



R.G. Anand - Appellants vs. Delux Films and Ors. - Respondent, AIR 1978 SC 1614

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Judgment delivered by Jaswant Singh, R.S. Pathak and S. Murtaza Fazal Ali, JJ

CASE FACTS:

The appellant, R. G. Anand, an architect by profession and also a playwright, dramatist and producer of several stage plays, wrote and produced a play called 'Hum Hindustani' in 1953. It ran successfully and was re-staged in 1954, 1955 and in 1956. Aware of the interest of the plaintiff in filming the play in view of its increasing popularity, the second defendant, Mr. Mohan Sehgal, contacted plaintiff.

In January, 1955, plaintiff met the second and third defendants and had detailed discussions about the play and its plot and the desirability of filming it. However, after this discussion, the plaintiff received no further communication from the second defendant. In May, 1955, the defendants started to make the film 'New Delhi', which, the plaintiff gathered, was based on his play, "Hum Hindustani". The defendant, however, assured him that it was not so. In September, 1956, the movie was released and after viewing it, the plaintiff filed a suit for infringement of his copyright in his play 'Hum Hindustani'. His claims included damages, account of profits and a permanent injunction against the defendants restraining them from exhibiting the movie.

CASE HISTORY:

Appellant filed a suit at the District Court and the learned trial judge held, in his wisdom, that the movie 'New Delhi' made by the defendants does not infringe the copyright of the plaintiff. On appeal, the Delhi High Court upheld the judgment of the district court. An appeal against the judgment of the Delhi High Court was filed at the Supreme Court.

ISSUE:

Whether the production, distribution and exhibition of the film 'New Delhi' made by the defendants are in infringement of the plaintiff's copyright in the play, 'Hum Hindustani'?

RULE OF LAW

Unless there is any substantial resemblance between the original work and the alleged copy, the play and the movie here respectively, in terms of scenes, incidents and

treatment, and similarity between the two is so much that a reasonable man would consider the 'copy' to be more or less an imitation of the original, an infringement of copyright cannot be said to have taken place.

ANALYSIS:

It was argued by Anand that Delux Films and the other defendants were fully aware of the theme of his play and its intricacies. He had had detailed discussions with them about the same. There were various similarities between the play and the movie made by Delux Films in terms of the main theme of provincialism, characterization and situations. Anand pleaded that he was the owner of the copyright in the play 'Hum Hindustani' and that his copyright in the play had been violated. The Delhi High court recognized the copyright of the plaintiff under the Copyright Act of 1911.

Delux Films and others, on the other hand, asserted that the movie was not substantially similar to the play in terms of the themes it dealt with and there were lot of differences in terms of characterization and treatment.

The court held that the film produced by the defendants can not be said to be a substantial copy of the play and the defendants can not be held to have committed an act of piracy because of differences in story, theme, characterization and climaxes. Moreover, copyright can not be acquired in an idea; the idea being provincialism in this case. A copyright offers protection only to the expression of an idea and not the idea itself. The allegation by Anand that the defendants violated his copyright by copying his idea was held invalid.

The plaintiff could not prove that the defendant had committed a colorable imitation of his play. Where similarities between the copyrighted work and the copy are so many and the similarities between the two works are not coincidental, a reasonable inference of colorable imitation can be drawn. The court held that a case for infringement may be made out only when such infringement may be identifiable by a reasonable man; and, in this case, the court observed, that no prudent person could get an impression that the film appears to be a copy of the original play. The Supreme Court did not find any violation of copyright and dismissed the appeal.

The fundamental principles established in the case with regard to infringement of copyright in case of substantial similarity still hold good.