

NEW SLIDE

"Composition based on Shiva Stuti by
Late Ustad N. Faiyazuddin Dagar and Late Ustad
Zahiruddin Dagar"

b. The Defendant Nos. 1 to 3 shall also deposit a sum of Rs. 2 crores which shall be kept in a Fixed Deposit in the account of the worthy Registrar General of this Court and the same shall be subject to the outcome of the trial of the suit. The said deposit shall be without prejudice to the rights and contentions of the parties."

3. In an intra-court appeal, a Division Bench of the High Court has reversed the aforestated order, observing as follows:

"139. In view of above discussions, while this Court have given due consideration to the reasoning adopted by the learned Single Judge, we are unable to concur with the conclusions arrived at and consequently we find no merit in the case of plaintiff/Respondent No.1 with respect to authorship, which constitutes the very foundation of a copyright claim.

140. As the claim of authorship is rejected, there is no requirement to go into the other aspect of originality or infringement. It is a well settled principle that the threshold requirement for any copyright action lies in establishing the subsistence of copyright, and where this foundational requirement fails, no claim of infringement can be entertained.

141. Hence, the present appeal is allowed and the order of the learned Single Judge is hereby set aside. We hereby clarify that this Court has examined the present case at a *prima facie* stage and has not expressed any opinion on merits with respect to authorship or originality, which may be proved

otherwise on the basis of leading evidence in the pending suit. The pending applications, if any, are also disposed of in the aforesaid terms. There shall be no orders as to cost."

4. The concurrent opinion of the learned Presiding Judge sums up as follows:

"3.4 At a plain glance, it is apparent that the material on which the learned Single Judge has placed reliance, though considerable, only reflect the Junior Dagar Brothers as having rendered, or performed, the suit composition Shiva Stuti at various points of time. The Junior Dagar Brothers have never been named, shown or identified, in any jacket, literature or Inlay Card, as the composers of the suit composition. The presumption of authorship, under Section 55(2) of the Copyright Act, is not, therefore, available in the present case.

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3.8 Para 157 of the impugned judgment notes that no document has been filed by appellant which would show that the Junior Dagar Brothers are not the authors of the suit composition. This, in our view, is an erroneous test. The onus was always on the respondent to prove that the Junior Dagar Brothers were the authors of the suit composition, so as to enable the respondent to ascertain copyright therein. The fact that the appellant did not identify any other composer of the suit composition, would not ipso facto justify a prima facie finding of authorship of the Junior Dagar Brothers in the suit composition. It is axiomatic in law that the onus of proof shifts only after it is, in the initial instance, discharged by him on whom it rests.

3.9 I am, therefore, in entire agreement with my learned brother that there is no prima facie evidence of the Junior Dagar Brothers being the authors of the suit composition Shiva Stuti."

5. On the previous date of hearing, the matter was heard at some length. Having regard to the fact that eminent musicians whose performances are broadly acknowledged are in contest in the civil suit, we have persuaded the parties to consider an alternative interim arrangement, regardless of the reasons assigned by the learned Single Judge or the Division Bench. Upon persuasion, respondent No.1 has agreed that, as an interim arrangement, on all OTT and online platforms, the slide depicting the credits in respect of the subject song shall be as follows:

"Composition inspired from the Dagarvani Tradition
Dhrupad, first recorded as "Shiva Stuti" by late Ustad
N. Faiyazuddin Dagar and nephew of late Ustad N.
Zahiruddin Dagar."

6. The respondents have already deposited a sum of Rs.2 crores in terms of paragraph 200(b) of the order of the learned Single Judge dated 25.04.2025. The said amount shall be kept with the Registrar General of the High Court in the same manner as was directed by the learned Single Judge.

7. Since we have not expressed any *prima facie* opinion on merits, all the issues are left open for the parties to be agitated in the civil suit.

8. It goes without saying that the civil suit(s) shall proceed without being influenced by the observations made in one or the other forum.

9. The orders of the learned Single Judge as well as of the Division Bench stand modified to the extent above. Respondent No.1 shall modify and display the revised credits within five weeks.

10. The appeal stands disposed of along with pending application(s), if any.

.....CJI
(SURYA KANT)

.....J.
(JOYMALYA BAGCHI)

.....J.
(VIPUL M. PANCHOLI)

NEW DELHI;
FEBRUARY 20, 2026.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSPetition(s) for Special Leave to Appeal (C) No(s). 4742/2026

[Arising out of impugned judgment and order dated 24-09-2025 in FAO(OS) (COMM) No. 86/2025 passed by the High Court of Delhi at New Delhi]

USTAD FAIYAZ WASIFUDDIN DAGAR

Petitioner(s)

VERSUS

A.R. RAHMAN & ORS.

Respondent(s)

(IA No. 33783/2026 - EXEMPTION FROM FILING O.T. and IA No. 35079/2026 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 20-02-2026 This matter was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE JOYMALYA BAGCHI
HON'BLE MR. JUSTICE VIPUL M. PANCHOLI

For Petitioner(s) : Mr. Neel Mason, Adv.
Mr. Arjun Harkauli, AOR
Mr. Ujjawal Bhargava, Adv.
Mr. Prateek Garg, Adv.

For Respondent(s) : Mr. Gautam Raman, Adv.
Mr. Anurag Tandon, AOR
Ms. Alisha Luthra, Adv.
Ms. Garima Saxena, Adv.

M/S. Vachher And Agrud, AOR
Ms. Abhiti Vachher, Adv.
Mr. Akshat Vachher, Adv.
Mr. Kul Anand, Adv.
Mr. Jasvinder Choudhary, Adv.

Dr. A.M. Singhvi, Sr. Adv.
Dr. S. Muralidhar, Sr. Adv.
Mr. Saikrishna Rajagopal, Adv.
Mr. Sidharth Chopra, Adv.
Ms. Sneha Jain, Adv.
Mr. Aavishkar Singhvi, Adv.
Mr. Vivek Ayyagari, Adv.
Mr. Kuber Mahajan, Adv.
Mr. Akshat Agrawal, Adv.

Ms. Arunima Nair, Adv.
Ms. Vaishnavi Rao, Adv.
Ms. Ninni Susan Thomas, Adv.
Ms. Megha, Adv.
Ms. Priyansha Sharma, Adv.
Mr. Shahid Khan, Adv.
Ms. Swikriti Singhania, AOR

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeal stands disposed of along with pending application(s), if any, in terms of the signed order.

(NITIN TALREJA)
ASTT. REGISTRAR-cum-PS

(PREETHI T.C.)
ASSISTANT REGISTRAR

(Signed order is placed on the file)