

(2013) 12 KAR CK 0061

In the Karnataka High Court

Case No : Writ Petition No. 55434 of 2013 (IPR)

Prism T.V. Private Limited

APPELLANT

Vs

Smt. Rekha Rani and Another

RESPONDENT

Date of Decision : 18-12-2013

Acts Referred:

Citation : (2014) 1 KarLJ 564

Hon'ble Judges : B.V. Nagarathna, J

Bench : Single Bench

**Advocate : K.G. Raghavan, for M/s. Fox Mandal Associates, for the Appellant;
H.S. Vivekananda, for the Respondent**

Judgement

B.V. Nagarathna, J.—Though this writ petition is listed for orders, with the consent of learned Counsel on both sides, it is heard finally. The petitioner has assailed interim order dated 29-11-2013 passed by the Trial Court on I.A. No. I in O.S. No. 8654 of 2013 pending on the file of XVIII Additional City Civil Judge, Bangalore. The suit is filed u/s 55 of the Copyright Act, 1957 seeking permanent and mandatory injunction against defendants and for rendering of accounts. The suit was filed on 28-11-2013 along with an application seeking an ad interim temporary injunction restraining the defendants, their agents and their representatives from telecasting the serial "Akka" on ETV Kannada channel on 2-12-2013 or in any other mode, pending disposal of the suit. The Trial Court passed an interim order on I.A. Nos. I and II on 29-11-2013 which was an ex parte interim injunction restraining the defendants, their men or agents or anybody else claiming through them from telecasting serial "Akka" on 1st defendant's channel on 2-12-2013 or in any other mode till filing of written statement and subject to compliance of Order 39, Rule 3(a) of Civil Procedure Code, 1908. The case was posted on 4-1-2013 on which another order was passed. That order is also challenged in this writ petition.

2. In the interregnum between the two orders, there were certain developments leading to the order dated 4-12-2013. With the permission of the Court that

order was also sought to be assailed in this writ petition.

3. On 5-12-2013 this Court after noting the order dated 4-12-2013 passed by the Trial Court granted an ex parte order permitting the petitioner i.e. defendant 1 to telecast the serial "Akka" from 5-12-2013 till the next date of hearing i.e. today (18-12-2013). It was also ordered that telecast of the serial would not enable defendant 1/petitioner herein from claiming any equities whatsoever and that if the plaintiff/respondent 1 had any claim with regard to the telecast on these days then the respondent 1 was free to make such claim.

4. It is stated at the Bar that the telecast of the serial has taken place since 5-12-2013 pursuant to the order of this Court. Today, learned Counsel for respondent 1 has appeared. It is stated by the Senior Counsel appearing for the petitioner that respondent 2 has not appeared in the suit and that he supports the petitioner herein.

5. Respondent 1 has filed statement of objections as well as an application for vacating the stay. They are taken on record and perused.

6. On perusal of the impugned orders of the Trial Court, it becomes apparent that the applications filed by the plaintiff/first respondent herein seeking an order of temporary injunction against the defendants in the suit has not yet been taken up for hearing, but the tenor of the orders passed by the Trial Court prior thereto became the subject-matter of this writ petition.

7. Having regard to the interim order passed by this Court on 5-12-2013 and keeping in mind the fact that the interlocutory applications filed by the plaintiffs are yet to be considered by the Trial Court, while reserving liberty to the respondent/plaintiff to pursue her interlocutory applications, I am of the view that the interim order dated 5-12-2013 passed by this Court could operate pending disposal of the applications filed by respondent 1 before the Trial Court.

8. I have heard the learned Senior Counsel for the petitioner and learned Counsel for respondent 1 in this regard.

9. It is admitted by the learned Counsel on both sides that the applications are to be taken up for consideration on 9-1-2014. Having regard to the interim order dated 5-12-2013 passed by this Court which has taken into consideration the interest of both parties, I am of the view that this writ petition could be disposed of with reference to that order. In the result, the orders impugned in this writ petition stand modified. The telecast of the serial since 5-12-2013 till today shall be continued till disposal of the interlocutory applications filed by the respondent/plaintiff before the Trial Court. The petitioner herein shall not claim any equities whatsoever with regard to the telecast of the serial till then. It is also made clear that if respondent 1 has any claim with regard to the telecast of the serial for these days, she is free to make such a claim in the suit. The Trial Court to hear all parties on the interlocutory applications filed by the respondent/plaintiff and to dispose of the same in accordance with law. Writ petition is disposed of in the

aforesaid terms.