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O.S.A.(CAD)No.17 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14 / 07 / 2026

PRONOUNCED ON : 27 / 08 / 2026

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
and
THE HONOURABLE MRS. JUSTICE K.GOVINDARAJAN
THILAKAVADI

O.S.A.(CAD)No.17 of 2022 &
C.M.P.No.2260 of 2022

1.The Cinema Resource Centre,
No.11, Bawa Road, Alwarpet,
Chennai – 600 018.
Represented by its Trustee,
Ms.Sruti Harihara Subramaniam

2.Ms.Sruti Harihara Subramaniam ... Appellants
Vs.

1.Ms.Ganga Rudraiah
2.Mr.Dileepan Lingaiah ... Respondents

Prayer: This Original Side Appeal is filed under Order XXXVI Rule 1 of O.S. Rules r/w Section 13 (1A) of Commercial Court Act, to set aside the orders dated 13.07.2021 passed in C.S.No.674 of 2017.



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For Appellants : Mr.N.L.Rajah
Senior Advocate
For Mr.E.Jayasankar

For Respondents : Mr.R.Sathish Kumar for R1 and R2

JUDGMENT

P.VELMURUGAN, J.

The Original Side Appeal is directed against the judgment and decree dated 13.07.2021 passed by the learned Single Judge in C.S.No.674 of 2017, by which the suit filed by the plaintiffs was decreed.

2. The plaintiffs are the daughter and son of late Mr.Rudraiah. Initially, the daughter alone was shown as the plaintiff, while the son was arrayed as the third defendant. Subsequently, the son was transposed as the second plaintiff.

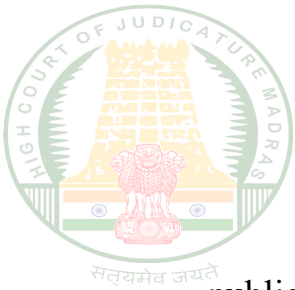


3. The case of the plaintiffs is as follows:

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3.1. According to the plaintiffs, late Mr.Rudraiah was the producer and director of the Tamil feature film Aval Appadithan, which was released in theatres on Deepavali day in the year 1978. The film was critically acclaimed and had also received the State Award for cinematography. During the production of the film, photographs were taken in the course of the making of the film. The plaintiffs state that the photographers who took those production photographs were engaged by late Mr.Rudraiah and acted under his directions and supervision, and that the copyright in those production photographs belonged to late Mr.Rudraiah.

3.2. It is further their case that, while photographs relating to other films produced by late Mr.Rudraiah remained available with the family, the album containing the photographs of Aval Appadithan alone went missing. Despite efforts made to trace the photographs, they could not be found, and they believed that the album had been stolen or otherwise misappropriated.



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3.3. The plaintiffs state that they later came to know, through a publication and through the defendants' website, that the defendants were in possession of the photographs and were publicly displaying them as part of their archive. The first plaintiff met the second defendant in December 2014 and requested that the original photo album be returned so that it could be used for a website relating to the work of her father, late Mr.Rudraiah. According to the plaintiffs, the second defendant declined to return the album, though she was willing to give credit for donating the same to the first defendant trust. Aggrieved by the refusal to part with the photographs, the plaintiffs filed the present suit.

3.4. The plaintiffs further state that late Mr.Rudraiah had neither assigned nor relinquished his rights in the photographs and that the defendants were not the lawful owners of the same. According to them, upon the death of late Mr.Rudraiah on 08.11.2014, the rights in the production photographs devolved upon them as his legal heirs. Hence, the plaintiffs instituted the suit seeking for declaration of copyright, permanent injunction, delivery of the original photographs, destruction of all copies and other consequential reliefs.



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4. The case of the defendants, as set out in the written statement, is as follows:

4.1. The defendants state that the first defendant is a non-profitable charitable trust created for the purpose of restoring and preserving antique materials related to Indian cinema and that the second defendant has been collecting film-related materials since 2004. According to them, the suit photographs came into their possession in 2007, when sacks of old film photographs were purchased from a dealer at Moore Market, Chennai. The defendants state that the photographs were sorted, restored, digitised, catalogued and preserved, and that an archive album relating to Aval Appadithan was created. They further state that considerable time and money were spent to preserve, digitise, catalogue and research these photographs.

4.2. The defendants deny the plaintiffs' claim of copyright and state that the first owner of the copyright in a photograph is the photographer who took the photograph and not the producer of the film. They further state that



the photographs were lawfully acquired from a scrap dealer and that they were displayed only for archival, educational and non-commercial purposes.

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The allegations of copyright infringement and dishonest misappropriation are denied.

5. On the above pleadings, the learned Single Judge framed the following issues:

“(i) Whether the plaintiffs’ father, late Mr.Rudraiah, is the owner of the copyright of the photographs of the movie “Aval Appadithan”?

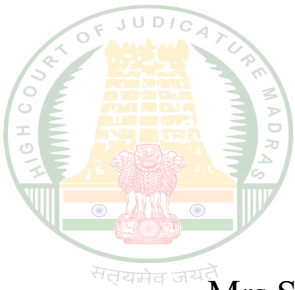
(ii) Whether the suit photo album form part of the estate of late Mr.Rudraiah for the plaintiffs to seek declaration of ownership of the copyright over the photographs album of the movie “Aval Appadithan”?

(iii) Whether the defendants have committed any infringement of copyright by publishing, using, displaying the photographs of the movie, “Aval Appadithan”?

(iv) Whether the defendants possession of the suit subject album is a lawful possession and if so, whether the possessory right of the defendants will defeat the copyright vest with the owner of the copyright?

(v) Whether the plaintiffs are entitled to the relief of injunction claimed for?

(vi) To what other reliefs?”



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6. On the side of the plaintiffs, the mother of the plaintiffs,

Mrs.Sridevi Gopalakrishna, was examined as P.W.1 and Exs.P-1 to P-19 were marked. On the side of the defendants, the second defendant was examined as D.W.1. No documentary evidence was produced by the defendants.

7. The learned Single Judge held that the suit photographs were production photographs taken during the making of the film Aval Appadithan and that the copyright in those photographs vested in late Mr.Rudraiah. The learned Judge further held that, after the death of late Mr.Rudraiah, the copyright devolved upon the plaintiffs as his legal heirs. It was also held that the defendants had no assignment or licence to exhibit the photographs and that displaying the photographs on the defendants' website amounted to communication to the public and infringement of copyright. On that basis, the suit was decreed by declaring the plaintiffs to be the owners of the copyright, directing return of the original photographs, directing deletion and destruction of all physical and electronic copies, and restraining the defendants from further publishing or communicating the photographs.



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8. Challenging the said judgment and decree, the appellants/defendants have filed the present Original Side Appeal.

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9.1. The learned Senior Counsel appearing for the appellants submitted that the judgment and decree passed by the learned Single Judge cannot be sustained either on facts or in law. According to him, the learned Judge did not properly consider the defence put forward by the appellants and also failed to consider the ownership of copyright in photographs in its proper perspective and the settled principles of law relating to copyright as laid down by the Hon'ble Supreme Court and this Court.

9.2. The principal submission of the learned Senior Counsel was that the plaintiffs had failed to establish that late Mr.Rudraiah was the owner of the copyright in the suit photographs. It was argued that there was no acceptable evidence to show that late Mr.Rudraiah had engaged the photographers or that the photographs were taken at his instance for valuable consideration, or that the photographers had transferred or assigned their copyright in the photographs in his favour. According to the learned Senior



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Counsel, in the absence of such evidence, the plaintiffs' claim of copyright had not been proved. It was specifically submitted that the important question was as to who had actually engaged or authorised the photographers to take the photographs and whether any valuable consideration had been paid to them. According to the appellants, no document, contract or communication from late Mr.Rudraiah to the photographers was produced to establish that he had engaged or instructed them to take the photographs.

9.3. The learned Senior Counsel further submitted that the plaintiffs had not complied with the requirements of Section 17 of the Copyright Act. He contended that the burden was on the plaintiffs to establish that late Mr.Rudraiah had a legally recognised right over the photographs and that such right had devolved upon them. According to him, the learned Single Judge erred in presuming the existence of those requirements without supporting evidence. It was further submitted that no evidence was produced to show that any remuneration or valuable consideration was paid to the photographers for taking the photographs. Therefore, according to the appellants, in the absence of proof of valuable consideration or any

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agreement to the contrary, the copyright in the photographs would remain with the photographers.

9.4. It was also contended that the plaintiffs had not satisfactorily established that they were entitled to represent the estate of late Mr.Rudraiah. The learned Senior Counsel pointed out that no probate, letters of administration, or other documentary proof had been produced to support their claim as legal heirs entitled to enforce the alleged copyright. The learned Senior Counsel further submitted that the plaintiffs had not produced the legal heir certificate to establish that they were the legal heirs of late Mr.Rudraiah and, according to the appellants, the manner in which the alleged copyright devolved upon them was also not satisfactorily established.

9.5. The learned Senior Counsel next submitted that the plaintiffs had not produced any document to show that the film *Aval Appadithan* was produced by late Mr.Rudraiah in his individual capacity. According to the appellants, the film was produced by Kumar Arts, and no material had been



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placed before the Court to show that the plaintiffs were the owners of Kumar

Arts. It was further submitted that, even if late Mr.Rudraiah was associated with the film as its producer and director, that fact by itself would not establish his ownership of every photograph taken during the production of the film.

9.6. Relying upon the decision of this Court in *Sri Lalgudi G. Jayaraman and others v. Cleveland Cultural Alliance* [(2008) 4 LW 511], the learned Senior Counsel submitted that the Court had clearly held that payment of valuable consideration alone would create copyright in favour of the person making the payment. In the present case, according to him, there was no evidence to show that any payment had been made to the photographers. He therefore contended that the copyright, if any, would continue to vest in the photographers, who had neither been impleaded as parties nor examined as witnesses. It was further submitted that the plaintiffs had failed to produce any evidence regarding the arrangement between late Mr.Rudraiah and the photographers, including any agreement, communication, instruction or proof of payment of remuneration.



9.7. The learned Senior Counsel also submitted that the plaintiffs had

not lodged any police complaint regarding the alleged loss of the photographs and had not established that the album was ever in their possession. According to the appellants, there was no original album of the film in existence and the archive album had been created by the defendants after sorting, restoring, digitising and preserving photographs obtained from sacks purchased from a scrap dealer. Considerable time, labour and money were said to have been spent for preserving, cataloguing and researching those photographs.

9.8. Referring to the evidence of P.W.1, the learned Senior Counsel submitted that several admissions made in cross-examination had not been properly considered by the learned Single Judge. According to him, P.W.1 admitted that no document had been filed to show that the plaintiffs were the only legal heirs of late Mr.Rudraiah; that she was not present when the film was produced; that she did not know the arrangement between late Mr.Rudraiah and the technicians; that no contract of service had been produced; and that there was no document to show that late Mr.Rudraiah had objected to the defendants' possession of the photographs or demanded their return.



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9.9. The learned Senior Counsel further contended that the learned Single Judge was not right in holding that the defendants' admission that late Mr.Rudraiah was the producer of the film shifted the burden of proof onto the defendants. According to him, the burden remained throughout on the plaintiffs to establish their copyright. According to the appellants, there was no dispute regarding the association of late Mr.Rudraiah with the film as producer and director; however, the real disputed question was as to who took the photographs, who authorised them to take the photographs and whether any valuable consideration was paid for taking them.

9.10. Finally, it was submitted that the suit had been filed in a hasty manner and that even the son of late Mr.Rudraiah had initially been arrayed as the third defendant and was subsequently transposed as the second plaintiff. The learned Senior Counsel therefore submitted that, in the absence of evidence regarding the engagement of the photographers, payment of valuable consideration and transfer of copyright, the plaintiffs had failed to establish that late Mr.Rudraiah was the first owner of the copyright in the suit photographs. On all these grounds, the learned Senior Counsel prayed

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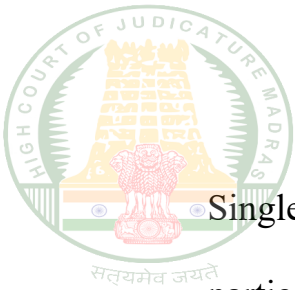


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that the judgment and decree dated 13.07.2021 passed in C.S.No.674 of 2017 be set aside and that the appeal be allowed.

9.11. The learned Senior Counsel in support of his contentions relied upon the judgments in *Lalgudi G. Jayaraman & Others v. Cleveland Cultural Alliance, represented by its President, Mrs.Uma Ganesan & Another* [2008 4 LW 511]; *S.Mahalingam v. Vasan Publications Pvt. Ltd.*, [2013 (1) LW 776]; *Union of India & Others v. Vasavi Cooperative Housing Society Ltd. & Others* [2014 (2) SCC 269]; *M.Manohara Chetty & Others v. C. Commaraswamy Naidu & Sons*, [1979 (2) MLJ 466]; *S.Palanivel and K.R.Selvaraj v. P.Natesan & Others* [2017 SCC OnLine Mad 33105]; *Kesari Maratha Trust v. Devidas Tularam Bagul* [1998 SCC OnLine Bom 76]; *Bunny Reuben & Others v. B. J. Panchal & Another*, [2002 (2) MLJ 169]; and *DRK v. McGraw Hill Global Education Holding LLC LLC* [MANU/FENT/0804/2017].

10.1. Per contra, the learned Senior Counsel appearing for the respondents submitted that the judgment and decree passed by the learned



Single Judge was based on the pleadings, evidence and admissions of the parties and did not call for interference.

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10.2. The learned Senior Counsel submitted that it was not in dispute that late Mr.Rudraiah was the producer and director of the film *Aval Appadithan*. According to the respondents, the photographs in question were production photographs taken during the making of the said film. It was submitted that the appellants themselves had admitted the role of late Mr.Rudraiah as producer and director of the film and that there was no serious dispute regarding his association with the making of the film.

10.3. The learned Senior Counsel further submitted that, in the course of film production, the producer and director would ordinarily engage cameramen, photographers and other technical personnel required for making the film on agreed terms and remuneration. According to him, taking production photographs was an integral part of the film-making process and was not a separate work independently commissioned by an unknown person.



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10.4. According to the respondents, the photographs were therefore taken in connection with and at the instance of late Mr.Rudraiah. Unless the appellants produced evidence to show that the photographers had retained the copyright or that there was an agreement contrary to the claim of late Mr.Rudraiah, the mere fact that the photographers physically took the photographs could not defeat the plaintiffs' claim.

10.5. The learned Senior Counsel further submitted that the appellants had admitted the role of late Mr.Rudraiah as the producer and director of the film. According to the respondents, the appellants could not dispute the connection of late Mr.Rudraiah with the film while at the same time relying upon his role as producer and director. The respondents therefore contended that the photographs taken during the production of the film were connected with the film-making process and with the work of late Mr.Rudraiah.

10.6. In addition to the submission regarding the legal-heir certificates, the learned Senior Counsel submitted that, in the email dated



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08.12.2014, the appellants had referred to the plaintiffs in the context of late

Mr.Rudraiah and had stated that they were giving tribute to their father and his movies. According to the respondents, having acknowledged the plaintiffs in such correspondence, the appellants could not subsequently dispute their status as the legal heirs of late Mr.Rudraiah.

10.7. The learned Senior Counsel further submitted that the appellants themselves had taken a stand on their website that they did not own copyright over the images in their archive. According to the respondents, the appellants' website contained a disclaimer stating that they did not own copyright over any of the images in their archive and that the copyright continued to be the property of the respective copyright holders. The learned Senior Counsel further submitted that the appellants had taken the stand that they were not the copyright holders or licensees in respect of the photographs. According to the respondents, these statements showed that the appellants themselves did not claim ownership of the copyright in the photographs.



10.8. The learned Senior Counsel therefore submitted that the

appellants could not claim copyright merely on the basis of their possession of the physical photographs or their purchase of the photographs from Moore Market in the year 2007. According to the respondents, ownership of the physical photographs and ownership of copyright were two different rights.

10.9. It was further submitted that, though the appellants relied upon their purchase of the photographs from a dealer and the restoration and preservation carried out by them, they had not established that the person from whom they purchased the photographs had any copyright or authority to transfer the copyright.

10.10. The learned Senior Counsel therefore submitted that the appellants had no copyright over the photographs and had no licence or assignment from the copyright owner. According to the respondents, the appellants' own disclaimer, their failure to establish any copyright in themselves and their reliance only upon possession and purchase of the



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physical photographs supported the case of the plaintiffs. The respondents

therefore prayed that the Original Side Appeal be dismissed with costs. In

support of his contentions, the learned Senior counsel relied upon the

judgment in *Agi Music Vs. Ilaiyaraja* [(2019) 4 LAW 418]; *Indian Record*

Mfg Co V. Agi Music [2020 SCC Online Mad 626] and *Nagindas Ramdas*

v. Dalpatram Ichharam [(1974) SCC 242].

11. Heard both sides and perused the materials available on record.

12. Admittedly, late Mr.C.Rudraiah was the producer and director of the Tamil film *Aval Appadithan*. It is also not in dispute that photographs were taken during the production and making of the said film. The case of the plaintiffs is that the photographers who took the said photographs were engaged by late Mr.Rudraiah and that the photographs were taken in connection with the production of the film under his direction and supervision. According to the plaintiffs, the copyright in those production photographs therefore belonged to late Mr.Rudraiah. The plaintiffs further stated that the photographs relating to the other films produced by late



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Mr.Rudraiah were available, but the photographs relating to *Aval Appadithan* were missing. Despite their efforts, they could not trace the same.

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Subsequently, through a publication and the website of the defendants, they came to know that the defendants were in possession of the photographs relating to the said film and were displaying them as part of their archives. The plaintiffs thereafter approached the second defendant in December 2014 and requested return of the original photographs/album. Since the same was not returned, the suit was filed.

13. The main case of the appellants/defendants is that merely because late Mr.Rudraiah was the producer and director of the film, it cannot automatically be held that he was the copyright owner of the photographs. According to the appellants, the plaintiffs have not proved who actually took the photographs, under whose instructions they were taken, or that any valuable consideration was paid to the photographers. It is therefore contended that the copyright, if any, remained with the photographers. It is also contended that the photographers were not impleaded or examined as witnesses. The appellants further contend that the film was produced by Kumar Arts and that the plaintiffs have not produced sufficient material to

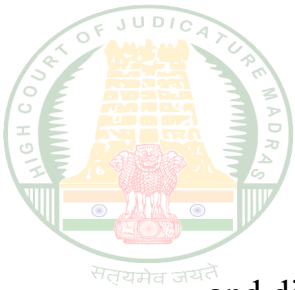
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establish that late Mr.Rudraiah personally owned Kumar Arts or that the copyright in the photographs vested in him. They also rely upon the evidence of P.W.1 and contend that there is no document regarding the arrangement between late Mr.Rudraiah and the photographers or technicians and that there is no document showing payment to the photographers. It is also contended that the plaintiffs have not sufficiently established that they are the legal heirs entitled to claim the estate and copyright of late Mr.Rudraiah.

14. The respondents/plaintiffs, on the other hand, contend that the fact that late Mr.Rudraiah was the producer and director of *Aval Appadithan* is admitted. The photographs in question are production photographs taken during the making of the film. According to the respondents, the photographers were engaged for the production of the film and took the photographs in that capacity. It is further contended that the appellants themselves do not claim copyright in the photographs and have not produced any assignment, licence or other document showing that the copyright was transferred to them by the photographers, Kumar Arts or any other person.



15. In the present case, the fact that late Mr.Rudraiah was the producer

and director of *Aval Appadithan* is admitted. The defendants were also aware that the photographs in their possession related to the said film. The learned Single Judge recorded the evidence showing that the defendants came to know that the photographs related to *Aval Appadithan* and that the film was produced and directed by late Mr.Rudraiah. More importantly, the defendants have not established any independent title to the copyright. They have not claimed that they are the copyright owners of the photographs. They have not produced any assignment of copyright in their favour or any licence from the copyright owner. They have also not established that the photographers or Kumar Arts transferred the copyright to them. The appellants mainly rely upon their possession of the physical photographs and the fact that they restored, preserved and digitised them. However, physical possession of a photograph and ownership of copyright in that photograph are two different matters. The learned Single Judge rightly appreciated this distinction. For a better appreciation, the relevant findings of the learned Single Judge are extracted hereunder:-

“20.In case of immovable property, the person without title but in continuous and peaceful possession, can claim adverse possession. Likewise in case of moveable property, the finder of lost goods as a bailee,



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can claim lien over the moveable for the expenses incurred to preserve the property. Whereas, for an intangible property like intellectual property there is no law which gives right or protection to the person, who is not owner or assignee or licensee of the copyright to possess and exploit the material, which carry copyright, unless protected under Section 52 of the Act or clear evidence of abandonment to public at large.

21.It is the admitted case of the defendants that they are not the copyright holder nor the licensee. Their claim, the photographs were made into album by 2nd defendant, after restoring it, hence, she has become the owner of it. Further, her possession of the album was known to Late Rudraiah during his life time, but he did not claim it and himself acquiesced in the matter.

22.As far as Copyright Act is concerned, during the term of the Copyright, the right can either be assigned under Section 18 or interest in the Copyright be granted by a license under Section 30 or relinquish the right under Section 21. All these mode of transfer shall only be in writting and not otherwise. Acquiesce of Copyright as a defence is not a fact for presumption. The defendants strongly rely upon Ex.P-11, the copy of the email dated 07/12/2014 sent by the first plaintiff to the first defendant to prove that the first plaintiff had appreciated the work done by the first defendant for digitizing and preserving the photographs. Having acknowledged the possession, without any murmur, the plaintiffs cannot lay a suit after three years from the date of its first publication ie 16/01/2013 (Ex P-6).

23.This argument, in fact counter productive. The defendants admitting the fact that Late Rudraiah is the producer of the film 'Aval Appadithan' and had taken the defence of acquiesence. This shifts the burden of proof on the defendants to prove the same. In the written statement it is stated that the 2nd defendant came in possession of the



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photographs in the year 2007. She came to know in the year 2010 about the movie 'Aval Appadithan', which was directed by Late Rudraiah. The second defendant (DW-1), in her cross examination, had deposed that around 2012-2013, they confirmed these photographs pertain to the movie 'Aval Appadithan'. She also admits that she wanted to contact Mr.Rudraiah during his life time, but could not contact him because many people informed her that Rudraiah was reclusive.

24.These admissions clearly prove that, the defendants were aware of the fact that the photographs, which are in their possession, relates to the film 'Aval Appadithan' and the movie was produced and directed by Mr.Rudraiah.

25.The reading of Section 17 of the Copyright Act and the interpretations given by various Courts in respect of first owner of the photographs, wherever there is contract to the contrary, the first owner will be the person, who is entitled for the ownership, as per the said contract. Otherwise, the person, who engaged the photographer, is the first owner. The Clauses (a) and (b) to the proviso of Section 17 of the Copyright Act, makes clear that for photograph taken by a freelancer, the author and first owner will be the photographer. As far as photographs, which are taken in the course of employment or for valuable consideration, the person employed or the person, who paid the consideration, shall be the first owner, unless there is any contract to contrary. Therefore, under law, the employee who engage the photographer, is to be considered as the first owner in the absence of any contrary agreement.

26.In Lalgudi Jayaraman case cited supra, it is held that, as seen from Clause (b) of the proviso to Section 17 of the Copyright Act, the payment of valuable consideration, by itself creates a copyright in favour of the person making payment, if the work in question is a photograph or



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painting or, portrait or engraving or cinematograph film. If the work in relation to which a copyright is claimed, falls under the category of photograph or painting or portrait or engraving or cinematograph film, there is no necessity for the person claiming copyright to prove that the author was under a contract of service and that the work was made in the course of his employment. It is enough, if such person proves that the work was produced for valuable consideration.

27.The defence of acquiescence amounts to admission of the copyright vesting with Rudraiah. Thus, the fact, Rudraiah the producer of the film engaged the service of photographers are facts admitted, which requires no formal proof, unless the Court in its discretion, requires proof of the said fact otherwise than by such admissions. (Section 58 of the Indian Evidence Act). The payment of valuable consideration is matter for presumption under law, in the absence of contract to contrary.

28.Further, in circumstances when the legal and beneficial title get seperated, the Courts had recognised, equitable title to copyright with the beneficial title holder; where the contract is silent on the transfer of legal right, but if the intention of the parties, express or implied, indicates the party, who is entitled to the copyright. As it is observed by Copinger and Skone James in their commentaries on Copyright, “It must always be borne in mind that, even if the legal title to the copyright does not vest in the employer as first owner under these rules, it will often be a term of the contract of the author engagement that the ‘employer’ should own the copyright.” (Ref: Copinger and Skone James on Copyright, Fifteenth Edition, Vol.1, page 217)

29.In the instant case, the plaintiffs claim that the photographs were taken during the making of the film and the photographers were paid



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for their artistic work. The defendants deny the said averment. Neither the plaintiffs nor the defendants have let any evidence regarding the origin of the photographs i.e, whether it was part of the cinematography film or taken during the making of the film. Also, no evidence to prove or disprove the payment of remuneration. But then, in the absence of any other rival claim over the copyright in the said artistic work, it is to be held that the plaintiffs have established the copyright in the photographs vest with the producer who engaged the photographers. The right of the producer shall prevail over the defendants, who admits that she does not claim any copyright and she purchased only the photographs from a scrap dealer for valuable consideration. Therefore, the Issue No.1 is answered in affirmative.”

The learned Judge found that the defendants never claimed to be the copyright owners or licensees. Their case was only that they were in possession of the photographs. Even if the appellants had purchased the photographs from a scrap dealer, that would not give them copyright. They could acquire copyright only if the person who sold the photographs actually owned the copyright and had the legal right to transfer it. The appellants failed to establish any such ownership or transfer.

16. It is pertinent to note that the defendants have not claimed copyright over the photographs. Their case is mainly based on their possession and purchase of the physical photographs from a scrap dealer. Purchase or possession of the physical photographs, by itself, does not give

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copyright in the photographs. The question, therefore, is whether the plaintiffs have established that late Mr.Rudraiah became the first owner of the copyright in the photographs.

17. It is true that the photographers who took the photographs were not examined and that there is no direct document, such as an agreement, to show their arrangement with late Mr.Rudraiah. There is also no direct document to show the payment made to them. However, these facts have to be considered along with the oral evidence, admissions of the parties, the nature of the photographs and the circumstances in which they were taken. The initial burden was on the plaintiffs to prove their copyright. The failure of the defendants to prove their own copyright cannot, by itself, prove the plaintiffs' copyright. The issue has to be decided by considering all the evidence available on record.

18. In the present case, the photographs are production photographs taken during the making of *Aval Appadithan*. It is admitted that late Mr.Rudraiah was the producer and director of the film. The plaintiffs have specifically stated that the photographers were engaged to take the



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production photographs for the film at the instance of late Mr.Rudraiah. The defendants have not produced any material to show that the photographs were taken independently of the film production or that any particular photographer has claimed copyright over them. These facts have to be considered along with the other evidence in the case.

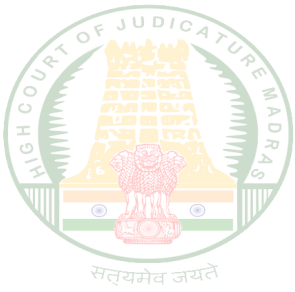
19. It is also necessary to consider whether late Mr.Rudraiah was the first owner of the copyright in the photographs. Section 17 of the Copyright Act provides that the author is normally the first owner of copyright. However, clause (b) of the proviso to Section 17 provides that, in the case of a photograph taken for valuable consideration at the instance of a person, that person will be the first owner, unless there is an agreement to the contrary. In the present case, the plaintiffs' case is that the photographs were taken during the making of *Aval Appadithan*, that the photographers were engaged by late Mr.Rudraiah for taking the production photographs and that they were paid for their work. Though the defendants disputed the payment, they have not produced any contrary material or shown that any particular photographer claimed copyright over the photographs. The learned Single



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Judge considered the evidence as a whole, including the admitted fact that late Mr.Rudraiah was the producer and director of the film, and held that the copyright in the photographs vested in him. We find that the finding was not based merely on his position as producer and director, but on the overall facts and evidence available on record.

20. We must also keep in mind that this is a civil proceeding. The plaintiffs are not required to prove their case beyond reasonable doubt, as in a criminal case. The Court has to consider all the evidence and decide whether the plaintiffs' case is more probable than the defence of the appellants. In the present case, the photographs were production photographs connected with *Aval Appadithan*; late Mr.Rudraiah was admittedly the producer and director of the film; the plaintiffs' case is that the photographers were engaged by him to take the photographs; and the defendants have not established any assignment, licence or other title to the copyright in their favour. Further, except the plaintiffs, none of the other persons, namely, the photographers, Kumar Arts, or even the defendants, claimed copyright. Considering all these circumstances together, we find no reason to interfere with the finding of the learned Single Judge.



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21. The objection regarding the plaintiffs' status as the legal heirs of late Mr.Rudraiah also cannot be accepted. The materials on record and the correspondence relied upon by the parties support their relationship with late Mr.Rudraiah. The son of late Mr.Rudraiah, who was initially arrayed as the third defendant, was subsequently transposed as the second plaintiff in the suit. No other person has come forward claiming to be entitled to the estate or copyright of late Mr.Rudraiah. In the circumstances, the contention that the plaintiffs have failed to establish their status as the legal heirs of late Mr.Rudraiah is rejected.

22. The plea of acquiescence raised by the defendants also cannot be accepted. The correspondence relied upon by the defendants may show that the plaintiffs came to know that the defendants were in possession of the photographs and had preserved and digitised them. However, mere knowledge of such possession or appreciation of the preservation work does not amount to assignment, licence or relinquishment of copyright. The defendants have not produced any agreement or other material to show that



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late Mr.Rudraiah or the plaintiffs had transferred, licensed or relinquished the copyright. Therefore, the plea of acquiescence cannot defeat the plaintiffs' claim.

23. For the reasons stated above, we find that the learned Single Judge was justified in holding that the plaintiffs had established their claim to the copyright in the production photographs and were entitled to enforce the same. We find no illegality in the judgment and decree of the learned Single Judge warranting interference in this appeal. Accordingly, we find no reason to interfere with the conclusion of the learned Single Judge.

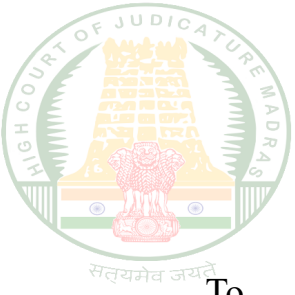
24. Accordingly, the Original Side Appeal is dismissed. The judgment and decree dated 13.07.2021 passed by the learned Single Judge in C.S.No.674 of 2017 are confirmed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[P.V.J.,] [K.G.T.J.,]
27 / 08 / 2026

Neutral Citation:Yes

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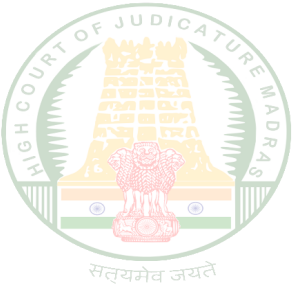


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The Sub Assistant Registrar,
(Original Side)
Madras High Court,
Chennai.



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P.VELMURUGAN. J.
and
K.GOVINDARAJAN THILAKAVADI, J.

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Judgement in
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