot terminate the contract, right of the producer under the agreement will subsist, which include screening of the Film



and releasing of the Trailor. When the plaintiff has participated in the film shooting and had dubbed her voice and has also shared her scenes, only on the ground that she has not given approval specifically in terms of clause 1.2.5, the plaintiff is not entitle to terminate the contract.

**26.** When there is a breach of contract, but remedy is not provide din the contract, general law of the country would apply. As per section 73 of Indian Contract Act, when contract has been broken, party who suffers by such breach is entitle to receive compensation for any loss or damage caused to her thereby. Therefore, if there is a breach of contract and the contract has been broken by one party the party who suffered loss, that is the plaintiff in this case can be compensated. Though for breach of contract, remedy of specific performance, injunction, compensation are all available, specific performance is ruled out in the present case and injunction has been prayed by the plaintiff and the remedy of compensation is provided under Section 73 of the Contract Act. As per Section 38 of Specific Relief Act perpetual injunction is granted to prevent a breach of an obligation existing in his favour and injunction to be granted when compensation is not adequate relief. Therefore, only if the compensation is not adequate relief then the injunction can be granted by the court. In the present case the agreement entered into between the parties is clearly a commercial contract. The plaintiff had agreed to give her acting services for the movie of the defendant on the condition



*[Handwritten signature]*

of paying certain consideration and on certain terms. When that agreement has been breached and the agreement do not provide for the relief like restraining the defendant from proceeding with the movie etc and as plaintiff has also participated in the shooting and plaintiff has also seen the movie and then clips were shared with her and plaintiff has not complained for any indecency etc and even the Censor Board has approved the film for public exhibition, plaintiff cannot claim the relief of injunction. Though the plaintiff has prima faice shown that clause of the contract is breached, grant of injunction is governed by several other requirements also, like possibility of giving compensation as adequate relief and other party suffering irreparable injury and comparable hardship.

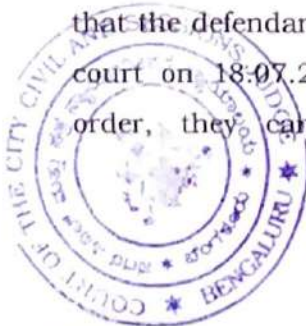
27. Plaintiff has stated that her reputation and goodwill which she has carefully built over the years will be ruined and the reputation and goodwill cannot be restored easily and this trailer and the movie will definitely cause irreparable injury and hardship to her. As stated above, plaintiff had participated in the shooting of the movie and she was aware of the scenes that are taken and she had agreed for the same and has entered into agreement and the agreement do not provide for termination on such breach of agreement terms, it cannot be said that the injury that would be caused to the plaintiff would be irreparable which cannot be compensated in terms of money.



**28.** The injury that will be suffered by defendants if the movie is prevented from being released as per the plan is necessary to be seen. Defendants have produced several documents to show that they have made lot of investments for this movie. In the whatsapp messages also the defendants have informed the plaintiff that there are 500 persons in the team of producing this movie and considerable amount has been spent and they have made the movie by spending about 2 years and there are about 400 new comers in the film and if the movie is not released on the fixed date inspite of obtaining the certificate from the Censor board the defendants would suffer irreparable injury.

**29.** Counsel for the defendants has relied on several decisions of Hon'ble Supreme Court holding that Court should be extremely slow to pass such restraint orders in case of release of the movie when the Censor board has given certificate, as making of a Film involves huge finance and failure of the producer to release the film will cause irreparable loss which cannot be compensated in terms of money. Similarly the learned counsel for the Plaintiff has also referred to the decisions, wherein, in compelling circumstances, release of several movies are stopped even at the eleventh hour by orders of the Hon'ble High Court.

**30.** Learned counsel for the plaintiff has also argued that the defendants have not obeyed the order passed by the court on 18-07-2023 and when they have not obeyed the order, they cannot seek vacating of injunction order.



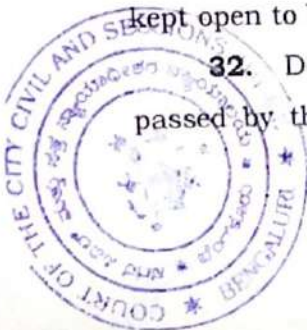
*[Handwritten signature]*

In this regard, he has relied on a decision of Hon'ble Supreme Court in **Tayyabbhai M. Bagasarwalla & Another Vs Rubber Industries Private Limited & Ors. (1997) 3 Supreme Court cases 443**, in which it is held:-

**“... It may be that the Applicants have a very good case. However, no matter how good a case a party has, in my view, it is not open to a party to flout orders of courts. If a party wilfully flouts an order of the court then such party can expect no equitable relief from the court. ...”**

31. However, learned counsel for the defendants have submitted that order of the court is not served on them and they voluntarily appeared in the case. Learned counsel for the plaintiff produced documents to show that he had communicated copy of order to defendants and also produced a news item showing that even today defendants are stating that plaintiff is part of the Film. Whether and when, order of injunction was communicated to the defendants and whether defendants have not obeyed the order etc., are the points to be agitated in the trial of the suit. Since, suit is filed on 17.7.2023 and order is passed on 18.7.2023 and case is advanced on 19.7.2023 and now posted for orders on 20.7.2023 due to urgency, these points regarding violation of order along with all other contentions of the parties is to be kept open to be decided during trial of the suit.

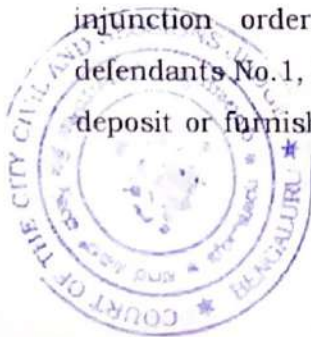
32. Defendants are now seeking vacating of the order passed by this court as Film is planned to be released on





21.07.2023 which is just tomorrow. On looking the documents and evidence that are placed and the contentions of the parties as discussed above, though prima facie, there appears to be some breach of terms of contract, Balance of convenience is not in favour of continuing the interim orders. As stated in the plaint, there are already more than 42 lakhs viewers to the trailer and therefore, even before plaintiff approaching the court there were more than 42 lakh views. First seen of the plaintiff in the movie appears to have already shown in the trailer. Film is scheduled to be released tomorrow. Though there is breach, same can be compensated in terms of money. Role of the plaintiff in the Film is cameo performance and is of less than 2 minutes and even Censor Board has permitted exhibition. Hence, if release of the movie is withheld, defendants will suffer irreparable injury. If Film is not released, as theaters are also already booked and even many tickets are also stated to have been sold, preventing the release of the movie will cause much inconvenience to even third parties like theaters and may lead to further complications and further litigations. Hence injunction as granted cannot be continued.

**33.** However, as the prima facie, there appears to be breach of contract terms, for which plaintiff can claim compensation, it is proper to allow vacating of the temporary injunction orders by imposing terms by directing the defendants No.1, 3 and 4, who are now contesting the suit, to deposit or furnish surity for an amount of Rs.50,00,000/- to



meet the claim of the plaintiff if any raised in the suit. Therefore, by directing the defendants to furnish security for Rs.50,00,000/- within the reasonable time of one week the interim order granted on 18.7.2023 can be vacated. It can be made clear that the said security to be offered is not an adjudicated, decided, maximum or minimum compensation, but is only as condition for vacating the Interim order, and entitlement and quantum of compensation are to be decided in the suit. Accordingly, Point No. 1 to 3 are answered.

**34. Point No.4:** For the discussions made above following order is passed;

### **ORDER**

**IA No.3 filed by defendant No.3 and 4 under Order 39 Rule 4 of CPC is allowed.**

**Interim orders of Injunction granted on IA.No.I and II on 18.07.2023 are vacated subject to the condition that, defendants No.1, 3 and 4 shall offer security for an amount of totally Rs.50,00,000/- by way of deposit or by way of Bank guarantee, to meet any claim of the plaintiff for compensation for breach of contract within one week, i.e., 27.07.2023.**

**It is made clear that the said security to be offered is not an adjudicated, decided, maximum or minimum compensation, but is only as condition for vacating the Interim order, and entitlement and quantum of compensation are to be decided in the suit.**



**In view of Order on IA. No.III and vacating of Interim order granted on 18.07.2023, IA.No.I and II filed under Order 39 Rule 1 and 2 of CPC stands disposed.**

[Dictated to the Judgment Writer; transcript thereof corrected and then pronounced by me in the Open Court, on this the 20<sup>th</sup> day of July 2023]

*20/7/2023*

**[Ravindra Hegde]**

**LXXXIII Additional City Civil Judge.  
BENGALURU.**

\*\*\*

