

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 9412-9413 OF 2016

(arising out of S.L.P (C) Nos. 2380-2381 OF 2014)

International Confederation
of Societies of Authors and
Composers (CISAC)

... Appellants

Versus

Aditya Pandey & ors

... Respondents

WITH

CIVIL APPEAL NOS. 9414-9415 OF 2016

(arising out of S.L.P(C) Nos. 21082-21083 OF 2012)

WITH

CIVIL APPEAL NO. 9416 OF 2016

(arising out of S.L.P(C) No. 2379 OF 2014)

J U D G M E N T

Prafulla C. Pant, J.

Leave granted.

2. All these three appeals are directed against the order dated May 08, 2012 passed by Division Bench of High Court of Delhi in FAO (OS) Nos. 423-424 of 2011 and FAO (OS) No. 425 of 2011 with CM No. 19128 of 2011, whereby said Court has dismissed the appeals, and affirmed the order of the learned Single Judge in Suit CS (OS) No. 1185 of 2006 and Copyright Infringement Suit CS(OS) No. 1996 of 2009 disposing of the Interim Applications moved for temporary injunction and directions.

3. Learned Single Judge had disposed of Interim Applications in above mentioned suits as under:-

“55. In the light of the above conclusions- which are prima facie in nature, and do not preclude the plaintiffs in both cases, from establishing and proving their case- the following directions are issued:

- (i) In the synergy suit, (i.e. CS(OS) 1185/2006) the applications for temporary injunctions, i.e. IA Nos., 6486/2006, 7027/2006 and 6487/2006 are disposed of by stating that the defendants do not have to secure a license from the plaintiffs;
- (ii) In the CRI suit, (i.e. CS(OS) No. 1996/2009) the application, i.e. IA Nos. 13691/2009, 13692/2009 are disposed of with the directions that in case the defendants wish to perform the sound recording in public, i.e. play

them, a license from PPRS is essential; in case the musical works are to be communicated or performed in the public, independently, through an artiste, the license of IPRS is essential. In case the defendant wishes to hold an event involving performances or communication of works of both kinds to the public, the license or authorization of both IPRS and PPRS are necessary. The defendant is accordingly restrained from communicating any of such works to the public, or performing them, in the public, without such appropriate authorization, or licensing pending adjudication of the suit.”

4. Issue involved in the present appeals is that where lyric written by ‘X’ (lyricist) and music composed by ‘Y’ (musician) are used to make sound recording by ‘Z’ (Sound Recording Company), whether ‘A’ (Event Management Company/Event Organizer) is required to seek licence from ‘X’ and ‘Y’ for subsequently playing the song in public even after ‘A’ had paid for the broadcasting of the song to ‘Z’ (Sound Recording Company) ?

5. Indian Performing Rights Society Limited (For short “IPRS”) (appellant before us in two of the three appeals) is the Society of authors of literary work, and composers of musical work, is the plaintiff/appellant. And International

Confederation of Societies, is a non-governmental organization, an association of copyright societies, registered in France, which was not the party before the trial court, is the appellant in one of the above three appeals. Respondent No.2 – Synergy Media Entertainment is the Event Management Company of which Respondent No.1 is the Senior Manager (Finance).

6. The case of the plaintiff/appellant is that authors of literary work and composers of musical work are the first owners of copyright in lyric and musical work respectively under the Copyright Act, 1957. As such they have the right to get restrained Respondent Nos. 1 and 2 from infringing their copyright, and licence given to sound recording company does not affect the rights of lyricist or the musician. Reference has been made to the definition of expression “communication to the public” defined under Section 2(ff) and that of ‘performance’ defined in Section 2(q) of the Act. Further, reference has been made to the amendment introduced in 1994 in the Copyright Act, 1957 and it is pleaded that the

right created under Section 14(a)(iv) cannot be read in derogation of right created under Section 14(a)(iii) of the Act.

7. The grievance of the International Confederation Society (IFS)/3rd party appellant is that the petitioner is aggrieved due to the findings and alleged legal infirmities in the impugned order as it has an immediate and direct impact on its members and the creative community for their interest (which the petitioner represents), stands to suffer loss and injury as the impugned judgment deprives them of their exclusive right to collect royalty in cases of communication of sound recordings to the public.

8. On behalf of the appellants, it is further argued that the erroneous finding in the impugned judgment denies the members of the appellants the right recognized under various international conventions to which India is a party, which they hold under copyright law. It is further submitted that the impugned judgment creates discord between the manner of exploitation and treatment of same works, in two different countries, contrary to what the International Conventions and Treaties seek to achieve. It is contended that the erroneous

interpretation of law in the impugned judgment stands in direct conflict with India's obligations under the *Berne Convention for the Protection of Literary and Artistic Works* (Paris Act, 1971) and the agreement on Trade Related Aspects of Intellectual Property Rights Agreement, 1994 (TRIPS Agreement), to which India has acceded. It thus places India out of step with international copyright norms and practice. Also, it is contended that the impugned judgment places the reciprocal agreements between IPRS and other collecting societies under considerable stress as it makes impossible for the Indian Performing Right Society Limited to fulfill its contractual obligations under the reciprocal arrangements, thus affecting the rights of millions of songwriters, composers and publishers.

9. On the other hand, on behalf of the respondent, it is pointed out that with the amendment made in the Copyright Act, 1957, in the year 2012, the producer of sound recording has an independent copyright of his work. Relying on the law laid down by this Court in ***Indian Performing Right Society Ltd. v. Eastern Indian Motion Pictures Association and***

others¹, it is contended that once the author of a lyric or a musical work parts with a portion of his copyright, by authorizing a film producer, or producer of sound recording in respect of his work, a right exists with the latter to exhibit his work to the public. Also, it is pleaded that the appeals filed by Societies, not registered in India, on behalf of the lyricists and musicians, under Section 33 of the Act, are not maintainable. 10. Before further discussion, we think it just and proper to reproduce the relevant provisions of The Copyright Act, 1957 to understand the meaning of various words and expressions relevant for the purposes of this case and to appreciate the rights of the parties. Word 'copyright' is defined in Section 14 of the Act which reads as under:

“²14. Meaning of copyright.-

For the purposes of this Act, "copyright" means the exclusive right subject to the provisions of this Act, to do or authorise the doing of any of the following acts in respect of a work or any substantial part thereof, namely:-

1

(1977) 2 SCC 820

² Substituted vide Act No. 38 of 1994 w.e.f. 10.05.1995

- (a) in the case of a literary, dramatic or musical work, not being a computer programme, -
- (i) to reproduce the work in any material form including the storing of it in any medium by electronic means;
 - (ii) to issue copies of the work to the public not being copies already in circulation;
 - (iii) to perform the work in public, or communicate it to the public;
 - (iv) to make any cinematograph film or sound recording in respect of the work;
 - (v) to make any translation of the work;
 - (vi) to make any adaptation of the work;
 - (vii) to do, in relation to a translation or an adaptation of the work, any of the acts specified in relation to the work in sub-clauses (i) to (vi);
- (b) in the case of a computer programme,-
- (i) to do any of the acts specified in clause (a);
 - ³[(ii) to sell or give on commercial rental or offer for sale or for commercial rental any copy of the computer programme:

Provided that such commercial rental does not apply in respect of computer programmes where the programme itself is not the essential object of the rental.]

³ Substituted by Act No. 49 of 1999 w.e.f. 15.01.2000

(c) in the case of an artistic work,-

⁴[(i) to reproduce the work in any material form including –

(A) the storing of it in any medium by electronic or other means; or

(B) depiction in three dimensions of a two dimensional work; or

(C) depiction in two dimensions of a three dimensional work;]

(ii) to communicate the work to the public;

(iii) to issue copies of the work to the public not being copies already in circulation;

(iv) to include the work in any cinematograph film;

(v) to make any adaptation of the work;

(vi) to do in relation to an adaptation of the work any of the acts specified in relation to the work in sub-clauses (i) to (iv);

(d) In the case of cinematograph film, -

⁵[(i) to make a copy of the film, including

(A) a photograph of any image forming part thereof; or

⁴ Substituted by Act No. 27 of 2012 w.e.f. 21.06.2012

⁵ Substituted by Act No. 27 of 2012 w.e.f. 21.06.2012

(B) *storing of it in any medium by electronic or other means;*

⁶[(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;

(e) In the case of sound recording, -

(i) to make any other sound recording embodying it ⁷[*including storing of it in any medium by electronic or other means*];

⁸[(ii) *to sell or give on commercial rental or offer for sale or for such rental, any copy of the sound recording.*]

(iii) to communicate the sound recording to the public.

Explanation: For the purposes of this section, a copy which has been sold once shall be deemed to be a copy already in circulation.”

11. To appreciate the copyrights of author of literary work on one hand, and that of the producer of sound recording on the other, it is necessary to refer to the meaning of “author”, given in clause (d) of Section 2 of the Act. The same is reproduced below: -

⁶ Substituted by Act No. 27 of 2012 w.e.f. 21.06.2012

⁷ Inserted by Act No. 27 of 2012 w.e.f. 21.06.2012

⁸ Substituted by Act No. 27 of 2012 w.e.f. 21.06.2012

“(2)(d) ‘author’ means,-

- (i) in relation to literary or dramatic work, the author of the work;
- (ii) in relation to a musical work, the composer;
- (iii) in relation to an artistic work other than a photograph, the artist;
- (iv) in relation to a photograph, the person taking the photograph;
- [(v) *in relation to a cinematograph film or sound recording, the producer; and*
- (vi) *in relation to any literary, dramatic, musical or artistic work which is computer-generated, the person who causes the work to be created;]*⁹

12. The above definition shows that after amendment made in the definition of “author” by Act No. 38 of 1994, the producer of sound recording is also an author. But his right would not affect the separate right of any work in respect of which sound recording is made, as provided in Section 13(4) quoted below:

“**13(4)** The copyright in a cinematograph film or a [sound recording] shall not affect the separate copyright in any work in respect of which or a substantial part of which, the film, or as the case may be, the [sound recording]¹⁰ is made”.

⁹ Sub clauses (v) and (vi) are added vide Act No. 38 of 1994 w.e.f. 10.05.1995

13. It is relevant to mention here that as defined in Section 2(xx), inserted vide Act No. 27 of 2012, “sound recording” means a recording of sound from which such sounds may be produced regardless of the medium on which such recording is the method by which the sounds are produced. And Section 2(ff), inserted by same Amending Act, explains expression “communication to the public” as under: -

“(ff) "communication to the public" means making any work or performance available for being seen or heard or otherwise enjoyed by the public directly or by any means of display or diffusion other than by issuing physical copies of it, whether simultaneously or at places and times chosen individually, regardless of whether any member of the public actually sees, hears or otherwise enjoys the work or performance so made available.

Explanation.- For the purposes of this clause, communication through satellite or cable or any other means of simultaneous communication to more than one household or place of residence including residential rooms of any hotel or hostel shall be deemed to be communication to the public;”

¹⁰ Expression “sound recording” is substituted for “record” vide Act No. 38 of 1994 w.e.f. 10.05.1995

14. Section 16 of the Copyright Act, 1957 provides that no person shall be entitled to copyright otherwise than in accordance of the Act, and it reads as follows: -

“16. No copyright except as provided in this Act.- No person shall be entitled to copyright or any similar right in any work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Act or of any other law for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

15. Now, we have to see who is the first owner of copyright and how to harmonize the copyrights of author of literary work and that of the ‘author’ of sound recording. Clauses (a) and (b) of Section 17 of the Copyright Act, 1957 and proviso added to it by Act No. 27 of 2012, read as under: -

“17. First owner of copyright. – Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein:

Provided that –

- (a) In the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, for the purpose of publication in a newspaper,

magazine or similar periodical, the same proprietor shall, in the absence of any agreement to the contrary, be the first owner of the copyright in the work in so far as the copyright relates to the publication of the work in any newspaper, magazine or similar periodical, or to the reproduction of the work for the purpose of its being so published, but in all other respects the author shall be the first owner of the copyright in the work;

(b) Subject to the provisions of clause (a), in the case of a photograph taken, or a painting or portrait drawn, or an engraving or a cinematograph film made, for valuable consideration at the instance of any person, such person shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;

.....

Provided that in case of any work incorporated in a cinematograph work, nothing contained in clauses (b) and (c) shall affect the right of the author in the work referred to in clause (a) of sub-section (1) of Section 13.”

Section 13(1)(a) of the Act refers to copyright of original literary, dramatic, musical and artistic works.”

16. Let us now look into the relevant provisions which govern the assignment of work by an author of literary or musical work and licenses in respect thereof to prospective owner of

the copyright or user of the work. Last proviso to Section 18 with its main part, makes following reading: -

“18. Assignment of copyright. – (1) The owner of the copyright in an existing work or the prospective owner of the copyright in a future work may assign to any person the copyright either wholly or partially and either generally or subject to limitations and either for the whole of the copyright or any part thereof:

.....

..... Provided also that the author of the literary or musical work included in the sound recording but not forming part of any cinematograph film shall not assign or waive the right to receive royalties to be shared on an equal basis with the assignee of copyright for any utilization of such work except to the legal heirs of the authors or to a collecting society for collection and distribution and any assignment to the contrary shall be void.¹¹

Needless to say that appellants are the collecting societies.

17. Further, sub-sections (3), (4) and (10) of Section 19, which are relevant for the purposes of this case, provide as to mode of assignment as under: -

“19. Mode of assignment. –

.....

(3) The assignment of copyright in any work shall also specify the amount of royalty and any other consideration payable, to the author or his

¹¹ Second, third and fourth (Last) provisos are added by Act 27 of 2012.

legal heirs during the currency of the assignment and the assignment shall be subject to revision, extension or termination on terms mutually agreed upon by the parties.

(4) Where the assignee does not exercise the right assigned to him under any of the other sub-sections of this section within period of one year from the date of assignment, the assignment in respect of such rights shall be deemed to have lapsed after the expiry of the said period unless otherwise specified in the assignment.

.....

[(10) No assignment of the copyright in any work to make a sound recording which does not form part of any cinematograph film shall affect the right of the author of the work to claim an equal share of royalties and consideration payable for any utilization of such work in any form.]¹²

18. Above quoted sub-section (10) of Section 19 is inserted with effect from 21.06.2012 vide Act No. 27 of 2012, which did not exist on the day the plaint was filed before trial court in the year 2006. As such rights as exist w.e.f. 21.06.2012 were not the same prior to it.

¹² Inserted by Act No. 27 of 2012 w.e.f. 21.06.2012

19. In Chapter VI of the Copyright Act, 1957, Section 30 relates to licence granted by an owner of copyright which reads as under :-

“30. Licences by owners of copyright.- The owner of the copyright in any existing work or the prospective owner of the copyright in any future work may grant any interest in the right by licence in [writing by him]¹³ or by his duly authorised agent:

Provided that in the case of a licence relating to copyright in any future work, the licence shall take effect only when the work comes into existence.

Explanation.- Where a person to whom a licence relating to copyright in any future work is granted under this section dies before the work comes into existence, his legal representatives shall, in the absence of any provision to the contrary in the licence, be entitled to the benefit of the licence.”

“31. Compulsory licence in works withheld from public.-(1) If at any time during the term of copyright in any work which has been published or performed in public, a complaint is made to the Copyright Board that the owner of copyright in the work –

- (a)
- (b) has refused to allow communication to the public by broadcast, of such work or in the case of sound recording the work recorded in such sound recording, on terms which the complainant considers reasonable;

¹³ Substituted for words ‘writing signed by him’ Vide Act 27 of 2012.

the Copyright Board, after giving to the owner of the copyright in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, may, if it is satisfied that the grounds for such refusal are not reasonable, direct the Registrar of Copyrights to grant to the complainant a licence to republish the work, perform the work in public or communicate the work to the public by [broadcast], as the case may be, subject to payment to the owner of the copyright of such compensation and subject to such other terms and conditions as the Copyright Board may determine; and thereupon the Registrar of Copyrights shall grant the [licence to such person or persons who, in the opinion of the Copyright Board, is or are qualified to do so] in accordance with the directions of the Copyright Board, on payment of such fee as may be prescribed.”¹⁴

However, we are not aware if any complaint was made before Copyright Board in the present matter.

20. At this stage, it is necessary to understand distinction between assignment of a copyright of a work and licence to use the work. In the assignment, normally, ownership of the copyright of the work is transferred but in the case of licence another person is allowed to use the work by the author.

21. A conjoint reading of various provisions of the Act leaves no doubt that though each of the seven sub-clauses of clause

¹⁴ As amended Vide Act 27 of 2012

(a) of Section 14 relating to literary, dramatic or musical work, are independent of one another, but reading these sub-clauses independently cannot be interpreted to mean that the right of producer of sound recording, who also comes under definition of author under Section 2(d)(v), and has a right to communicate his work to the public under Section 14(e)(iii) of the Act is lost. It is nobody's case that the defendant/respondents had stolen the lyric or that sound recording is made without licence from the lyricist or musician. Argument advanced on behalf of the appellants that the permission granted to defendant was sans the right to communicate the sound recording to the public, cannot be accepted as there appears no such term and condition between the parties depriving the defendant from communicating his work of making song to the public. As far as the International Conventions and Treaties are concerned, the law has been amended by Act 27 of 2012 w.e.f. 21.06.2012. In the present case the suit was filed in 2006, and the law as it existed has to be applied, for the period prior to 21.06.2012.

22. We agree with the Division Bench of the High Court that a song is created by three players namely lyricist, musician and singer. We have to examine in the present case as to what extent, if any, identities of above three players break or get diluted when a song is created and sound recording is done. To understand this and the relevant provisions of law quoted above, we would like to remind the observations made by this Court in paragraphs 63, 64 and 69 in **Entertainment Network (India) Ltd. v. Super Cassette Industries Ltd.**¹⁵, which reads as under:

“63. A statute as is well known must be read in its entirety. It is required to be read chapter by chapter, section by section and clause by clause. The definitions of the term “broadcast” as also “sound recording” must be given a wide meaning. Clause (a) of Section 13 protects original work whereas clauses (b) and (c) protect derivative works. It provides for commercial manifestation of original work and the fields specified therein. Clause (a) of sub-section (1) of Section 14 deals with original work. It is extremely broad. In contrast thereto, the copyright on films or sound recording work operates in restrictive field; they provide for a restrictive right as would appear from the provisions contained in Section 14(1)(e) of the Act.

¹⁵ (2008) 13 SCC 30

64. For a proper construction of the provisions, will it be necessary to keep in mind the difference between the right of the original work and right of sound recording? Should we also bear in mind that there are various forms of intellectual property rights. Section 16 provides that a right, inter alia, in respect of any work must be claimed only under and in accordance with the provisions of the Act unlike trade mark and passing off rights can be enforced even though they are not registered. It must also be noticed that whereas the term of a copyright in original literary, dramatic, musical and artistic works not only remains protected in the entire lifetime of the author but also until 60 years from the beginning of the calendar year next following the year in which the author dies, the term of copyright in sound recording subsists only for 60 years, but as indicated hereinbefore, the same would not mean that the right of an owner of sound recording is in any way inferior to that of right of an owner of copyright on original literary work, etc.

.....

69. If the right of an author/society is so pervasive, is it necessary to construe the provisions under Section 31 of the Act having regard to the international covenants and the laws operating in the other countries? The answer to the said question must be rendered in affirmative. Interpretation of a statute cannot remain static. Different canons and principles are to be applied having regard to the purport and object of the Act. What is essential therefor is to see that the expanding area in which the copyright will have a role to play is covered. While India is a signatory to the international covenants, the law should have been amended in terms thereof. Only because laws have not been amended, the same would not by

itself mean that the purport and object of the Act would be allowed to be defeated. If the ground realities change, the interpretation should also change. Ground realities would not only depend upon the new situations and changes in the societal conditions vis-à-vis the use of sound recording extensively by a large public, but also keeping in view of the fact that the Government with its eyes wide open have become a signatory to international conventions”.

23. In ***Indian Performing Rights Society Ltd. vs. Eastern Indian Motion Pictures Association and Other*** (supra) (Which was decided long before 2012 Amendments) in paragraph 15, this Court has made following observations: -

“15.Though a conflict may at first sight seem to exist between Section 13(4) and Section 14(1)(a)(iii) on the one hand and Section 14(1)(c)(i) on the other, a close scrutiny and a harmonious and rational instead of a mechanical construction of the said provisions cannot but lead to the irresistible conclusion that once the author of a lyric or a musical work parts with a portion of his copyright by authorising a film producer to make a cinematograph film in respect of his work and thereby to have his work incorporated or recorded on the sound track of a cinematograph film, the latter acquires by virtue of Section 14(1)(c) of the Act on completion of the cinematograph film a copyright which gives him the exclusive right inter alia of performing the work in public i.e. to cause the film insofar as it consists of visual images to be seen in public and insofar as it consists of the acoustic

portion including a lyric or a musical work to be heard in public without securing any further permission of the author (composer) of the lyric or musical work for the performance of the work in public.”

24. In view of the above settled principles of law, and for the reasons discussed by us, we are unable to find any error in the impugned order passed by the High Court in a suit filed in 2006. However, we would like to clarify, that with effect from 21.06.2012, in view of sub-section (10) of Section 19, the assignment of the copyright in the work to make sound recording which does not form part of any cinematograph film, shall not affect the right of the author of the work to claim an equal share of royalties or/and consideration payable for utilization of such work in any form by the plaintiff/respondent.

25. Therefore, all the appeals stand disposed of with the observations as above. No order as to costs.

New Delhi;
September 20, 2016.

.....J.
[Prafulla C. Pant]

Reportable

REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL Nos.9412-9413 OF 2016
(Arising out of SLP(C) Nos.2380-2381 of 2014)

**International Confederation of Societies
of Authors and Composers (CISAC)Appellant**

Versus

Mr. Aditya Pandey & Ors.Respondents

With

CIVIL APPEAL Nos.9414-9415 OF 2016
(Arising out of SLP(C) Nos.21082-21083 of 2012)

CIVIL APPEAL NO.9416 OF 2016
(Arising out of SLP(C) No.2379 of 2014)

J U D G M E N T

PER RANJAN GOGOI, J.

1. I have had the privilege of going through the judgment prepared by my learned brother (Prafulla C. Pant, J.). While agreeing with the conclusions reached by my learned brother, I would like to

very briefly indicate the reasons for the same which are somewhat different.

2. The relevant provisions of the Copyright Act, 1957, as amended, have been set out in detail in the judgment of my learned brother. I, therefore, need not extract the same all over again. Suffice it to notice that three classes of works in which copyright subsists under Section 13(1) of the Act are (a) original literary, dramatic, musical and artistic works, (b) cinematograph films and (c) sound recording. A reading of the provisions of the Act show that such copyright co-exists. The question in the suit in which the impugned order has been passed by the High Court is one of determination of the precise extent of such co-existence and the interplay between the rights in the three classes of works enumerated under Section 13. The said question has been identified in Para 35 of the impugned order of the Division Bench which is as follows:

“The area of dispute is: what happens to the copyright in an underlying work (literary and musical works) when the derivative work (sound recording) is exploited. Does he who obtains a permission from the copyright owner of the derivative work to broadcast by way of communicating to the public said derivative work, additionally requires a similar

**permission from the owner of the underlying works
i.e. the literary and musical works?”**

3. The present appeals being against an interim order, naturally, strong and compulsive reasons exist for exercise of judicial restraint in the manner and extent of exercise of jurisdiction. Though it is too elementary it must be said that the court must refrain from expressing any opinion, whatsoever, touching upon the merits of the controversy, lest, the same may prejudice either of the parties in the suit. While there can be no doubt that an order, even interim, sans any reasons, would not be judicially acceptable, the precise exercise that a court would be required to undertake at the interim stage must be left to the wise discretion of the concerned court itself. It is not only difficult but also undesirable to lay down the parameters and contours of the exercise of judicial power at the interim stage by expressly laying conditions which would be binding under Article 141 of the Constitution. But it needs to be reminded that an elaborate reasoning with the “footnote” that the same are prima facie or tentative is hardly an effective remedy to prevent the imprint of such observations on the human mind that mans the

court at different levels. This is what appears to have happened in the present case.

4. The object of an interim exercise by the court is to find a reasonable solution to the matter which should govern the parties until disposal of the suit where the main controversy is required to be decided. Having perused the order of the learned Single Judge as well as the Division Bench, I am of the view that the order of the Single Judge, set out in opening part of the judgment of my learned brother (which has been affirmed in appeal by the Division Bench of the High Court), strikes a reasonable note to find a workable solution during the pendency of the suit. I therefore fully agree with the views expressed by my learned brother that the order of the High Court needs to be upheld.

5. However, while saying so I would like to take note of two disturbing trends which have emerged from the facts of the present cases. The suits, by now, are over 10 years old; yet, there has been no substantial progress therein. Parties to the suits seem to have lost all interest in prosecuting the same, perhaps, because the exhaustive orders at the interim stage had virtually foreclosed the issues in the suits. It is evident from the order dated 24th August,

2016 passed by the Joint Registrar of the High Court in O.S No. 1185 of 2006 that due to repeated adjournments sought on behalf of the plaintiff and on account of the failure of the plaintiff to file affidavit evidence of witnesses, the right of the plaintiff to lead evidence has been closed. In the other suits i.e. O.S. No.666 of 2006 and O.S. No.1996 of 2009 there has, again, been persistent defaults on the part of the plaintiffs and the said suits now stand transferred to the competent Civil Court from the Delhi High Court. The pendency of the suits, for a period of over 10 years with no progress and the conduct of the plaintiffs in not filing/placing their evidence before the learned trial Judge, though vehemently contesting the present appeals (against interim orders) are facts which are difficult to reconcile. Equally difficult is to accept the fact that the International Confederation of Societies of Authors and Composers (ICSAC), though not a party to any of the suits but have been allowed to contest the interim matter before this Court on the basis that the order of the High Court adversely affects the societies' rights, has chosen not to implead itself as a party to the suits and pursue the same.

6. Having said what was felt required and necessary we dispose of all the appeals by holding all observations, findings and views expressed by the High Court in the original as well as appellate proceedings before it to be of no legal effect, whatsoever, in so far as the merits of the suits are concerned which will now be expedited and heard and disposed of within a year from today.

**NEW DELHI
SEPTEMBER 20, 2016.**

.....J.
[RANJAN GOGOI]



JUDGMENT