

**IN THE COURT OF SH. ARUN SUKHIJA,**  
**ADDITIONAL DISTRICT JUDGE – 07, (CENTRAL DISTRICT)**  
**TIS HAZARI COURTS, DELHI.**

**SUIT NO.:- 337/2016**

**UNIQUE CASE ID NO.:- 621109/2016**

**IN THE MATTER OF :-**

**Mrs. Achla Sabharwal**  
**Sole Proprietor M/s. Media International,**  
**1596, Dewan Hall Street,**  
**Film Colony, Bhagirath Palace,**  
**Chandni Chowk, Delhi-110006.**  
**Through Mr. Dheeraj Sabharwal Attorney ....Plaintiff**

**VERSUS**

- 1. M/s. Café 9 Media Hub Pvt. Ltd.**  
**303, Building No.2, Azad Nagar Satyam CHS Ltd.,**  
**Andheri (West), Mumbai – 400 058.**
- 2. M/s. Filidian Impex (India) Pvt. Limited,**  
**Atur House, 1<sup>st</sup> Floor, 87, Dr. Annie Besant Road,**  
**Worli, Mumbai – 400 018.**
- 3. M/s. Goldmines Telefilms Pvt. Ltd.,**  
**Plot No. 45, Ganpati Bhavan, M.G. Road,**  
**Goregaon (West), Mumbai – 400 062.**

- 4. Manish Shah (HUF)**  
**Plot No. 45, 1<sup>st</sup> Floor, Ganpati Bhawan,**  
**M.G. Road, Goregaon (West),**  
**Mumbai – 400 062. ....Defendants**

**SUIT FOR PERMANENT INJUNCTION RESTRAINING  
INFRINGEMENT OF COPYRIGHT & RENDITION OF  
ACCOUNTS OF PROFIT ETC. UNDER THE COPYRIGHT  
ACT, 1957**

**Date of institution of the Suit : 07/12/2016**

**Date on which Judgment was reserved : 04/03/2020**

**Date of Judgment : 26/05/2020**

**::- J U D G M E N T -::**

By way of present judgment, this Court shall adjudicate upon suit for permanent injunction restraining infringement of Copyright & Rendition of Accounts of Profit etc. under the Copyright Act, 1957 filed by the plaintiff against the defendants.

**CASE OF THE PLAINTIFF AS PER PLAINT**

Succinctly, the necessary facts for just adjudication of the present suit, as stated in the plaint, are as under:-

- (a) The plaintiff Mrs. Achla Sabharwal is carrying on business inter-alia of purchase and exploitation of Copyright of Cinematograph Films in the name of M/s. Media International and is proprietor thereof. The

present suit has been filed through Mr. Dheeraj Sabharwal, who inter-alia has been authorized to institute the present suit, sign and verify the pleadings and depose about the same etc. on her behalf vide Power of Attorney dated 9<sup>th</sup> August, 2016.

- (b) Defendants no. 1 and 2 are companies engaged in the business inter-alia of acquisition and exploitation of Cinematograph films for monetary gain. The defendant no.3 appears to be an Indian Company also dealing in acquiring and exploiting rights of Cinematograph Films for monetary gain. The defendant no.4 appears to have some connection with defendant no.3 and as such, the plaintiff, at the time of filing of the present suit, is not aware of the exact business and constitution of defendant no.4 and reserves rights to amend the Memo of Parties/ pleadings after disclosure of the same before this Court.
- (c) During the course of business, the plaintiff under a valid and subsisting “Films Assignment Agreement” dated 24<sup>th</sup> September, 2015 (hereinafter referred to as the “said Agreement”) acquired from defendant no.2 inter-alia the sole and exclusive rights in 32 (Thirty Two) Cinematograph Films (hereinafter referred to as the “said 32 films”).

- (d) As per Article 2 of the said Agreement, plaintiff paid a sum of Rs.20,00,000/-, out of the total agreed consideration amount of Rs.60,00,000/- at the time of signing of Agreement. The balance amount of Rs.40,00,000/- was to be paid by the plaintiff after 60 days of delivery of technically acceptable DG Beta Tapes/ Hard drives, Censor Certificates and Link Agreements, which were to be delivered by the said Assignor defendant no.2. The said “Films Assignment Agreement” dated 24.09.2015 is valid and subsisting in favour of the plaintiff.
- (e) The plaintiff acquired the films from defendant no.2, being the owner and right holder of the films for valuable consideration for territory of entire world for a period of seven years from the date of delivery of goods quality tapes, as approved by the Assignee (plaintiff) with CC and Link Documents Chain.
- (f) The Assignment of Rights of the said 32 films was made by defendant no.2 in favour of plaintiff and the same was negotiated by and through one Ms. Anjali Pavaskar (who was liasoning on behalf of the assignor, defendant no.2) as is clearly evident from the e-mails. It was confirmed, represented and warranted that Ms. Anjali Pavaskar is in possession of all the chain/link documents, which complete the flow of rights and that

the same would be handed-over to the plaintiff after execution of the said “Films Assignment Agreement” dated 24.09.2015. The plaintiff, as a bonafide purchaser, believed Ms. Anjali Pavaskar and decided to go ahead with the deal.

- (g) Ms. Anjali Pavaskar exchanged e-mails including the e-mails dated 24.08.2015, 24.09.2015, 29.09.2015 and so on and one Mr. Vishal Gurnani was marked on the said e-mails. When the plaintiff asked Ms. Anjali Pavaskar about the said Mr. Vishal Gurnani, she apprised the plaintiff that Mr. Gurnani was the Director of defendant no.2 as well as defendant no.1. She further apprised the plaintiff that Mr. Gurnani owned/ partially owned both the companies.
- (h) Apart from a vehement verbal persuasion, the plaintiff also followed-up with Ms. Anjali Pavaskar as regards the chain of documents and delivery of material (as envisaged in the Agreement) and also wrote e-mails dated 05.12.2015, 15.01.2016, 19.01.2016, 04.02.2016, 08.03.2016 to Ms. Anjali Pavaskar requesting her to send the “link documents”. Link documents were deliberately not supplied by defendant no.2 in spite of repeated demands.
- (i) Thereafter, the plaintiff was shocked and flabbergasted to receive an email dated 18.05.2016 from Ms. Anjali

Pavaskar wherein, she stated that certain movies, which were committed in the said “Films Assignment Agreement” dated 24.09.2015 were not available with them and they proposed to amend the said agreement accordingly. The films of the said “Films Assignment Agreement” dated 24.09.2015 omitted by Ms. Anjali Pavaskar in her email dated 18.05.2016 were Bhopal, Gulab Gang, Kachha Limboo, EMI & Blackmail and offered seven other films in lieu thereof. Vide email dated 26.05.2016, Ms. Anjali Pavaskar sent a fresh draft agreement to the plaintiff for execution, the terms of which were completely different from the ones in the previous “Films Assignment Agreement” dated 24.09.2015. At the same time, the said new Agreement was neither valid nor binding since the assignment of relevant rights had already taken place vide said “Films Assignment Agreement” dated 24.09.2015. This was confirmed by Ms. Anjali Pavaskar vide email dated 09.06.2016.

- (j) The plaintiff, however, declined the said request of Ms. Anjali Pavaskar and again asked for the Link Documents and to comply with the terms of the said “Films Assignment Agreement” dated 24.09.2015 for concluding the said “Films Assignment Agreement” dated 24.09.2015. However, the defendant no.2, who

had already decided to dupe the plaintiff, with the sole motive to create a record, kept sending frivolous e-mails to the plaintiff wherein, they proposed to sign a fresh agreement with a new set of films.

- (k) When the plaintiff did not accept the unreasonable demands, the defendant no.2, vide email dated 30.06.2016 sent the copy of link Agreement dated 20.05.2016 allegedly executed between defendant no.1 and defendant no.2. When the plaintiff made enquiries regarding the ownership/ Link Documents of the said 32 films, it was stated and confirmed by Ms. Anjali Pavaskar under email dated 29.07.2016 that Sahara One Media and Entertainment Limited has assigned rights of the said 32 films in question to a company i.e. defendant no.1 and in turn, the said defendant no.1 assigned the rights to defendant no.2, who is assignor for the deal in question.
- (l) Perusal of the Agreement dated 20.05.2016 between Defendants no. 1 and 2 clearly depict the following:-
- (i) That the link agreement dated 20.05.2016 is postdated to the acquisition agreement dated 24.09.2015 in which it was portrayed that defendant no.2 is the rightful owner of the rights proposed to be assigned in the agreement.

- (ii) That further, the defendants no. 1 & 2 cannot feign ignorance about the factum of non-existence of rights with defendant no.2 at the time of entering into an agreement with the plaintiff, since the Directors of defendants no. 1 & 2 are common and from the link agreement subsequently sent, it is clearly evident that the same has been done only in order to create false document/ record and to pressurize the plaintiff to enter into the “license agreement” with defendant no.2 when an assignment had already taken place vide Films Assignment Agreement dated 24.09.2015.
- (iii) That the defendant no.2 did not deliberately send the complete chain of documents so as to keep the plaintiff in the dark as to what rights were actually transferred/ assigned in the original chain. Needless to mention that the link agreement between Defendants no. 1 & 2 dated 13.05.2016 (wrongly written as 13.05.2016 instead of 20.05.2016) is sham and invalid and clearly “doctored” to suit the convenience of the defendants in order to defraud the plaintiff.
- (m) The Defendants no. 1 & 2 are estopped from denying the validity of the Assignment of said rights from defendant no.2 to the plaintiff inter-alia the 32 films. The plaintiff,



being the owner of the Copyright of the assigned rights, has the exclusive rights to do or authorize the doing of any of the following acts in respect of the said films or any substantial part thereof:-

- i. to make a copy of the film including:
    - A. a photograph of any image forming part thereof; or
    - B. storing of it in any medium by electronic or other means;
  - ii. to sell or give on commercial rental or offer for sale or for such rental, any copy of the film;
  - iii. To communicate the film to the public.
- (n) No person, other than the plaintiff, is entitled to do or authorize the doing of any of the aforesaid acts in respect of the Assigned rights in respect of the said films or any substantial part thereof and if done, would amount to infringement of Copyright of the plaintiff, as provided under Section 51 of the Copyright Act, 1957.
- (o) The plaintiff was surprised to see that defendant no.3 had got a Public Notice published in Complete Cinema 05.11.2016 and in Super Cinema 12.11.2016 informing the people at large and more particularly, the people associates in Film Trade that defendant no.3 has acquired the sole and exclusive rights in respect of total 40 films mentioned in the Public Notice. The said Public

Notices mentioned the names of 27 films of the plaintiff. On carefully going through the details of the films of the Public Notice, the plaintiff noticed that out of the total 40 films, the plaintiff has same/ similar rights in respect of 27 films except films at sl. Nos. 1, 5, 7, 24, 25, 27, 30, 34, 36, 37, 38, 39 and 40. The said 27 films, out of the total 40 films mentioned in the said Public Notices, are mentioned in para no. 20 of the plaint.

- (p) The plaintiff through Counsel, in reply to the said Public Notice, sent letters dated 08.11.2016 and 16.11.2016 respectively, thereby informing the defendant no.3 that the plaintiff is the owner and Copyright holder of the aforesaid Assigned rights in respect of the above said 27 films, out of those 40 films of the Public Notice and accordingly, is exclusively authorized to exploit the same and that defendant no.3 should not acquire and/ or deal with them either directly or indirectly. However, the plaintiff was surprised to receive a reply dated 16.11.2016 to the letter dated 08.11.2016 of the counsel for plaintiff from defendant no.4, who stated that the Public Notice dated 05.11.2016 was, in fact, issued by defendant no.3 on behalf of defendant no.4 and informed that defendant no.1 had assigned the rights mentioned in the Public Notice for the territory of entire world of the said 40 films vide Deed of Assignment dated

26.10.2016 to defendant no.4 for a valuable consideration and thereby refused the plaintiff's claim over the said 27 films.

- (q) Vide Films Assignment Agreement dated 24.09.2015, the plaintiff acquired inter-alia the sole and exclusive rights Copyrights pertaining to 32 Cinematograph Films from the assignor M/s. Filidian Impex (India) Pvt. Ltd. and as such, has the exclusive, unencumbered, absolute, undisputed and uninterrupted right to exploit the said Assigned Rights in respect of 32 films. It is alleged by defendant no.4 that the rights of 27 films of the plaintiff were assigned to it by defendant no.1 vide Assignment Deed dated 26.10.2016. Since the rights have already been assigned to the plaintiff vide assigned assignment agreement dated 24.09.2015, an ownership of the rights so assigned has been created in favour of the plaintiff and the same cannot be assigned to defendants no. 3 and 4 by any stretch of imagination. If an attempt to do so is made by defendants no. 1 and 2, the same shall be deemed to be invalid and illegal. Further, the said assignment shall not, by any stretch of imagination create any rights in favour of defendants no. 3 and 4.

**CASE OF THE DEFENDANTS AS PER WRITTEN STATEMENT**

Succinctly, the case of the defendant no.1 is as under:-

- (a) The Defendant no.1 had executed a Film Assignment Agreement dated 20.05.2016 with defendant no.2 thereby assigning rights for the Terrestrial Channels [i.e. Prasar Bharti/ Doordarshan]. Terrestrial rights and Satellite rights are distinct. The defendant no.1 has been improperly joined as a party to this Infringement Suit, wherein the plaintiff has alleged infringement of its Copyright by Defendants no. 2 to 4. The Defendant no.1 is not a necessary or proper party. A necessary party is the person who ought to be joined as party to the suit and in whose absence, an effective order/ decree cannot be passed by the Court. A proper party is a person whose presence would enable the Court to completely, effectively and properly adjudicate upon all matters and issues, though, he may not be a person in favour of or against whom a decree is to be made.
- (b) There is no cause for the defendant no.1 to be impleaded as a party to the suit. The present suit instituted by the plaintiff is a gross abuse of process of law and the same has been filed merely to harass and harangue the defendant no.1.
- (c) The plaintiff has failed and ignored to make out grounds on facts or law. Balance of convenience lies in favour of the defendants. It appears that the plaintiff is attempting to create vexatious issues, which in reality

do not exist. The defendant no.1 suspects that the plaintiff is acting maliciously and abusing the process of law.

- (d) On merits, the contents of the plaint have been denied and it has been submitted that there is no privity of contract between the defendant no.1 and plaintiff. The defendant no.1 is a stranger to the plaintiff with regard to the transaction between the defendant no.2 and plaintiff. The defendant no.1 is not involved in the transaction of defendant no.2 and plaintiff. The transaction between the plaintiff and defendant no.2 is separate and distinct. It has been prayed to dismiss the plaint with exemplary costs.

### **REPLICATION**

The plaintiff has not filed any replication to the Written Statement of defendant no.1.

### **EX-PARTE PROCEEDINGS**

The defendants no.1 and 2 were proceeded ex-parte vide order dated 13.12.2017. The Defendants no. 3 and 4 were also proceeded ex-parte vide order dated 22.10.2018.

### **EX-PARTE EVIDENCE OF THE PLAINTIFF AND DOCUMENTS RELIED UPON BY PW-1**

The plaintiff, in order to prove her case, got examined Sh. Dheeraj Sabharwal as PW-1. PW-1 has filed his evidence by way

of affidavit wherein he reiterated and reaffirmed the contents of the  
plaint. PW-1 in his testimony has relied upon the documents:-

1. Photocopy of Power of Attorney dated 09.08.2016 executed by the plaintiff in favour of Sh. Dheeraj Sabharwal is **Ex.PW-1/1 (OSR)**.
2. Photocopy of Films Assignment Agreement dated 24.09.2015 is **Ex.PW-1/2 (OSR)**.
3. Photocopies of public notices dated 05.11.2016 and Super Cinema 12.11.2016 are **Ex.PW-1/8 (OSR)** and **Ex.PW-1/9 (OSR)**.
4. Photocopies of letters dated 08.11.2016 and 16.11.2016 are **Ex.PW-1/10** and **Ex.PW-1/11**.
5. Letter dated 16.11.2016 of defendant no.4 is **Ex.PW-1/12**.
6. Copies of e-mails dated 10.09.2016 and 04.10.2016 are **Ex.PW-1/13 (Colly. - 1-2 pages)**.
7. Copies of e-mails dated 20.11.2016, 23.11.2016 and 24.11.2016 are **Ex.PW-1/14 (Colly. - 1-3 pages)**.
8. Copy of email dated 16.12.2016 with copy of attached letter dated 15.12.2016 (OSR) are **Ex.PW-1/15 (Colly. - 1-3 pages)**.
9. Office copy of letter dated 29.12.2016 as **Ex.PW-1/16**.
10. Complaint alongwith supporting affidavit are **Ex.PW-1/17**.

This Court heard ex-parte final arguments, as advanced by Ld. Counsel for the plaintiff. I have perused the material available on record.

**FINDINGS AND CONCLUSIONS OF THE COURT**

The plaintiff in the garb of the simplicitor suit of Permanent Injunction coupled with rendition of accounts is actually seeking enforcement of the Agreement dated 24.09.2015 and thereby seeking the declaration of Copyright for the Assigned Rights under the said Agreement for a period of Seven years in the 32 Films. The plaintiff herself pleaded that as per Article 2 of the said Agreement, the plaintiff paid a sum of Rs.20,00,000/-, out of the total agreed consideration amount of Rs.60,00,000/- at the time of signing of Agreement. It is further pleaded by the plaintiff that the balance amount of Rs.40,00,000/- was to be paid by the plaintiff after 60 days of delivery of technically acceptable DG Beta Tapes/ Hard drives, Censor Certificates and Link Agreements, which were to be delivered by Assignor i.e. defendant no.2. It is further the case of plaintiff that agreement dated 20.05.2016 executed between defendant no.1 and defendant no.2 is a doctored document. The plaintiff has nowhere averred clearly in the entire pleading that she is ready and willing to perform her part of the Contract and furthermore, for how many films she has received DG Beta Tapes/ Hard drives, Censor Certificates. It is an admitted position that plaintiff had not paid the entire balance amount i.e. Rs.40,00,000/- to defendant no.2. There is not even iota of pleading in the present

case that plaintiff is ready and willing to perform her part of the Contract, however, the perusal of E-mail dated 24.11.2016 reveals that the plaintiff herself alleged that she is still willing to close the Agreement, subject to compliance of obligations in terms of Article 2 of the Agreement dated 24<sup>th</sup> September, 2015 by defendant no.2 but the plaintiff has nowhere pleaded in the plaint that she is ready and willing to perform her part of the Contract for payment of balance amount of Rs.40,00,000/- and there is also no documentary evidence which was placed on record that the plaintiff was possessed with a sum of Rs.40,00,000/-. The plaintiff has assessed the valuation of the suit as Rs.3,000/- for the purpose of jurisdiction and Court Fee, however, on the contrary, the plaintiff, under the garb of this suit, is actually seeking the enforcement and declaration of the Agreement dated 24.09.2015, which is admittedly for Rs.60,00,000/- (Rupees sixty lakhs only) and which is admittedly still not completed in all respects, as per pleading and evidence of the plaintiff herself. As per the case of plaintiff herself, the plaintiff has not paid balance sum of Rs.40,00,000/- and further, defendant no.2 has failed to comply with the terms and conditions of the said Agreement as defendant no.2 had not provided the complete materials and Link Documents. The plaintiff cannot be allowed to make back door entry for claiming the rights under the said Agreement dated 24.09.2015 by means of simplicitor suit for Injunction and rendition of accounts. In my considered view, the suit for simplicitor injunction and rendition of accounts is



not maintainable and the plaintiff was necessarily required to seek specific performance of the Films Assignment Agreement dated 24.09.2015, which was not completed in all respects, to seek right, title and interest, if any, of the Copyright of 32 films under the said Agreement. In my considered view, the suit of the Plaintiff fails on this ground itself.

Although, as discussed hereinabove, this Court came to conclusion that the suit fails on the aforesaid ground, however, on the merits also the entire case of the plaintiff is based upon Films Assignment Agreement dated 24.09.2015 executed between plaintiff and defendant no.2. As per the said Agreement, the plaintiff claimed the following assigned rights in 32 films for seven years:-

*“Free and Pay Terrestrial Television Rights (Analog, Digital) including All T.V. Channels of Doordarshan and Prasar Bharati Board of India, All Regional Network Channels (LPT) and including broadcast/ telecast on or for all terrestrial traditional and Independent Terrestrial T.V. Center. All other rights for the Terrestrial Television Channels including All T.V. Channels of Doordarshan and Prasar Bharati Board of India and All Regional Network Channels (LPT), DD Urdu, DD Kisan, DD Bharti, DD Kashir, DD Satellite etc. now existing and known today and which would be introduced & launched in all modes and formats during the term of agreement.”*

It is relevant to reproduce the relevant portion of the e-mail dated 24.11.2016 [Ex.PW-1/14 (Colly.)], which was done on behalf plaintiff to Ms. Anjali Pavaskar (who was alleged to be liasoning on behalf of defendant no.2):-

*“At the outset, we wish to state we have never back-tracked from concluding the deal and are still willing to close the same subject to compliance of your obligations in terms of Article 2 of the agreement dated 24<sup>th</sup> September, 2015.*

*It is matter of fact and record that we have already paid a sum of Rs.20 Lacs which we wouldn't have paid had we not intended to enter into the deal.*

*The said amount was paid by in terms of Article 2 of the said agreement.*

***After accepting a sum of Rs.20 Lacs we have incessantly reminded of your commitments under the said agreement, however, to our shock and surprise, we were flabbergasted to note that the acquisition agreement with Sahara One Media which was executed on --January, 2016, which is subsequent to our agreement dated 24<sup>th</sup> September 2015. In other words Filidian did not have the rights as on the date of entering the agreement with us and the same were acquired later. This is the most clear act of cheating when you are trying to assign something which you never had on the date of assignment.***

***We do not, even, for the namesake attach any importance to the agreement between Filidian and Café 9, which apart from being subsequent to our agreement, is executed by companies having common directors and consequently common interests.....”***

(Portions bolded in order to highlight)

The perusal of the aforesaid e-mail vividly reveals that it is the admitted case of plaintiff herself that defendant no.2, at the time of execution of the Agreement dated 24.09.2015, was not having any Copyright in the said Films under which the plaintiff is claiming the right, title and interest. It is also admitted case of the plaintiff that the original Copyright holder of the said 32 Films was Sahara One Media and Entertainment Limited (in Short SOMEL). There is nothing on record to suggest that SOMEL had assigned its Copyright to defendant no.2 at any point of time. It is borne out from the records that SOMEL had assigned the Copyright to defendant no.1 i.e. Café 9 Media Hub Pvt. Ltd. by way of Exclusive Agreement dated 11<sup>th</sup> January, 2016 and it is also borne out from the record that the said Agreement was terminated by SOMEL vide Legal Notice dated 21.12.2016. There is nothing on record, which has been placed in this Court file to demonstrate whether the said termination by SOMEL was set-aside or stayed by any Court. Furthermore, SOMEL is not the party in the present proceedings.

The plaintiff has placed on record the Films Assignment Agreement dated 20<sup>th</sup> May, 2016 executed between defendant no.1 and defendant no.2. In the said Agreement, defendant no.1 had given following limited Licensed Rights to defendant no.2 for a period of Seven years:-

*“Free and Pay Terrestrial Television Rights (Analog, Digital) of All T.V. Channels of Doordarshan and Prasar Bharati Board of India, All Regional Network Channels (LPT) and including broadcast/ telecast on or for all terrestrial traditional and Independent Terrestrial T.V.*

*Centers of Doordarshan and Prasar Bharati Board of India only in the License territory in Licensed Language in the Licensed Period. Any other rights not licensed herein are hereby expressly excluded.”*

In the email dated 24.11.2016, the relevant portion reproduced hereinabove, reveals that the Plaintiff has categorically stated that M/s. Media International do not, even, for the namesake attach any importance to the agreement between Filidian and Café 9, which apart from being subsequent to their agreement, is executed by companies having common directors and consequently common interests. The perusal of the plaint further reveals that the plaintiff herself is not relying upon the aforesaid Agreement dated 20<sup>th</sup> May, 2016 and it is specifically pleaded by the plaintiff that *“needless to mention that the link agreement between defendants no. 1 & 2 is sham and invalid and clearly “doctored” to suit the convenience of the defendants in order to defraud the plaintiff.”*

The plaintiff has not placed on record any document, which would show that defendant no.2 was having any Independent Copyright in the 32 Films for which the plaintiff has filed this suit. Furthermore, defendant no.1 was claiming the assignment rights through SOMEL, which as per record, was terminated by SOMEL and there is nothing on record which would demonstrate whether the said termination was stayed and/or set-aside by any Court. Moreover, this Court could not lose the sight of the fact that defendant no.1 and defendant no.2 are artificial juristic personalities and having independent and distinct entity, even if,

there are some common Directors, that will not change their character. Moreover, the plaintiff has nowhere pleaded or prayed for lifting the corporate veil of both the companies. Furthermore, SOMEL was not made the party in the present proceedings and as per record of this case SOMEL had already terminated the Agreement dated 11.01.2016 executed between SOMEL and defendant No.1.

As per own admission of the plaintiff, defendant no.2 was not having any Copyright in the 32 Films when the Films Assignment Agreement dated 24.09.2015 was executed between plaintiff and defendant no.2. Thereafter also, except the document dated 20.05.2016, there is no documentary evidence to show that defendant no.2 was having any Independent Copyright in the said films. At the cost of repetition, the plaintiff herself has branded the document between dated 20<sup>th</sup> May, 2016 as a sham and invalid document and the plaintiff is not relying upon the said document for claiming any Copyright. The principle of "*Nemo dat quod non habet*" means **no one can** give what they do not **have** i.e. **no one can transfer a better title than he himself has**, is squarely applicable in the present case. In view of the discussions, made hereinabove, the Plaintiff had not acquired any Copyright in the said 32 Films. In view of the detailed discussions made hereinabove, the suit of the Plaintiff is also not maintainable as the Plaintiff was not having any Copy rights in 32 Films as claimed by them in this suit.

From the discussions, as adumbrated hereinabove, I hereby pass the following

**FINAL ORDER**

- (i) The suit of the plaintiff is hereby dismissed.
- (ii) The parties shall bear their respective costs of litigation.
- (iii) In view of the final decision, the pending applications stand infructuous and the same are hereby dismissed being infructuous.

Decree-sheet be prepared accordingly in terms of this decision.

File be consigned to Record Room after due compliance.

**Announced in the open Court on  
this 26<sup>th</sup> day of May, 2020.**

**(ARUN SUKHIJA)  
ADJ-07 (Central)  
Tis Hazari Courts, Delhi**