



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
IN ITS COMMERCIAL DIVISION  
INTERIM APPLICATION (L) NO.19872 OF 2022  
IN  
COMMERCIAL IP SUIT NO.464 OF 2022

Super Cassettes Industries Private Limited ... Applicant

**In the matter between:**

Super Cassettes Industries Private Limited ... Plaintiff

Vs.

RBEP Entertainment Private Limited and others ... Defendants

**ALONG WITH**

INTERIM APPLICATION (L) NO.21759 OF 2022  
IN  
COMMERCIAL IP SUIT NO.457 OF 2022

Hungama Digital Media Entertainment Private Limited... Applicant

**In the matter between:**

Hungama Digital Media Entertainment Private Limited... Plaintiff

Vs.

RBEP Entertainment Private Limited and others ... Defendants

Mr. Aspi Chinoy, Senior Advocate a/w. Mr. Harsh Kaushik, Ms. Zahra Padamsee and Mr. Kyle Curry i/b. Vashi and Vashi for Applicant in IAL/19872/2022 and for Plaintiff in COMIP/464/2022 as also for Defendant No.6 in COMIP No.457 of 2022.

Mr. Harsh Kaushik a/w. Mr. Vinay Nair i/b. Mr. Arun Panicker for Applicant in IAL/21759/2022 and for Plaintiff in COMIP/457/2022 as also for Defendant No.7 in COMIP No.464 of 2022.

Mr. Pratik Seksaria, Senior Advocate a/w. Ms. Sanaea Laskari and Mr. Rudra Deosthali i/b. Parinam Law Associates for Defendant No.1 in COMIP/464/2022 and COMIP/457/2022.

Mr. Janak Dwarkadas, Senior Advocate a/w. Mr. Rohan Kelkar, Ms. Namrata Vinod, Mr. Kartikeya Desai and Ms. Rashi Shah i/b. Kartikeya & Associates for Defendant No.2 in COMIP/464/2022 and COMIP/457/2022.

Mr. Darius J. Khambata, Senior Advocate a/w. Mr. Rohaan Cama, Ms. Janaki Garde, Mr. Pheroze Mehta, Ms. Neha Sonawane and Mr. Aagam Mehta i/b.

Rashmikant & Partners for Defendant No.5 in COMIP/464/2022 and for Defendant No.3 in COMIP/457/2022.

Mr. Ashwin Bhadang a/w. Mr. Ravindra Suryawanshi, Mr. Krunal Mehta and Mr. Archit Bhatt i/b. Bar & Brief Attorneys for Defendant No.4 in COMIP No.457 of 2022 and for Defendant No.6 in COMIP/464/2022.

**CORAM : MANISH PITALE, J.**

Reserved on : **20<sup>th</sup> APRIL, 2023**

Pronounced on : **05<sup>th</sup> JUNE, 2023**

**ORDER :**

. These two applications have been filed by the plaintiffs in the captioned suits, seeking specific interim reliefs in the context of termination of a Long Form Agreement (LFA) dated 05.12.2009 executed between the plaintiffs in these suits and the defendant - RBEP Entertainment Private Limited. The plaintiff in Commercial IP Suit No.457 of 2022 is defendant No.7 in Commercial IP Suit No.464 of 2022 and for the sake of convenience, the said plaintiff i.e. Hungama Digital Media Entertainment Private Limited is referred to as defendant No.7 in this order.

2. The controversy between the parties has arisen on account of defendant No.1 in both the suits i.e. RBEP Entertainment Private Limited, purportedly terminating the LFA dated 05.12.2009. According to the applicants, such termination is unsustainable on the face of it and that, a strong *prima facie* case is made out for granting interim reliefs on that basis. The applicants have also sought other ancillary reliefs in the facts and circumstances of the present case, which are opposed by the contesting defendants.

3. It would be appropriate to refer to the chronology of events leading to filing of the suits and the present applications. On 26.10.2009, the plaintiff (Super Cassettes Industries Private Limited), defendant

No.1 (RBEP Entertainment Private Limited) and defendant No.7 (Hungama Digital Media Entertainment Private Limited), who is also the plaintiff in the companion suit, entered into a Memorandum of Understanding (MoU), whereby the parties agreed to enter into the LFA, whereunder defendant No.1 was to assign to the said plaintiff - 40% and to defendant No.7 - 20% of copyright i.e. audio rights, mobile and digital rights as also publishing rights in Reliance Music Back Catalogue i.e. existing music titles and Fresh Catalogue i.e. unreleased future music titles of films. The three parties were to become joint copyright holders in the ratio of 40:40:20.

4. In pursuance of the MoU, on 05.12.2009, the LFA was executed between the said parties, whereby the three parties became joint copyright holders in the aforementioned ratio. The rights in the Back Catalogue were granted under the LFA to the plaintiff - 40% and to defendant No.7 - 20%. An identical proportion of rights in the Fresh Catalogue were to be given by entering into separate ancillary assignment deeds. The LFA also recorded that the plaintiff i.e. Super Cassettes Industries Private Limited / T-Series would hold exclusive 100% irrevocable licence in perpetuity to exploit the rights in music of the films covered under the LFA and the ancillary assignment deeds. The revenues collected were to be split between the three parties in the ratio of 40:40:20, after recoupment of the minimum guarantee amount and deduction of costs / expenses. The LFA also provided that defendant No.1 - RBEP Entertainment Private Limited would not be entitled to assign / license such rights to any entity other than the plaintiff i.e. Super Cassettes Industries Private Limited / T-Series.

5. The LFA also provided as to the manner in which it could be terminated, further stipulating that the rights in the Fresh Music Catalogue assigned in favour of the said plaintiff and defendant No.7

would be re-assigned in favour of defendant No.1 after valuation being carried out by one of the big four auditors on the consideration being received. The parties have made conflicting claims on the interpretation of the clauses pertaining to termination of the LFA and its effects.

6. Between 2009 and 2014, the plaintiff, defendant No.1 and defendant No.7 entered into 34 assignment deeds pertaining to the rights of 34 films under the Future Catalogue, the details of which have been given in paragraph 8 of the plaint. The said assignment deeds were in tune with the terms of the LFA. Between 2014 and 2016, independently of the LFA, 6 assignment deeds were executed between the plaintiff and defendant No.1, whereby the plaintiff acquired 100% copyright and rights to promotional exploitation of music of 6 films, by paying specific amount to defendant No.1. These assignment deeds were different from the ancillary assignment deeds executed under the LFA, as 100% copyright stood assigned to the plaintiff. Similarly, in the years 2003, 2011 and 2016, the plaintiff acquired 100% copyright in the musical works, literary works, sound recordings etc. of 3 films on the basis of assignment deeds executed in its favour. According to the plaintiff, these 3 assignment deeds had no connection with the LFA dated 05.12.2009.

7. According to the plaintiff, it performed its obligations in respect of marketing and promotion of music of the films and that defendant No.1 owed substantial sums of money to the plaintiff towards marketing and promotion of the music of the films covered under the LFA and the other films. The plaintiff has then referred to meetings between the parties and exchange of communications in that regard, further claiming that it was entitled to adjust amounts allegedly payable by defendant No.1, as against the amounts payable by the plaintiff under the LFA. It was claimed that an amount of about Rs.50 lakhs was payable to the plaintiff. These claims are refuted before this Court by the contesting

defendants.

8. On 24.01.2022, the plaintiff received a letter from defendant No.2, claiming to be a constituted attorney of defendant No.1, demanding statement of revenues and payment of 40% of the revenues under the LFA. It was specifically stated that the amount, due and payable, be transferred to the bank account of defendant No.5 i.e. Mad Man Film Ventures Private Limited. According to the plaintiff, since the said letter did not indicate as to in what manner defendant No.2 was authorized to issue such a communication, particularly when it was written on plain paper without any company stamp or letterhead, the plaintiff chose not to respond to the same. On 26.03.2022, another letter was received from defendant No.2, stating that since the plaintiff had not furnished the statement of account of revenues and it had also failed to make payment to defendant No.5, the plaintiff had committed breach of the LFA, which was required to be rectified within 30 days. It was stated that if appropriate steps were not taken by the plaintiff in this regard within 30 days, further steps would be taken to terminate the LFA. On 11.04.2022, the advocates of the plaintiff responded to the two letters received from defendant No.2 who was claiming to be the constituted attorney of defendant No.1, pointing out that the power of attorney allegedly authorizing defendant No.2 had not been served on the plaintiff. On this basis, the plaintiff stated that it will not be dealing with the letters dated 24.01.2022 and 26.03.2022 sent by defendant No.2.

9. On 27.04.2022, the plaintiff received a letter from defendant No.2, purportedly acting as the constituted attorney of defendant No.1, whereby defendant No.2 terminated the LFA and assignment deeds on the ground that the plaintiff had failed to furnish statement of accounts and that it had also failed to make payments due, despite the aforementioned letters dated 24.01.2022 and 26.03.2022. On the same

day, defendant No.2 caused a public notice to be published, alleging that pursuant to such termination notice, pertaining to the LFA and the music assignment deeds, the copyright in the audio rights, mobile and digital rights as also the music rights covered under the LFA and the assignment deeds stood re-assigned to defendant No.1 and defendant No.5 in the ratio of 50:50. It was claimed that the plaintiff and defendant No.7 ceased to have any such rights, which were created under the LFA and assignment deeds. This public notice included, not only the films covered under the LFA, but also the 9 films (6+3) in respect of which separate assignment deeds had been executed between the plaintiff and defendant No.1.

10. On 28.04.2022, the advocates for the plaintiff responded to the said termination letter dated 27.04.2022 sent by defendant No.2, stating that there was no basis and authority for issuing such letter, particularly when the letter issued by defendant No.2 asked the plaintiff to deposit amounts allegedly due under the LFA in the account of defendant No.5. The plaintiff also caused a public notice to be issued, stating that it had exclusive exploitation rights for the 45 films in the context of which the public notice was issued. It was further stated that the plaintiff along with defendant No.7 continued to have majority copyright in the said films. It is stated that the plaintiff erroneously included the aforesaid 9 films, as subject matter of the public notice.

11. On 02.05.2022, the plaintiff received a letter from the advocates of defendant No.2, alleging that the LFA and the assignment deeds were correctly terminated. It was with this letter that for the first time, a copy of the special power of attorney dated 06.12.2021, purportedly executed by defendant No.1 in favour of defendant No.2 in his capacity as director in defendant No.5, was furnished to the plaintiff. On the same day, the advocates of defendant No.2 issued letters to various licensees

of the plaintiff stating that the rights pertaining to the films given to the plaintiff under the LFA and subsequent assignment deeds had been terminated. It was alleged that the plaintiff no longer had right or authority to exploit such rights pertaining to the films and that such rights had vested back with defendant No.1. On 03.05.2022, the plaintiff sent reply to the letter dated 02.05.2022 received from defendant No.2, denying all the allegations as being untenable. The plaintiff seriously doubted the authority claimed by defendant No.2 on the basis of the special power of attorney. On the same day, the plaintiff sent a letter to defendant No.1 to verify as to whether the special power of attorney was in fact executed by defendant No.1 in favour of defendant No.2. The plaintiff also requested for a copy of consent terms dated 06.12.2021, on the basis of which, the said special power of attorney was said to have been executed. On 04.05.2022, the plaintiff sent letters to its licensees, clarifying that the LFA was valid and subsisting and that the allegations of the termination of the same were false. Thereafter, communications were exchanged between the contesting parties, making allegations and counter-allegations as regards amounts allegedly due and payable by the plaintiff.

12. On 17.05.2022, defendant No.1, for the first time, responded to the plaintiff and confirmed that the special power of attorney was executed by a person authorized by the board of defendant No.1 to execute such power of attorney. On this basis, defendant No.1 stated that defendant No.2 was indeed its constituted attorney. Defendant No.2, purportedly acting on behalf of defendant No.1 and defendant No.5, started issuing letters and communications to the licensees of the plaintiff, stating that all rights under the LFA stood re-assigned to defendant No.1 and defendant No.5. It was also stated that the said defendants had assigned the rights pertaining to the said films to

defendant No.6 - ZEE Entertainment Limited, as per a purported assignment deed dated 13.05.2022. It was in this backdrop that on 19.05.2022, a public notice was issued by defendant No.6, claiming that it had acquired rights in respect of 42 films (34 films covered under the LFA, 6 films in respect of which separate agreements were executed between the plaintiff and defendant No.1 and a further 2 films for which such separate and independent agreements had been executed). On 31.05.2022, the plaintiff forwarded a summary / reconciliation of accounts between the plaintiff, defendant No.1 and defendant No.4. It was stated that the plaintiff had withheld certain amounts under the LFA as also the assignment deeds and the balance amount was reflected. It is in this backdrop that the suits were filed along with the applications for interim reliefs. The plaintiff and defendant No.7 (plaintiff in Commercial IP Suit No.457 of 2022) sought reliefs in respect of termination of the LFA and consequential reliefs. The plaintiff - Super Cassettes Industries Private Limited also sought reliefs in respect of the 9 films, which pertained to separate and independent agreements executed with defendant No.1. The interim reliefs also pertained to specific directions restraining the contesting defendants from claiming joint ownership of the copyright in the suit films and an order restraining them from exploiting rights concerned with the said films.

13. The defendants filed their replies in the applications and opposed the grant of interim reliefs. Defendant No.1 referred to the fact that it had entered into a business transfer agreement with defendant No.4 - Phantom Films, transferring its business relating to production and distribution of films to the said defendant for consideration i.e. 50% shares of defendant No.4. It was submitted that out of the balance, 12.5% shares were held by defendant No.5 and 37.5% shares were held by promoters of defendant No.4.



14. It was stated that disputes arose between defendant Nos.4 and 5, that were settled by a consent award dated 03.03.2021, which provided that the 50% shareholding in defendant No.4 would be transferred to defendant No.5 and all assets and IP rights acquired by defendant No.4 from defendant No.1 would continue to vest absolutely in defendant No.4. It was also stated that disputes arose between defendant Nos.1 and 5, which came to be settled by a consent order dated 06.12.2021. Under the said order, defendant No.5 transferred its 50% shares in defendant No.4 to Reliance Creative for a specific amount and that music rights in respect of films stated in the schedule stood transferred to defendant No.5. The consent minutes of order also recorded that all rights of defendant No.1 and / or defendant No.4 under the assignment agreements stood finally vested and transferred. The plaintiff emphasized upon the fact that defendant No.1 also stated that defendant No.2 had exceeded his authority under the special power of attorney when the assignment agreement dated 16.05.2022 was executed in favour of defendant No.6, further claiming that the same was not binding on defendant No.1. It was further denied that the LFA was terminated at the behest of defendant No.1, claiming that defendant No.2 had undertaken actions at the behest of defendant No.5, and that in view thereof, the LFA was terminated.

15. The reply affidavits filed on behalf of the other defendants also opposed the grant of interim reliefs, claiming that once the LFA stood terminated, the copyright no longer vested in the plaintiff and defendant No.7.

16. Upon the pleadings being completed, the learned counsel for the parties were heard on the question of grant of interim reliefs as prayed in the said applications.

17. Mr. Aspi Chinoy, learned senior counsel appearing for the plaintiff submitted that a strong *prima facie* case was made out on behalf of the plaintiff, at the outset, in respect of the aforementioned 9 films, on the basis that such films had no connection with the LFA at all. It was submitted that the assignment agreements, executed in respect of 6 films at a point in time and in respect of the other 3 films, clearly provided that copyright in the said films absolutely vested with plaintiff - Super Cassettes Industries Private Limited. Since the said films had nothing to do with the LFA and the controversy pertaining to its termination, interim relief ought to be granted in respect of the 9 films, without any difficulty. It was submitted that the contention raised on behalf of the contesting defendants that assignment agreements were executed under the LFA, which was an umbrella document, did not apply to these 9 films at all, and that therefore, interim reliefs in respect thereof ought to follow.

18. It was further submitted that the termination of the LFA by defendant No.2 by letter dated 27.04.2022 was clearly invalid, null and void. The learned senior counsel for the aforesaid plaintiff invited attention of this Court to the clauses of the LFA, particularly clause 6 thereof, pertaining to termination of the agreement. It was submitted that the specific requirements recorded in the said clause were not satisfied, and that therefore, the termination was invalid on the face of it. It was submitted that the purported exercise of power by defendant No.2 on 27.04.2022, was without any basis and nothing was brought to the notice of the plaintiff to show that defendant No.2 had any authority to act on behalf of defendant No.1.

19. In the context of the special power of attorney purportedly executed by defendant No.1 in favour of defendant No.2, it was submitted that the same in no manner authorized defendant No.2 to deal

with or to terminate the LFA. At the most, defendant No.2 could have taken necessary steps for recovery of amounts allegedly due under the assignment agreements and nothing beyond that. It was submitted that there was no authority given to defendant No.2 to act in respect of the LFA.

20. By referring to the contents of the affidavit filed by defendant No.1, and in that context, to letter issued on 16.06.2022 by defendant No.1, it was claimed that defendant No.2 was authorized under the special power of attorney to act only in respect of the assignment agreements and there was no authority given to defendant No.2 to terminate the LFA. Reference was made to the contents of the power of attorney to emphasize that the plain language of the same did not give any authority to defendant No.2 to terminate the LFA on behalf of defendant No.1. It was submitted that the consent order dated 06.12.2021, on the basis of which the special power of attorney was executed, could not have covered the films that were the subject matter of the LFA.

21. It was further submitted that as per the provisions of the Copyright Act, 1957, particularly Section 19 thereof, copyright in the films would be re-assigned to the plaintiff, only upon a proper document in writing executed between the parties. In the absence of such document, by mere termination of the LFA, the copyright in the films could not be re-assigned to the plaintiff. It was submitted that, at best, defendant No.1 could have a money claim against the plaintiff and nothing beyond that. The learned senior counsel appearing for the plaintiff then dealt with the contentions raised on behalf of defendant No.5 on the aspect of equitable assignment of the copyright, stating that the facts in the present case, did not indicate a situation where defendant No.1 could claim equitable assignment of the copyright.

22. Without prejudice to the aforementioned contentions, the learned senior counsel then submitted that, even on facts, there was nothing to show that amounts were due from the plaintiff to defendant No.1, to justify any action for terminating the LFA. In support of his contentions, the learned senior counsel appearing for the plaintiff placed reliance on judgement of the Madras High Court in the case of *Yennes Infotech (P) Limited Vs. Managing Director, eNoah Solution Pvt. Limited*, **AIR 2021 Mad 281**.

23. Mr. Harsh Kaushik, learned counsel appearing for the applicant / plaintiff in Interim Application (L) No.21759 of 2022 in Suit No.457 of 2022, adopted the arguments advanced by the learned senior counsel appearing for the applicant / plaintiff in Interim Application (L) No.19872 of 2022 in Suit No.464 of 2022. Additionally, he submitted that there was no allegation that the plaintiff in the said suit had committed any breach of the LFA. In any case, the said plaintiff was never put to notice by any communication on the part of defendant No.2 as regards proposed termination of the LFA. On this basis, it was submitted that a strong *prima facie* case was indeed made out and that the interim reliefs ought to be granted in favour of the applicant / plaintiff in the said Suit.

24. Mr. Janak Dwarkadas, learned senior counsel appearing for defendant No.2 submitted that the contentions raised on behalf of the plaintiffs were unsustainable for the reason that the conduct of the plaintiff, in the face of letters and notices issued by defendant No.2, was not that of a prudent business entity. According to him, the plaintiff ought to have adopted a reasonable approach by immediately reaching out to defendant No.1 to verify as to whether defendant No.2 was indeed the constituted attorney, authorized to act on behalf of defendant No.1. It was submitted that defendant No.2 in the present case, was the agent of

a disclosed principal and that applying the principles of agency, the plaintiff ought to have immediately responded to the letters issued by defendant No.2, acting as the constituted attorney of defendant No.1. Having failed to do so at its own peril, the plaintiffs could not be permitted to turn around to claim that the procedural requirements under clause 6 of the LFA were not satisfied for the termination of the LFA.

25. The learned senior counsel submitted that the plaintiffs ought to have immediately responded to the first letter issued by defendant No.2 in the context of the LFA and appropriate queries could have been raised at the relevant time. After the LFA stood terminated, there was no question of the plaintiffs being entitled to challenge the same on the ground that copy of the special power of attorney was never furnished. It was further submitted that, in any case, defendant No.1 had ratified the actions of defendant No.2, taking away the force of the arguments made on behalf of the plaintiffs in that regard. On this basis, it was submitted that there was no question of granting any interim reliefs in favour of the plaintiffs.

26. Mr. Darius Khambata, learned senior counsel appearing for defendant No.5 submitted that the LFA was an umbrella agreement, governing the rights and obligations of the parties, which included the existing as well as future unreleased films of defendant No.1. By referring to the terms of the LFA, as well as the assignment agreements executed thereunder, it was submitted that a proper reading of the same would show that defendant No.2, as power of attorney holder of defendant No.1, was entitled to terminate the LFA. By referring to the contents of the power of attorney executed in favour of defendant No.2, it was submitted that there was sufficient authority given to defendant No.2 to not only take necessary steps in the context of the assignment

agreements but also to take consequential steps, which included termination of the LFA due to non-payment of dues by the plaintiffs. The learned senior counsel for defendant No.5 specifically highlighted phrases and expressions used in the special power of attorney to contend that such a power was clearly available to defendant No.2. Reference was made to judgements in the case of *Timblo Irmaos Limited, Margo Vs. Jorge Anibal Matos Sequeira and another*, **(1977) 3 SCC 474** and *Killick Nixon Limited and others Vs. Bank of India and others*, **1982 SCC OnLine Bom 57**, as also the judgement of the Karnataka High Court in the case of *S. V. Revanaradhya Vs. Sri Jagadish Mallikarjunaiah Chakrabhavi*, **ILR 2010 KAR 3774**, to contend that words in a power of attorney ought to be interpreted in the context of a document as a whole and that applying the said position of law would show that defendant No.2, as the constituted attorney of defendant No.1, was entitled to terminate the LFA.

27. The learned senior counsel for defendant No.5 made detailed submissions on the clauses of the LFA, particularly clauses 6 and 6.1 pertaining to termination of the LFA. It was submitted that the only reasonable interpretation of the same could be that, upon termination of the LFA, the copyright stood re-assigned to defendant No.1 and that, the said document itself satisfied the requirements of Section 19 of the Copyright Act. It was submitted that a separate document was not required to be executed, in the facts and circumstances of the present case, for re-assignment of the copyright in favour of defendant no.1. Reliance was placed on the judgement of the Delhi High Court in the case of *Sunil Aggarwal and another Vs. Kum Kum Tandon and others*, **1995 (33) DRJ 599**, to claim that an equitable assignment was created in terms of the LFA, as a consequence of the specific words used in clause 6.1 of the LFA. The learned senior counsel further placed reliance

on the consent orders passed in the disputes between the defendant No.5 and the other contesting defendants, to contend that granting any interim reliefs in favour of the plaintiffs would adversely affect the interests of defendant No.5, despite the fact that the plaintiffs had failed to make out a *prima facie* case in their favour. It was submitted that this was more so in the backdrop that the plaintiffs had defaulted in the context of the payments due under the LFA. Since the specific procedure for termination of the LFA, contemplated in the clauses thereof, was duly followed, the termination was justified on the face of it, thereby indicating that the plaintiffs did not deserve any interim reliefs in the matter. It was further submitted that in the facts of the present case, defendant No.1 was entitled to enter into a contract in respect of its 40% copyright with regard to the said films, without the consent of the plaintiffs and for this contention, reliance was placed on judgement of the Supreme Court in the case of *Khardah Company Limited Vs. Raymon & Co. (India) Private Limited*, (1963) 3 SCR 183. On this basis, it was submitted that the applications deserved to be dismissed.

28. The learned senior counsel appearing for the other defendants also opposed grant of interim reliefs in favour of the plaintiffs.

29. Heard learned counsel for the parties and perused the material on record. In order to examine as to whether the plaintiffs deserve the interim reliefs claimed in the present applications, it would be necessary to refer to the LFA, particularly the clause pertaining to termination thereof. But, before referring to the same, it would be appropriate to deal with the contentions raised on behalf of the plaintiffs that, as regards the 9 films not the subject matter of the LFA, interim reliefs ought to be granted by this Court. It is emphasized that the question as to whether the termination of the LFA can *prima facie* be said to be bad, would not arise, while considering the interim reliefs claimed by the plaintiff -

Super Cassettes Industries Private Limited, in respect of the aforementioned 9 films.

30. A perusal of the material on record indeed shows that insofar as the said 9 films are concerned, in respect of which the plaintiff - Super Cassettes Industries Private Limited has claimed interim reliefs under prayer clauses (a) and (b), the same are not covered under the LFA. The said plaintiff and defendant No.1 entered into independent and distinct assignment agreements with respect to the said 9 films, whereby the copyrights in the said films were assigned in favour of the said plaintiff. Thus, the assignment agreements make no reference to and are not covered under the LFA. Therefore, there is substance in the contention raised on behalf of the plaintiffs that when the question of validity or otherwise of termination of LFA does not arise in the context of the said 9 assignment agreements executed between the plaintiff - Super Cassettes Industries Private Limited and defendant No.1, interim reliefs ought to follow in favour of the plaintiffs. It is significant that 100% copyright and exploitation rights pertaining to the 9 films stood assigned in favour of the said plaintiff on the basis of the said assignment agreements executed by defendant No.1 in its favour. There was no agreement for sharing of the copyright or the revenue generated therefrom. There is nothing to show as to how these 9 assignment agreements could be covered under the LFA to justify resistance on the part of the defendants to grant of interim reliefs pertaining to the 9 films. This Court is convinced that the plaintiff - Super Cassettes Industries Private Limited has indeed made out a strong *prima facie* case for grant of interim reliefs pertaining to the said 9 films, as the dispute pertaining to them does not appear to be covered under the dispute pertaining to the validity or otherwise of termination of the LFA. Therefore, interim reliefs in respect of the 9 films deserve to be granted in favour of the



plaintiff - Super Cassettes Industries Private Limited.

31. As regards the films covered under the LFA, it would be necessary to deal with the rival contentions in the backdrop of the contents of the LFA. A perusal of the same shows that the plaintiff - Super Cassettes Industries Private Limited, defendant No.1 - RBEP Entertainment Private Limited and defendant No.7 - Hungama Digital Media Private Limited, entered into the LFA dated 05.12.2009. As per the said agreement, the 3 parties had ownership of copyrights in the films that were subject matter of the said agreement, in the ratio of 40:40:20. This included the Back Catalogue of the already existing films and Fresh Catalogue pertaining to the films that were to be released in future. In respect of the Fresh Catalogue, assignment agreements were executed between the parties. It was recorded that audio, mobile, digital as well as publishing rights assigned by defendant No.1 to the plaintiff and defendant No.7 shall be irrevocable, subject to clause 6 of the LFA. The said clause pertained to termination and clause 6.1 pertained to consequences of termination of LFA. The rival parties have sought to interpret the said clauses 6 and 6.1 of the LFA, in tune with their respective stands. This Court is of the opinion that interpretation of the same at this stage, needs to be undertaken, only to arrive at *prima facie* findings in the matter.

32. In this regard, Section 19 of the Copyright Act, assumes significance because the same provides for the mode of assignment of the copyright. It is specifically laid down that no assignment of the copyright in any work is valid unless it is in writing signed by the assignor or by his duly authorized agent. The question for consideration is, as to whether termination of the LFA would in itself lead to the copyright in the said films being re-assigned to defendant No.1, in the absence of any document in writing being executed for such re-

assignment. Clauses 6.1(b) and (c) record that upon such termination, the music rights in the films that were subject matter of the LFA, shall be re-assigned to defendant No.1. It is significant that such re-assignment would occur upon the conditions specified in clauses 6 and 6.1 of the LFA, being satisfied. This entails satisfaction of clause 6(b) of the LFA, which lays down the procedural mechanism for termination of the LFA, in the event, the plaintiff fails to make timely payments to defendant No.1, as per the LFA. The requirements specified in clause 6.1 of the LFA also indicate that the copyright shall be assigned upon defendant No.1 making certain payments. In one of the contingencies under clauses 6 and 6.1 of the LFA, accounts are required to be settled with the help of one of the big 4 auditors to be mutually appointed by the parties.

33. Thus, it appears that the re-assignment of the copyright in favour of defendant No.1 would not take place merely upon issuance of notice of termination of the LFA. This Court is of the opinion that there are serious disputes between the parties on the question as to whether clauses 6 and 6.1 of the LFA have been duly complied with, to claim valid termination of the LFA and in these circumstances, this Court will have to arrive at *prima facie* finding as to whether the termination was indeed in terms of the requirements of the said clauses of the LFA. Apart from this, it is significant that the expression used in clause 6.1 read with clause 6 of the LFA, is that copyright under the LFA “shall be re-assigned” to defendant No.1, and not that the copyright “stands assigned”. This aspect *prima facie* indicates that there would be an obligation to execute a deed of re-assignment, after the requirements specified in clauses 6 and 6.1 of the LFA are found to have been complied with.

34. There is substance in the contention raised on behalf of the plaintiff that when defendant No.1 claimed that certain amounts were

due to it, in the backdrop of the terms of the LFA, the copyright cannot be simply re-assigned or returned on the ground of non-payment of certain amounts. Defendant No.1 may be entitled to claim the money allegedly due to it, but it does not appear that the copyright would be re-assigned merely due to the alleged failure of payment of dues by the plaintiff. A specific re-assignment deed has to be executed in writing. Reliance placed on behalf of the plaintiff on the judgment of the Madras High Court in the case of **Yennes Infotech (P) Limited Vs. Managing Director, eNoah Solution Pvt. Limited** (*supra*) is appropriate in this regard. In the said judgment, it has been held that a claim of money may lie in such circumstances, but re-assignment of the copyright in the absence of the document in writing, cannot be contemplated.

35. Apart from this, it is a disputed question as to whether the requirement of clause 6(b) of the LFA was satisfied, particularly the timeline of 45 days from first intimation regarding balance amount due and efflux of further period of 30 days after issuance of a final written notice on behalf of defendant No.1 in that regard. In the present case, there is serious controversy as to whether the letters issued by defendant No.2 on 24.01.2022 and 26.03.2022, satisfy the requirement of clause 6(b) of the LFA, as defendant No.2 did not support its claim of being a constituted attorney of defendant No.1, by furnishing any document to the plaintiff alongwith the said letters, much less, copy of the special power of attorney, purportedly executed by defendant No.1 in its favour. A copy of the special power of attorney was furnished to the plaintiff for the first time on 02.05.2022, after the letter dated 27.04.2022 issued by defendant No.2 purported to terminate the LFA and the assignment deeds. This Court is of the opinion that such conduct of defendant No.2 *prima facie* gives rise to a situation, where the plaintiff can claim that the requirement of clause 6(b) of the LFA was not satisfied. The contesting

defendants have sought to get over the said situation by stating that since defendant No.1 subsequently ratified the actions of defendant No.2, the plaintiff having failed to respond to the letters dated 24.01.2022 and 26.03.2022 issued by defendant No.2, ought to be held against the plaintiff.

36. This Court is of the opinion that even though defendant No.1 claims to have subsequently ratified the actions of defendant No.2 and copy of the special power of attorney was indeed subsequently made available to the plaintiff, the effect of the same appears to be diluted by the stand taken on behalf of defendant No.1 that the special power of attorney did not authorize defendant No.2 to terminate the LFA and the assignment deeds. In this regard, attention of this Court was also invited to letter dated 16.06.2022, addressed by defendant No.1 to defendant Nos.2 and 5, *inter alia*, stating that under the special power of attorney, defendant No.2 was authorized to act with respect to recoveries under the music assignment agreements only and that the constituted attorney was not given any power with respect to the substantive agreement and / or the understanding governing the relation between the parties. It was also specifically stated in the said letter that defendant No.1 was neither part of the decision making process, nor was its approval taken prior to termination of the music assignment agreements. This Court is of the opinion that this aspect of the matter raises a shadow of doubt on the authority of defendant No.2 in terminating the LFA and the assignment agreements, purportedly acting under the special power of attorney on behalf of defendant No.1. This, in itself, helps the plaintiff in demonstrating a strong *prima facie* case in its favour.

37. Apart from this, it is found that a conjoint reading of clauses 6 and 6.1 of the LFA gives rise to a serious controversy in the light of conflicting interpretations of the said clauses, projected on behalf of the

contesting parties. As regards the Back Catalogue as well as the Fresh Catalogue, there is *prima facie* substance in the contention raised on behalf of the plaintiff that unless the issues regarding amounts due, claimed by the parties against each other are resolved, the contingency of the copyright being re-assigned to defendant No.1 may not arise.

38. This Court is of the opinion that in such circumstances, it cannot be said, at this stage itself, that the copyright in the films that were subject matter of the LFA and assignment agreements, stood automatically re-assigned to defendant No.1, upon purported termination of the LFA and assignment agreements. In this regard, reliance placed on behalf of defendant No.5 on the interpretation and construction of the special power of attorney, cannot take the case of the defendants any further for opposing grant of interim reliefs. In the judgments upon which defendant No.5 has placed reliance, including in the cases of **Timblo Irmaos Limited, Margo Vs. Jorge Anibal Matos Sequeira and another** (*supra*), **Killick Nixon Limited and others Vs. Bank of India and others** (*supra*) and **S. V. Revanaradhya Vs. Sri Jagdish Mallikarjunaiah Chakrabhavi** (*supra*), the Courts interpreted the documents that came up for consideration on the basis that the said documents had to be read as a whole and words and expressions used therein deserved to be interpreted in the context of the entire document. Even applying the said principles to the present case, a perusal of the special power of attorney executed in favour of defendant No.2 *prima facie* indicates an authority given to defendant No.2 to undertake actions for recoveries of amounts allegedly due from the plaintiffs under the individual assignment agreements. The use of the expressions in the assignment agreements indicating steps that could be taken in connection with the assignment agreements, do not *prima facie* give an impression that defendant No.2, as the power of attorney holder, could

go ahead to terminate such agreements and in any case, it does not appear to be safe to jump to the conclusion that defendant No.2 was authorized to terminate the LFA itself. This is supported by the stand taken by defendant No.1 itself before this Court and the contents of the letter dated 16.06.2022 sent on behalf of defendant No.1 to defendant Nos.2 and 5, referred to hereinabove.

39. Much emphasis was placed by learned counsel appearing for the contesting defendants on the alleged unreasonable conduct of the plaintiff in not approaching defendant No.1 immediately upon receiving the letter dated 24.01.2022, issued by defendant No.2 claiming to be the constituted attorney of defendant No.1. According to the said defendants, by not approaching defendant No.1 immediately after receiving the letter dated 24.01.2022 from defendant No.2 and even after receiving the subsequent letter dated 26.03.2022, the plaintiff had taken risk of suffering termination of the LFA, by failing to comply with the demands made in the said letters. It was alleged that the plaintiff being in the business world, aware of its commercial rights and obligations, failed to respond at its own peril.

40. In this regard, at this stage, *prima facie* this Court finds substance in the contention raised on behalf of the plaintiff that when the letter dated 24.01.2022 was issued by defendant No.2 on a plain piece of paper with no company stamp or letter-head and without furnishing copy of the special power of attorney allegedly executed by defendant No.1, there was hardly any indication of the authority available to defendant No.2 to act in such a manner. It does not appear that the plaintiff deliberately did not respond with alacrity because it did not intend to pay the amounts allegedly due to defendant No.1. It can also not be said that the conduct of the plaintiff in not immediately approaching defendant No.1, disentitles it to press for interim reliefs.

41. As regards the rival claims about amounts due from one party to the other, this Court is of the opinion that rendering findings on that aspect of the matter would require evidence. In such a situation, it cannot be said that the defendants could claim that the LFA could be terminated. Clauses 6 and 6.1 of the LFA read together in the light of the conflicting stands taken by the rival parties, requires further enquiry and it cannot be said that the copyright in the films that were subject matter of the LFA, stood re-assigned to defendant No.1.

42. Elaborate submissions were made in the backdrop of execution of the special power of attorney, referring to the *inter se* disputes between the defendants and execution of consent terms and orders passed in the light of the consent terms. But, this Court is of the opinion that discussion regarding the same is not necessary, for the reason that the special power of attorney itself has been considered by this Court in the light of the rival submissions. As noted hereinabove, reading of the special power of attorney itself *prima facie* does not give an impression that defendant No.2 was authorized to terminate the LFA itself. The stand of defendant No.1 before this Court and the contents of the letter dated 16.06.2022 are crucial factors for reaching *prima facie* conclusions at this stage. It is for the same reason that the contentions raised on behalf of the rival parties as to the obligation of defendant No.1 to inform the plaintiffs about agreements/documents executed with defendant Nos.4 and 5, does not assume significance. It was claimed on behalf of the plaintiffs that without their consent, defendant No.1 could not have executed such agreements/documents. The said aspect need not detain this Court in considering the prayer for grant of interim reliefs as this Court is of the opinion that the clauses of the LFA, read with the terms of the special power of attorney are sufficient to examine the claim of the plaintiffs for grant of interim reliefs. The stipulations in clauses 6

and 6.1 of the LFA and the material placed on record *prima facie* shows that defendant No.1 could not claim re-assignment of the copyright upon alleged termination of the LFA. The requirement of Section 19 of the Copyright Act *prima facie* does not appear to be satisfied for defendant No.1 to claim that the copyright stood assigned back to it, in the facts and circumstances of the present case. It is significant that in the suit filed by Defendant no.1 against the plaintiffs, which is also pending with these two suits, a specific prayer is made for a direction to the Plaintiffs to execute assignment/re-assignment deed in favour of Defendant no.1. Defendant No.5 is not justified in relying upon the judgment of the Delhi High Court in the case of **Sunil Aggarwal and another Vs. Kum Kum Tandon and others** (*supra*). The said case concerns an equitable assignment and findings were rendered on the basis that entire consideration had been paid and the assignor refused to give effect to a legal assignment despite all required steps being taken by the assignee. In the facts of the present case, the concept of equitable assignment cannot be applied, for the reason that dispute regarding amounts due, itself is before this Court and it cannot be said that all necessary steps were taken by one party, while the rival party still refused to take consequent steps in the matter. In any case, the clauses of LFA do not *prima facie* indicate that under the very same document, upon occurrence of certain contingencies, re-assignment of the copyright would happen and that such a document itself would satisfy the requirements of Section 19 of the Copyright Act, which stipulates that assignment of copyright shall be valid only if it is in writing assigned by the assignor.

43. The case of defendant No.7 - Hungama Digital Media Private Limited (plaintiff in Commercial IP Suit No.457 of 2022) is also based on the aforementioned contentions and additionally, it is claimed that the



said party was not even put to notice before the LFA was terminated by defendant No.2. The documents on record indeed show that the letters issued by defendant No.2, purportedly under clause 6(b) of the LFA, were addressed only to the plaintiff - Super Cassettes Industries Private Limited and they were not addressed to defendant No.7 - Hungama Digital Media Private Limited. The consequences of termination of the LFA are equally drastic on defendant No.7 - Hungama Digital Media Private Limited and therefore, there is substance in the said contention raised on its behalf, particularly when it is having 20% right in the copyright pertaining to the films covered by the LFA.

44. This Court is of the opinion that a strong *prima facie* case is made out by the plaintiffs in their favour for grant of interim reliefs. This Court is of the opinion that unless such interim reliefs are granted, the plaintiffs will continue to suffer grave and irreparable loss and the disputes would get further complicated, as the defendants may enter into further deeds and transactions in the absence of any restraining order. The balance of convenience is found to be in favour of the plaintiffs, on a plain reading of the LFA and assignment agreements, as also the other material brought to the notice of this Court.

45. In view of the above, Interim Application (L) No.19872 of 2022 in Commercial IP Suit No.464 of 2022 is allowed in terms of prayer clauses (a), (b), (c), (d), (e) and (f). Interim Application (L) No.21759 of 2022 in Commercial IP Suit No.457 of 2022 also stands allowed in terms of prayer clauses (i) and (ii). The applications stand disposed of in above terms.

**(MANISH PITALE, J.)**