

IN THE COMMERCIAL COURT, KOTTAYAM.

Present :- Sri. Manish D. A., Judge, Commercial Court,
(Principal Sub Judge) Kottayam.

Friday, the 21st day of November, 2025

30th day of Karthika 1947

Commercial Suit No.404/2021

Plaintiff :-

Reji Mathew, aged 41,
S/o. K. P. Mathew, residing at
Kakkattu House, Eravinelloor P.O.,
Puthuppally Village, Kottayam Taluk,
Kottayam District.

By Adv. Jojo Thomas & Adv. Sachin Sebastian.

Defendants :-

1. Major A. K. Raveendran, aged about 55,
S/o. P. L. S. P. Nair, 5 A1 Holy faith flat,
C/o. Holy Faith builders and Development,
Kundannoor, Maradu P.O., Kochi,
Ernakulam District.
2. Haneef Muhammad, aged about 50,
residing at Red Rose Combines, 'Sana',
Narangapuram P.O., Thalassery,
Kannur District, having their registered
office at Red Rose Release,
Adv. Eswara Iyer Road, Cochin - 35.

Addl. 3. Shaji S. V., aged 47,
S/o. Sadasivan Thampi, Prayaga,
T. C. No.21/516, SCRA 62,
Kailash Lane, Karamana,
Thiruvananthapuram.

Addl. 4. Sumesh V. Robin,
S/o. G. Robin Wilfred, Soumya,
Oottukuzhi, Vilappil Shala,
Thiruvananthapuram.

Additional Defendants 3 and 4 are impleaded as per Order dated 25.02.2013 in I.A. No.1843/2012.

D1 – Adv. George V. Thomas.
D2 – Adv. P. K. Babu.
Addl. D3 & D4 – Adv. Premkumar M. &
Adv. Jayakrishnan R.

This Suit having been finally heard on 11.11.2025 and the court on 21.11.2025 delivered the following.

J U D G M E N T

Suit for permanent prohibitory injunction, declaration, damages and for other consequential reliefs.

2. The plaint averments in brief, is as follows:- The plaintiff is a popular author who has acclaimed reputation as a short story writer. He has published many features in Malayalam print media. Plaintiff is well established in film industry and played major role among the crew who produced and released lot of movies. The plaintiff has notable experience as screen play, story, dialogue and script writer. He has directed few movies also. He has been actively associated with film field since the middle of 1980's. His contributions and experience have made him a demanded story, dialogue, script and screenplay writer in the film world.

3. The 1st defendant is a popular film director. The 2nd defendant is a movie producer. The 1st defendant was well aware of the popularity and recognition of the plaintiff. During September 2010, he approached the plaintiff with a new project in which the 1st defendant was authorized to direct. He told the plaintiff that he wanted to entrust the fictional work to the plaintiff. The offer was accepted by the plaintiff. The 1st defendant had expressed his idea about the movie which he had in his mind. All the movies of the 1st defendant were centered on the story of military personnel. He wanted to change his established area of military stories to social subject based on feudal background. Conceiving the suggestions of the 1st defendant, the plaintiff wrote a screenplay with title “Vishudha Ravanam”.

4. Subsequently, the 1st defendant informed that he was compelled to postpone the project, but he kept the original copy of the screenplay and dialogue in his custody. It was not returned to the plaintiff. The 1st defendant requested the plaintiff to write a story based on woman trafficking. The plaintiff and the 1st defendant had discussions in the subject

matter during September 2011 and decided to proceed with the subject. The 1st defendant had arranged a flat in Cochin city for the plaintiff to reside and complete the work. On 10.09.2011, the plaintiff started his work. One line story was completed during the 3rd week of September 2011. The 1st defendant was also satisfied with the one line story of the plaintiff. The 1st defendant made a token payment of ₹10,000/- by way of cheque dated 21.09.2011 drawn on IDBI Bank, M.G. Road branch, Cochin. The 1st defendant had requested the plaintiff to complete the screenplay with dialogue within a short period. After completing the one line, the stay of the plaintiff was shifted to the upstairs of a two storied residential building, where he stayed for two months. After completing the story and screenplay the copy was handed over to the 1st defendant. The 1st defendant has expressed full satisfaction with the work. Three names were suggested by the plaintiff namely "Raksha", "For sale" and "Karmayodha". All the three names were accepted by the 1st defendant and he suggested to finalize the name later. While the work was in progress the 1st defendant had suggested certain modifications and he noted his

suggestions in his handwriting and sent the same along with the screenplay written in the handwriting of plaintiff.

5. The story dealt with demoralised cultural set up in the society. More importance was given to money and mafia power. The story involves the hero named Sidhand/Madhava Menon, who is an Intelligence Officer in Maharashtra police, his daughter Saksha and many other characters. The plaintiff had suggested two alternative climaxes for the movie. The screenplay with dialogue was handed over by the plaintiff to the 1st defendant during January 2012. As per the direction of the 1st defendant, the plaintiff proceeded with the work. By the end of January 2012, the entire literary work with dialogue was completed by the plaintiff. The 1st defendant had met the plaintiff and discussed about the remuneration for the total work. He demanded ₹30,00,000/- for the work retaining his right for sale for the literary work in other languages. The 1st defendant had almost agreed the proposal and informed the plaintiff that he would discuss with the producer about the remuneration. He asked the plaintiff that he wanted a copy of the script, screenplay and dialogue to show the producer.

Believing the 1st defendant, the plaintiff handed over the script, screenplay and dialogue to the 1st defendant without any hesitation.

6. Even though the plaintiff waited for communication from the 1st defendant, nothing was heard from the 1st defendant. During the 1st week of September 2012, the plaintiff came to know that the 1st defendant had conveyed to media about the production of a movie. The plaintiff came across a report in a Malayalam weekly dated 09.09.2012 that the story, screenplay and dialogue of that movie was written by the 1st defendant himself. The 2nd defendant is mentioned as the producer of the movie. In another weekly published on 20.09.2012 the details of the movie was published. The detailed story of the movie was contained in the said report, which was the adaptation of the story written by plaintiff. In the said report, it is also mentioned that the screenplay and dialogue were written by Shaji S.V. and Suresh V. Robin. The 1st defendant was stated as the story writer. In another daily dated 05.12.2012, a report appeared that screenplay and dialogue

were written by the 1st defendant himself. The report of movie shooting also began to appear in internet.

7. On enquiry, it was revealed to the plaintiff that the 1st defendant had started picturisation of the story, screenplay and script of the plaintiff. On contacting the 1st defendant over telephone, he did not give a definite answer. The plaintiff issued a notice through his lawyer dated 26.09.2012 to the 1st defendant. The defendants have jointly sent a reply. Ignoring the notice, the defendants continued with the work of the movie. The plaintiff is the author of the story, script, screenplay and dialogue. The plaintiff has absolute copyright over the work. He has put his original innovative skill, labour, creativity, etc. to develop the story. It is capable of communicating the exact message to the viewers. The plaintiff has applied his mind to the maximum while writing the script, screenplay and dialogue based on his own story, to give a positive message and logical conclusion to each scene.

8. After few days of the issue of notice, some persons claiming to be the friends of the 1st defendant contacted the plaintiff for an amicable settlement. On 05.12.2012, the brother

of the 1st defendant contacted the plaintiff through telephone and threatened the plaintiff. Brother of the 1st defendant is the Executive Producer of the movie. It was later known to the plaintiff that the defendants have selected the name “Karmayodha” for the movie, out of the three names suggested by the plaintiff. It was also known that the defendants have completed the picturisation by distorting the central thread of the theme by making minor changes and altering certain scenes. The entire work was over and the movie has waited for screening before the Censoring Committee. The plaintiff got information that the movie was scheduled to be released on 21.12.2012. As per the reports appeared in the media, the fictional work including dialogue was attributed in the name of the 1st defendant or some other strangers. The plaintiff has not assigned any right, either to the 1st defendant or to anybody else to use his story, screenplay and dialogue. The defendants have infringed the authorship right and copyright of the plaintiff. It has affected the honour and reputation of the plaintiff. The 1st defendant had acted with malafide intention to cheat the plaintiff and to obtain unlawful gain.

9. Even if the producer is the owner of the copyright of the cinematograph film, the plaintiff who is the author of the story, script, screenplay and dialogue has separate copyright with respect to the work. Therefore exhibition or attempt to exhibit the movie "Karmayodha" by the defendants showing the name of the 1st defendant or anybody else as the writer of the story, script, screenplay and dialogue is clear infringement of the authorship right of the plaintiff. As per order on I.A. No.1795/2012, the court has restrained the original defendants from exhibiting the name of the writer of the script, screenplay and dialogue in the title scene. They were allowed to exhibit the said name subject to the result of the suit. The defendants were directed to furnish security of ₹5,00,000/-. The movie was released on 21.12.2012 in violation of the order passed by the court. The movie was exhibited without notifying that the suit is pending. They have continued to exhibit the name of the writer of script, screenplay and dialogue without the notification from 25.12.2012 onwards. The act of the defendants is in violation of the order passed on I.A. No.1795/2012. The defendant Nos.1 and 2 have sold the copyright to prepare movie CDs and to sell

it commercially. The satellite right was also sold by the defendant Nos.1 and 2 to a TV channel. They have also sold the right to remake the movie in other languages. The defendant Nos.1 and 2 have made unlawful gain of ₹6 Crores by the above said business. The amount due to the plaintiff in the business could be estimated upto ₹50,00,000/-.

10. Exhibition of the movie in various media and different versions as per the contract entered into by defendants, has caused heavy damage and loss to the plaintiff. The plaintiff could have received his remuneration for the script, screenplay and dialogue. The minimum remuneration that would have been claimed by the plaintiff is ₹25 lakhs. Defendant Nos.1 and 2 have exhibited a wrong name instead of the name of the plaintiff and the said space was kept blank in some of the forms of exhibition media. It is detrimental to the reputation of the plaintiff as an established writer. Defendant Nos.1 and 2 are bound to compensate the plaintiff. The plaintiff assumes that defendant Nos.3 and 4 might also have joined as parties to all the transactions done by defendant Nos.1 and 2. Hence all the defendants are liable jointly and severally to

compensate the plaintiff. The plaintiff has limited his claim for compensation to ₹40 lakhs.

11. Hence the suit was filed for decree of permanent prohibitory injunction restraining the defendants or anybody under them from exhibiting, re-making or converting into any other language by dubbing the malayalam movie “Karmayodha” in any theatres in India, Film Festival, before award committees or convert it into Compact Disc or any other form to exhibit as video film, in television/satellite channels or in any other media except with the name of the plaintiff as writer of story, script, screenplay and dialogue. It was prayed to declare that the plaintiff is the absolute owner of authorship right and copyright of the story, script, screenplay and dialogue of the movie. The plaintiff has prayed to pass a decree of prohibitory injunction restraining the defendants, their men or anybody from producing, reproducing or publishing the story, script, screenplay and dialogue or its translation in the form of book or article in any print media or to reproduce or publish the same by infringing the right of the plaintiff. It was also prayed to pass a decree of prohibitory injunction restraining the defendants or

anybody from exhibiting, utilizing or publishing any material notifying the exhibition of the movie without including the name of the plaintiff. The plaintiff has also prayed to direct the defendants to pay ₹40,00,000/- as compensation.

12. On receipt of summons, defendant No.1 entered appearance and filed written statement with the following contentions :- The suit is not maintainable either in law or on facts. The plaintiff has no allegation that he had any written agreement with the defendants. As per section 17 of the Copyright Act, the producer/director is the first owner of Copyright of cinematograph film in the absence of any agreement. The plaintiff has no legal right to challenge the copyright of the defendants. Under section 13 of the Copyright Act, the copyright of any works related to cinematograph film arises only when the first owner expressly approves or endorses such authorship.

13. The law of copyright does not protect ideas. Since copyright of cinematograph film exclusively vests with the producer, no one can allege any violation of copyright of story, screenplay and script of the motion picture. The suit is also not

maintainable under the provisions of sections 18, 19 and 55 of the Copyright Act.

14. Defendant No.1 does not know the reputation of the plaintiff in the film field or details of his released films. The status of plaintiff in script writing, story, dialogue, etc. is also not known to the 1st defendant. The 1st defendant is a director of cinematograph films and the 2nd defendant is a producer. The allegation that the 1st defendant had approached the plaintiff with a proposal for a new project during September 2010 is not correct. The contention that the plaintiff wrote a new script and dialogue named "Vishudha Ramanan" is absolutely false. The 1st defendant had neither demanded nor discussed anything regarding script or dialogue of any film with the plaintiff. The story was never heard by the 1st defendant as alleged by the plaintiff. The 1st defendant apprehends that the narration by the plaintiff was a theme of somebody else stolen by the plaintiff with an ill motive to make false claim in future.

15. The contention that the 1st defendant had informed that he was compelled to postpone the project and kept the original copy with him is not correct. The 1st defendant had not

requested to write a story on woman trafficking during September 2011 and had prolonged discussions with the plaintiff. It is not correct to state that the 1st defendant had arranged accommodation at Kundannoor for the plaintiff and work was started on 10.09.2011. It is also not correct to state that one line story was completed by the plaintiff and a token payment of ₹10,000/- was made by the 1st defendant to the plaintiff. In movie filed, no writer would write or suggest one line stories to any director without written agreement. The allegation that the plaintiff had completed the story and screenplay and handed over copy to the 1st defendant and suggested names is not correct. The contention that the 1st defendant had made corrections in the screenplay of the plaintiff is false. The sheet of papers inserted in the document produced by the plaintiff were stolen by the plaintiff from the shooting sites with malafide intention.

16. The story alleged to be written by the plaintiff was never communicated in any form or submitted or narrated to the 1st defendant. The plaintiff had stolen the draft screenplay of the new venture of the 1st defendant named "Karmayodha"

from the site during the shooting and prepared its imitation, thus committed piracy with intention to bargain and extract money from the defendants. When the defendants did not heed to the illegal demands of the plaintiff, he has filed the suit. Similarity of some characters and expressions found in any work will not attract the provisions of Copyright Act. It is not correct to state that final story and screenplay with dialogue were handed over to the 1st defendant during January 2012. The documents produced by the plaintiff has no link with the movie of the 1st defendant named “Karmayodha”.

17. The contention of the plaintiff that he completed the work and met the 1st defendant is not correct. The allegations that the plaintiff had demanded ₹30,00,000/- and the 1st defendant almost agreed for the same are false. The contention that the 1st defendant had demanded a copy of the work is not correct. The 1st defendant is not responsible for any news items, announcements, etc. published in magazines or other media. The plaintiff is not entitled to claim any right over the films directed or produced by the defendants. To the notice received from the plaintiff, a reply was sent by the 1st defendant on

07.10.2012. The allegation that the plaintiff is the author of the story, script or dialogue of the film directed by the 1st defendant is not correct. The plaintiff is not an author having any copyright over the film. It is learnt that there were previous similar incidents that the plaintiff had tried to extract money from others and criminal cases are pending against him.

18. The 1st defendant after a meritorious service with Indian Army has been directing movies with the message of national integration and other social causes which is accepted and appreciated by the public. He has received several awards also. The movie "Karmayodha" was about to be released during Christmas holidays. Sri. Santhosh Damodar has prepared one line story of the movie during early part of August 2011 and it was purchased by the 1st defendant. The 1st defendant had arranged discussions to develop the one line story. The plaintiff was one among those several persons who visited the 1st defendant to develop the one line story. The 1st defendant had selected the story narrated by Shaji S.V. and Suneesh P. Robin. They were accepted as dialogue writers for the movie. The other persons including plaintiff, who visited the 1st defendant

were paid cash for their expenses. Cheque for ₹10,000/- was given to him on the same day in addition to ₹20,000/- paid in cash. The plaintiff intentionally retained the photocopy of cheque for using in the well planned operation against the 1st defendant when the movie was ready for release.

19. The screenplay was completed and registered with Film Writers Association, Mumbai on 04.01.2012. Shooting of the movie was completed on 20.09.2012. Those facts were communicated to the plaintiff through notice dated 07.10.2012. The movie was certified for public exhibition and released on 21.12.2012 complying with the conditions imposed by the court. Being aware of all these facts, the plaintiff waited till the last moment to file the suit to harass the defendants with intention to extract money. The contention that the 1st defendant and his brother have contacted the plaintiff for settlement is false. The plaintiff has no role in the film "Karmayodha" directed by the 1st defendant. The defendants have not violated any rights of the plaintiff. The movie got approval from statutory bodies and hence the defendants became first owner of copyright in the cinematograph film. The

plaintiff has no specific case about adaptation of his story by the defendants. He has not alleged any injury sustained by him which cannot be compensated in terms of money. He is not entitled for declaration and injunction as prayed for. The attempt of the plaintiff is to mislead the court. The 1st defendant has prayed for dismissal of the suit with compensatory costs.

20. Defendant No.2 has filed written statement with the following contentions :- The plaintiff is not entitled for any relief. His reputation in the film field is not known to defendant No.2. The documents produced have no value in the eyes of law. Defendant No.2 is the producer of the film. Entire finance was given by him for production of the film named "Karmayodha". There was an agreement between defendant Nos.1 and 2. One line story named "Raksha" written by Mr.Santhosh Damodaran on 05.08.2011 was forwarded to the 1st defendant. The 2nd defendant is fully acquainted with the day to day development and progress of the movie, which was developed on the basis of the above said one line story.

21. The allegation that the 1st defendant approached the plaintiff with a proposal of new project and he wrote script and

dialogue named “Visudha Ravanaan”, is not correct. The 1st defendant never requested the plaintiff to write such story. The allegation that the plaintiff stayed for two months at Ernakulam, suggested title and completed the work are falsehood. Defendant Nos.1 and 2 have never come across any document or its copy which were produced before court as the literary work of the plaintiff. The story mentioned in the plaint was never told or handed over to the defendants. The story narrated by the plaintiff is different from the script and screenplay of the movie. The plaintiff is not entitled to claim any right over the film produced by defendant No.2. After preparation of one line story by Santhosh Damodaran during August 2011, the 1st defendant had invited those who used to visit him with stories, to develop the one line story. The plaintiff was one among those several persons. The 1st defendant selected the story narrated by two other persons. The screenplay was completed and registered. The defendants have invested lakhs of rupees for producing the movie. The plaintiff has no case that he had seen the original screen play, script, etc. of the movie “Karmayodha”. The plaintiff has not produced

any document to prove that he is the author of the story. The endorsement made by the notary public in Page No.106 of the document produced by plaintiff was on 10.09.2012. There was no possibility to submit the original story and screenplay to the 1st defendant by January 2010 as alleged in the legal notice. Further, the notary public has not verified the original by certifying the script and screenplay produced by the plaintiff. The said document was collected or obtained or prepared or manipulated by the plaintiff. There is no infringement of copyright since there was no reproduction of literary, dramatic, musical or artistic work done by the plaintiff.

22. The theory of 1st owner of copyright is applicable in this case since the screenplay was registered by the 1st defendant with Film Writers Association with the name "Raksha". The present movie is the development of the one line story "Raksha". Therefore, the 1st defendant is the 1st owner of screenplay and as such the owner of copyright of the movie. Defendant No.2 has also prayed to dismiss the suit.

23. Originally there were only two defendants in the suit. As per order dated 22.05.2013 on I.A. No.1843/2012,

Additional defendant Nos.3 and 4 were impleaded. They have filed written statement on 11.04.2014 with the following contentions; To their knowledge, the plaintiff had assisted some directors in very few malayalam movies. He had not made any contribution of himself to the film field. They have no knowledge about the experience of the plaintiff in film field and television field or about the recognition claimed by the plaintiff. The plaintiff somehow managed to obtain the draft of screenplay written by defendant Nos.3 and 4 and filed the suit. The name of the characters and brief narration of the film mentioned in paragraph Nos.4 and 5 are admitted. It is not correct to state that it was the story and screenplay with dialogue handed over to the 1st defendant by plaintiff during January 2012.

24. The 3rd defendant has done many literary works including screenplay, dialogue and story of different films. Defendant Nos.3 and 4 have done the literary work for the film "Karmayodha". During September 2011, the 1st defendant approached defendant Nos.3 and 4 and requested to prepare screenplay and dialogue for the movie. As such the defendants

3 and 4 have prepared screenplay and dialogue and thereafter shooting was completed. Defendant Nos.3 and 4 have fully co-operated with the 1st defendant for completing the movie. It is not correct to state that the plaintiff had suggested alternative climaxes. The climax of the movie was written by defendant Nos.3 and 4. The fact that story was made by the 1st defendant and screenplay and dialogues were written by defendant Nos.3 and 4, was informed to all the media who approached them. The plaintiff has no right over the work of the defendants. That is the reason he had omitted to include defendant Nos.3 and 4 originally in the suit. Attempt of the plaintiff is to take the fruits of the hard work and dedication of defendant Nos.3 and 4. They have also prayed for dismissal of the suit.

25. Originally, the suit was filed claiming relief of injunction and declaration. As per order dated 09.10.2017 on I.A. No.1417/2017, the plaint was amended thereby incorporating the relief of compensation also. After amendment, defendant No.1 has filed additional written statement with the following contentions :- The plaintiff is not entitled for any damages. The allegation that movie was released in violation of

the order on I.A. No.1795/2012 is false. The contention that the movie was exhibited without notifying the pendency of case and continued the exhibition of name of writer of script, screenplay and dialogue, is not correct. As per the interim order passed by court, defendants have deposited ₹5,00,000/- and exhibited caption that the name of writer of script, screenplay and dialogue is subject to the outcome of suit.

26. The defendants are entitled to prepare CDs for its commercial sale and also to exhibit the movie through TV channels. They are also entitled to remake the movie in other languages. The contention that defendants have made illegal gain out of the business is not correct. The plaintiff is not entitled for any amount as claimed. He is not entitled to claim any damages by way of amendment. The nature of dispute has been changed. The relief of damages is time barred also. Defendant No.1 has prayed for dismissal of the suit.

27. The suit was originally filed before the Hon'ble District Court, Kottayam as O.S. (Copyright) No.4/2012. The trial has also commenced before the Hon'ble District Court. After establishment of Commercial Court, Kottayam, the suit

was transferred by the Hon'ble Additional District Court-I, Kottayam to Commercial Court, Kottayam as per order dated 10.02.2021. After receipt of the case records, the suit was renumbered before this court as C.S. No.404/2021, i.e., the present suit.

28. The following issues were already settled for consideration before the Hon'ble Additional District Court-I, Kottayam on 05.07.2017.

- (i) *Is the suit maintainable under sections 18, 19 and 55 of the Copyright Act, 1957?***
- (ii) *Is the plaintiff the author of story, script and dialogue of the film "Karmayodha" ?***
- (iii) *Have the defendants violated any of the authorship or copyright of the plaintiff in his literary work?***
- (iv) *Whether the plaintiff is entitled for the declaration?***
- (v) *Is the plaintiff entitled to get the decree of prohibitory injunction as prayed for?***
- (vi) *Reliefs and costs?***

29. On 07.02.2018, the following additional issues were also framed.

(vii) Whether the plaintiff is entitled for the damages, as prayed for?

(viii) Whether this court has any territorial jurisdiction in the matter?

(ix) Whether the claim of damages is barred by limitation?

30. The plaintiff's evidence consists of oral testimonies of PW1 to PW4 and documents marked as Exts.A1 to A21. On the side of the defendants, DW1 and DW2 were examined. Documents were marked as Exts.B1 to B9.

31. Arguments of the learned counsel appearing for the plaintiff and the defendants were heard in detail.

32. **Issue No.(i)** :- The 1st defendant has taken a contention that the plaintiff is not the owner of copyright and hence he has no right to challenge the right of the defendants. According to the 1st defendant, as per section 17 of the Copyright Act, the producer/director is the first owner of copyright of the cinematograph film in the absence of any

agreement. As per section 13 of the Copyright Act, copyright of any works related to cinematograph films arises only in a case where the 1st owner expressly approves or endorses such authorship. It was also contended by the 1st defendant that under section 2(d) of the Act, producer is the author of a cinematograph film and hence copyright exclusively vests with the producer.

33. It is the case of the 1st defendant that a writer named Santhosh Damodaran had prepared the one line story during August 2011 and it was purchased by defendant No.1. In order to develop the one line story, there were discussions with some persons including the plaintiff. The 1st defendant had selected the story narrated by the additional defendants 3 and 4. It was also submitted that the screenplay was registered with The Film Writers Association, Mumbai on 04.01.2012.

34. Section 18 of the Copyright Act 1957 deals with assignment of copyright. As per sub-section (1) of section 18, the owner of 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 term of the copyright or any part thereof. As per 3rd proviso to sub-section (1), the author of the literary or musical work included in a cinematograph film shall not assign or wave the right to receive royalties to be shared on an equal basis with the assignee of copyright for the utilization of such work in any form other than for the communication to the public of the work along with the cinematograph film in a cinema hall, except to the legal heirs of the authors or to a copyright society for collection and distribution and any agreement to contrary shall be void.

35. Section 19(1) of the Copyright Act states that no assignment of the copyright in any work shall be valid unless it is in writing signed by the assignor or by his duly authorized agent. Section 55 of the Act provides for civil remedies for infringement of copyright. As per sub-section (2) of section 55, where in the case of a literary, dramatic, musical or artistic work, or subject to the provisions of sub-section (3) of section 13, a cinematograph film or sound recording, a name purporting to be that of the author, or the publisher, as the case

may be, of that work, appears on copies of the work as published, or, in the case of an artistic work, appeared on the work when it was made, the person whose name so appears or appeared shall, in any proceeding in respect of infringement of copyright in such work, be presumed, unless the contrary is proved, to be the author or the publisher of the work, as the case may be.

36. The 1st defendant has no specific case that he had assigned the copyright of story, screenplay or dialogue to any person. There was also no contention that the work of the plaintiff was assigned in favour of the 1st defendant or other defendants. The dispute involved in the suit is not with respect to assignment of any copyright, but with respect to infringement of copyright. It is true that as per section 62 of the Copyright Act every suit or other civil proceedings arising under Chapter XII of the Act in respect of the infringement of copyright in any work or the infringement of any other right conferred by this Act shall be instituted in the District court having jurisdiction. The said provision remains unamended even with the advent of the Commercial Courts Act, 2015. As

per section 2(1)(c) (xvii) of the Commercial Courts Act, dispute arising out of intellectual property right relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications, and semiconductor integrated circuits would also come within the meaning of commercial dispute. The suit was transferred from the Hon'ble Additional District Court-I, Kottayam to this court on establishment of Commercial Court, Kottayam. It is satisfied that there is no bar for entertaining the suit in view of the provisions contained in Section 18, 19 and 55 of the Copyright Act. The suit is maintainable before this court and hence issue No.(i) is found in favour of the plaintiff.

37. **Additional issue No.(viii)** :- Since this issue relates to competency of court with respect to territorial jurisdiction, this issue is also answered before considering the other issues. According to the plaintiff, the cause of action arose at Puthuppally Village in Kottayam Taluk where the plaintiff resides and also within Puthuppally Village where he had come across report in magazines about the movie. As per section 62(2) of the the Copyright Act, for the purpose of sub-section

(1), a “district court having jurisdiction” shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, or any other law for the time being in force, include a district court within the local limits of whose jurisdiction, at the time of the institution of the suit or other proceeding, the person instituting the suit or other proceeding or, where there are more than one such persons, any of them actually and voluntarily resides or carries on business or personally works for gain. There is no material on record to show that the plaintiff is residing or carrying on business outside the jurisdiction of this court. A forum convenience is given to the plaintiff as per the statute to institute the suit before the court having jurisdiction at the seat of the plaintiff. Hence it is held that this court has territorial jurisdiction to entertain the suit. Hence additional issue No.(viii) is found in favour of the plaintiff.

38. **Issue Nos.(ii) to (iv)** :- These issues are discussed together for the sake of convenience. The plaintiff was examined as PW1. He filed affidavit in lieu of examination in chief in accordance with the plaint averments. In order to

substantiate the contention that PW1 has a prominent role in film filed, he produced the photocard of the film named "Uppukandam Brothers back in action", in which the name of PW1 is mentioned as the screenplay writer. The photocard is marked as Ext.A1. He stated that he had written and directed a movie named "Passpass". The printed cover of the audio CD of songs of the said movie is marked as Ext.A2. Brochure of the movie named "Passpass" is marked as Ext.A3. Ext.A4 is the photocopy of an agreement dated 28.05.2004 executed by PW1 and five other persons stating to be the agreement in connection with engaging PW1 in the work of the movie "Uppukandam Brothers Part-2". Invitation letter in connection with pooja of telefilm named "Sneha Sangeerthanam" containing the name of PW1 as writer and director is marked as Ext.A5. He stated that considering his contribution to the film filed, the Kerala State Film Development Corporation had nominated PW1 as its director. The letter dated 23.09.2015 in connection with the meeting of the Board of Directors scheduled on 01.10.2015 at Alappuzha addressed to PW1 requesting to attend the meeting, is marked as Ext.A6.

39. It is the case of the plaintiff that as requested by DW1, he started writing the one line story during September 2011 by staying in the flat of DW1 at Kundannur. During the 3rd week of September 2011, the one line story was completed and after discussions, DW1 approved the same and paid token advance of ₹10,000/- to PW1 by way of cheque dated 21.09.2011 drawn on IDBI bank. The photocopy of cheque dated 21.09.2011 for ₹10,000/- is marked as Ext.A7. Thereafter, as requested by DW1 the screenplay and dialogue were also completed by PW1. He entrusted the photocopy of the screenplay with dialogue to DW1 and retained its original. The screenplay stated to be written in the handwriting of PW1 attested by a notary public on 10.09.2012 is produced and marked as Ext.A8. In the last page of Ext.A8, there is a noting by PW1 addressed to DW1 that DW1 could suggest modifications in the script after going through the same. Page No.106 of Ext.A8 is separately marked as Ext.A8(a). PW1 deposed that subsequently, DW1 had suggested some modifications to scene Nos.7, 8 and 12 contained in Ext.A8. In the handwriting of DW1, he had made some corrections in the

original screenplay. Two pages of scene No.7 were separately produced by PW1 and marked as Ext.A9. Exts.A9(a), A9(b) and A9(c) were the pages containing corrections stated to be made by DW1 in his handwriting to scene Nos.7 and 12. Ext.A10 is the screenplay with dialogues stated to be written in the handwriting of PW1. PW1 further stated that in the movie, some characters contained in the script and screenplay were excluded. PW1 had suggested two climaxes as per Ext.A8.

40. Malayalam magazine named 'Vellinakshathram' published on 09.09.2012 containing news about the movie proposed to be produced by defendant No.1 is marked as Ext.A11. Page Nos.16, 17 and 18 of the said magazine containing the write ups, are marked as Exts.A11(a), A11(b) and A11(c). Ext.A12 is the malayalam magazine named 'Chithrabhoomi' published on 20.09.2012 containing the article regarding the movie proposed to be produced by DW1. Page Nos.10, 11, 12 and 13 of the said magazine containing the news item is marked as Exts.A12(a), A12(b), A12(c) and A12(d) respectively. PW1 deposed that the write ups contained in Exts.A11 and A12 are based on the screenplay written by him.

In one of the news items, it was stated that the story was written by defendant No.1 and in the other magazine, it was stated that the screenplay and dialogue were written by defendant Nos.3 and 4. The relevant page of 'Janayugam daily' dated 05.12.2012 containing a news item that the screenplay was written by defendant No.1 is also produced and marked as Ext.A13. Ext.A14 is the extract of a report published in Wikipedia stating that the movie was written by DW1. PW1 further stated that immediately he contacted DW1 through telephone, but no proper reply was obtained. Ext.A15 is the office copy of the legal notice dated 26.09.2012 issued by PW1 to defendant Nos.1 and 2. The acknowledgment cards were marked as Exts.A16 and A16(a).

41. According to PW1, the movie was released by the defendants in theatres on 21.12.2012. However, they have violated the order of injunction passed by the court as per I.A. No.1795/2012. Two Compact Discs containing parts of the movie stated to be exhibited in violation of the order of injunction were marked as Exts.A17 and A17(a). After release of the movie, a news item was published in Wikipedia stating

that the story of the movie was written by defendant No.1. Extract of the news item published in Wikipedia regarding the movie is marked as Ext.A18. PW1 further stated that after seeing the movie in theatres, few of his friends had enquired PW1 why the name of PW1 was not shown in the title of the movie. Thereafter, PW1 had also seen the movie in a theatre and confirmed that his name was not shown in the title.

42. PW1 has also stated that the movie was dubbed into Tamil language and rights were also sold to picturize the movie in a TV channel. Copy of the photocard of the movie translated to Tamil with name Vetrимaran IPS, is produced and marked as Ext.A19. PW1 deposed that by selling the rights of the movie, defendant Nos.1 and 2 have obtained profit of ₹6 Crores. In order to show the credentials of PW1 in movie field, he has produced a brochure of the movie titled 'Uppukandam brothers-2' in which his name is shown as the 'Writer'. The brochure is marked as Ext.A20. Ext.A21 is a letter dated 18.04.2015 issued by the Managing Director, Kerala State Film Development Corporation to the plaintiff forwarding copy of the government order appointing PW1 as the director of the corporation.

43. PW2, T.S. Sureshababu is a film director, who knew PW1 for many years. They worked together in connection with script of a movie during the year 2010 -2011. DW1 was also known to PW2. He stated that DW1 had discussed with him about a matter related to PW1. He is aware about the discussion between PW1 and DW1 at the flat of DW1 at Ernakulam in connection with movie named 'Karmayodha'. PW2 is also aware that PW1 was engaged in script writing in around 7 or 8 movies.

44. PW3 is a friend of PW1. He stated that three days prior to the release of the movie 'Karmayodha' PW1 called him and informed that the script belonged to PW1. PW3 had seen the movie in a theatre at Kannur. He stated that when he watched the movie, the details as per order of injunction passed by the court were not exhibited in the title.

45. PW4 is a political worker who knew DW1. He stated that in the year 2011, when he went to the flat of DW1 to invite him for a function, PW1 was also present there. It was informed that PW1 had been writing story for a movie in which Mohanlal

is proposed to act. It was informed by DW1 that name of the movie was not finalized.

46. The defendant No.1 was examined as DW1. He filed affidavit in-lieu of examination in chief in tune with the contentions contained in the written statement. According to him, one line story of the movie was prepared by one Santhosh Damodaran during August 2011. The consideration was fixed as ₹6 lakhs. ₹2 lakhs was paid as advance. DW1 has produced an agreement dated 14.12.2011 stated to be executed between him and Santhosh Damodaran and it is marked as Ext.B1. In Ext.B1, it was stated that Santhosh Damodaran is the copyright holder of one line story 'Raksha' and defendant No.1 intended to purchase the rights of the story. It was also stated in the agreement that Santhosh Damodaran had agreed orally on 14.12.2011 to transfer the full rights of the story to DW1 for a proper consideration, by executing an agreement in due course.

47. DW1 further stated that on 04.01.2012, he had registered the screenplay of the movie Raksha with Film Writers Association, Mumbai. The screenplay registered with the said association is produced and marked as Ext.B2. He

further stated that after obtaining the story from Santhosh Damodaran, he invited different writers to prepare the screenplay and dialogue. PW1 had also visited DW1. However, DW1 had selected the screenplay and dialogues prepared by defendant Nos.3 and 4. Ext.B3 is the copy of agreement dated 21.05.2012 between PW1 on the one part and defendant Nos.3 and 4 on the other part with respect to writing the screenplay and dialogue for the movie "Karmayodha". He stated that he had given consideration to all the writers who visited him including PW1. Cheque for ₹10,000/- and ₹20,000/- as cash were given to PW1. Thereafter, DW1 had not seen or contacted PW1.

48. Ext.B4 is the copy of an agreement dated 11.07.2012 executed between DW1 and defendant No.2 for production of movie named "Karmayodha". The shooting was completed on 20.09.2012. He stated that in the year 2012, there were many publications in all major film magazines about the movie named "Karmayodha". Copy of the certificate dated 30.11.2012 issued by the Central Board of Film Certification for the trailer of the film named "Karmayodha" is marked as Ext.B5. Ext.B6 is the

copy of certificate dated 04.12.2012 issued by the Central Board of Film Certification for the movie titled "Karmayodha". According to DW1, the contention of PW1 that the script was handed over to him by PW1 during January 2012 is not correct. Exts.B1 and B2 would show that such a contention of PW1 is not probable. Ext.B7 is the copy of the reply notice dated 07.10.2012 sent by DW1 through his advocate. The acknowledgment card is marked as Ext.B8. Ext.B9 is the copy of certificate received by DW1 during the Kerala State Awards for Malayalam Film, 2006 for best screenplay writer for the movie named "Keerthy Chakra".

49. DW2 is the defendant No.4, who also has filed affidavit in-lieu of examination in chief in accordance with the averments contained in the written statement jointly filed by him and defendant No.3. According to him, PW1 had not made any major contributions to Malayalam cinema. He had not heard about the name of the movies specified by PW1 in the plaint. DW2 stated that the plaintiff has committed forgery in the script and screenplay prepared by defendant Nos.3 and 4. As requested by DW1, defendant Nos.3 and 4 have prepared

the screenplay of the movie named "Karmayodha". Dialogues were also written by defendant Nos.3 and 4. He also stated that they were present with DW1 throughout the shooting of the movie. Consideration was also received from DW1 for the literary works. He stated that PW1 is not entitled to claim any right over the story, script, screenplay and dialogue of the movie named Karmayodha.

50. The learned counsel for the plaintiff has argued that on comparison of Ext.A8 and Ext.B2, it could be seen that there is scene wise similarity between both. It was submitted that the characters and the presentation of scenes are similar and it is sufficient to prove that Ext.B2 was copied by DW1 from Ext.A8. The learned counsel for the plaintiff has relied on the decision of Hon'ble Supreme Court of India in **R.G. Anand v. M/s. Delux Films and others, AIR 1978 SC 1613**, wherein the Hon'ble Supreme Court has observed that one of the surest and safest test to determine whether or not there has been a violation of copyright is to see if the reader, spectator or the viewer after having read or seen both the works is clearly of the opinion and gets an unmistakable impression that the

subsequent work appears to be a copy of the original. Where the theme is the same but is presented and treated differently for that the subsequent work becomes a completely new work, no question of violation of copyright arises. Where however apart from the similarities appearing in the two works there are also material and broad dissimilarities which negative the intention to copy the original and the coincidences appearing in the two works are clearly incidental no infringement of copyright comes into existence. If the viewer after seeing the film gets a totality of impression that the film is by and large a copy of the original play, violation of the copyright may be said to be proved. The Hon'ble Supreme Court has further observed that the defendant's work is nothing but a literal imitation of the copyrighted work with some variations here and there it would amount to violation of copyright. In other words, in order to be actionable the copy must be a substantial and material one which at once leads to the conclusion that the defendant is guilty of an act of piracy.

51. In **Radhakrishnan M. v. M/s. Surabhi Publications, Kottayam and Others, 2016 KHC 640**, the

Hon'ble High Court of Kerala has held that piracy is a question of facts to be decided by the Presiding Officer of the court and not the expert on the subject. The Hon'ble High Court has observed that mere introduction of some changes here and there in order to disguise the attempt at plagiarism or interchanges of relative position in which the principal actors stand to create an impression that the story of the film is entirely different is not sufficient to rule out the theory of colourable imitation. The safest test to determine whether or not there has been a violation of copyright is to find out if the reader, spectator or viewer after having read or seen both the works can get an impression that the impugned work or film is an imitation of the other.

52. In **Shuhaib Hameed v. James Albert and Others, 2015 (3) KHC 343**, Hon'ble High Court of Kerala while considering section 13 of the Copyright Act, has observed that an author of a literary work has copyright in respect of his work and the said right includes exclusive right to make cinematograph films in respect of the said work. However in a case where defendant reproduces original in a different form,

different tone and different tenor, so as to infuse a new life into the idea, there cannot be any violation of copyright as the subsequent work become a completely new work. In the facts of that case, there was a contention that the movie was based on the novel of the plaintiff. The Hon'ble High Court has held that in such cases, question is whether the defendant has adopted the manner, arrangement, situation to situation and scene to scene with minor changes or super addition or embellishments here and there. Key test is to see whether the reader or viewer gets an unmistakable impression that work of defendant is the copy of original. The Hon'ble High Court has further observed that mere similarities and coincidences by themselves would not lead to inference that there is violation of copyright. Fact that movie and novel is narrated in the background of campus life, by itself cannot give rise to an action for violation of copyright.

53. The learned counsel for defendant No.1 has argued that the allegations in the plaint do not constitute any copyright violation and admittedly the allegations and claim is based on an unpublished matter claimed to be prepared by the plaintiff.

There is no pleading to the effect that PW1 is the author of the film and he has no case that DW1 had misused claiming himself as author of screenplay, story and script. The learned counsel for defendant No.1 has submitted that the pleadings would constitute only the allegations of assignment and not of plagiarism. The learned counsel has argued that as per section 2(d)(v) of the Copyright Act 1957, author in relation to a cinematograph film means the producer. 'Producer' in relation to a cinematograph film means a person who takes the initiative and responsibility for making the work [Section 2(uu)]. As per proviso (a) to section 17 of the Act the proprietor shall be the first owner of the work made under contract of employment in the absence of any agreement to the contrary in respect of literary or dramatic work made in the course of employment. The learned counsel has argued that the proviso (e) to section 17 was incorporated with effect from 21.06.2012 and it has no application in the present case because the alleged cause of action arose prior to the amendment. Hence the person who commissions the work is the owner of the copyright. It was argued that as per section 35 of the Act, only the author of the

copyright can challenge infringement. It was submitted that the plaintiff had no agreement with DW1 and hence he is not entitled to claim as the owner of copyright and not entitled to seek any civil remedies under section 55 of the Act.

54. The learned counsel for defendant No.1 has argued that as per the plaint, the story of Karmayodha movie is the adaptation of the story written by the plaintiff. Section 2(a) of the Copyright Act 1957 defines adaptation. As per sub clause (ii) of clause (a) of section 2 “adaptation” means, in relation to a literary work or an artistic work, the conversion of the work into a dramatic work by way of performance in public or otherwise. As per sub clause (iii) of sub-section (a) adaptation means, in relation to a literary or dramatic work, any abridgement of the work or any version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, or in a newspaper, magazine or similar periodical. It was argued by the learned counsel that the script is the written text of the movie and is different from story and screenplay and there is always chances of overlapping. The learned counsel for defendant No.1

has produced a decision of the Hon'ble High Court of Kerela in **Abraham v. Sadanandan and Others, 1979 KHC 278**, and argued that the position appears to be that an idea, principle, theme or subject matter of historical or legendary facts being common property cannot be the subject matter of copyright of a particular person. It is always open to any person to choose an idea as a subject matter and develop it in his own manner and give expression to the idea by treating it differently from others. Where two writers write on the same subject similarities are bound to occur because the central idea of both are the same but the similarities or coincidences by themselves cannot lead to an irresistible inference of plagiarism or piracy. Thus the fundamental fact which has to be determined where a charge of violation of the copyright is made by the plaintiff against the defendant is to determine whether or not the defendant not only adopted the idea of the copyrighted work but has also adopted the manner, arrangement, situation to situation, scene to scene with minor changes or super additions or embellishments here and there. In **Thiagarajan Kumararaja v. Capital Film Works (India) Pvt. Ltd.,**

Chennai and Another, AIR 2017 Mad.32, the Hon'ble High Court of Madras has held that both literary works and cinematograph film shall be entitled for protection however they operate on different fields. Copyright of cinematograph film shall not affect separate copyright of work, that forms part of it. Producer of cinematograph film shall be the author, entitled for protection of copyright. Relying on a decision of the Hon'ble High Court of Kerala in **Civic Chandran v. Ammini Amma, 1996 KHC 91**, the learned counsel for defendant No.1 has argued that the court will not grant injunction if no irreparable injury is caused to the plaintiff. The direction to the defendant to pay damages will be the result if the loss to the plaintiff is of monetary in nature.

55. The learned counsel for defendant No.1 has argued by relying on the decision of Hon'ble High Court of Kerala in **P.K. Thankappan v. Vidhyarambham Press and Book Depot and others, 1968 KHC 307**, that assignment of copyright shall be in writing signed by the owner of the right in respect of which the assignment is made or by his duly authorized agent. Mere acceptance by the author of remuneration for the work

done by him would not constitute an assignment of the copyright. Copyright can be assigned only by a written instrument.

56. The learned counsel for defendant No.2 has produced the decision of Hon'ble Supreme Court of India in **Indian Performing Right Society Ltd. v. Eastern Indian Motion Pictures Association and Others, (1977) 2 SCC 820**, wherein the Hon'ble Supreme Court has considered the question namely whether the producer of a cinematograph film can defeat the right of the composer of music or lyricist by engaging him. The key to the solution of this question lies in the proviso (b) and (c) to section 17 of Act which put the matter beyond doubt. According to proviso (b) when a cinematograph film producer commissions a composer of music or a lyricist for reward or valuable consideration for the purpose of making his cinematograph film or composing music or lyric therefor, i.e., the sounds for incorporation or absorption in the sound track associated with the film, which as already indicated are included in a cinematograph film, he becomes the first owner of the copyright therein and no copyright subsists in the composer

of the lyric or music so composed unless there is a contract to the contrary between the composer of the lyric or music on the one hand and the producer of the cinematograph film on the other. The same result follows according to the aforesaid proviso (c) if the composer of music or lyric is employed under a contract of service or apprenticeship to compose the work. It is, therefore, crystal clear that the right of a music composer or lyricist can be defeated by the producer of a cinematograph film in the manner laid down in provisos (b) and (c) to Section 17 of the Act.

57. PW1 was cross-examined at length by the learned counsels appearing for the defendants. Questions were put to PW1 challenging his involvement and standing in film field. Relying on the documents produced by PW1, he stated about the movies in which he had associated during the past. Some of the movies in which PW1 had associated were not released. During cross-examination PW1 stated that as a script writer he used to enter into agreement with the producers and directors. After preparing the one line story, there would be discussions about remuneration and other rights. According to PW1, only

on rare occasions the scripts would be registered with Film Writers Association. He further deposed that the script written by him titled 'Vishudha Ravanam' is not in his possession at present. Now there is a copy of the said script with PW1. According to PW1, he had discussions related to movies with defendant No.1 during the year 2009-2010. He used to write scripts at different hotels at Ernakulam and also at a flat named 'Hi Five' at Ernakulam. He stated that after 2010, he had relation with DW1 in connection with literary works of movies. While PW1 had been residing in Ernakulam District, DW1 approached him. The script of Vishudha Ravanam was handed over to DW1 at the flat of DW1. There was no agreement between them since the relationship was very cordial. He stated that he had demanded for consideration for the script, but not paid by DW1. According to DW1, he had made some corrections in the script and then handed over the same to DW1. It was also deposed that he had requested DW1 many times to return the script of Vishudha Ravanam, but it was not returned to him.

58. According to PW1, he had not gone to the cinema shooting site of DW1. He specifically stated that DW1 had demanded him to write a script on woman trafficking. Such a request was made by DW1 by visiting the apartment at Vyttila where PW1 had been residing. The one line story was prepared by PW1 and he discussed the same with DW1 at the flat of DW1. Thereafter, the one line story was handed over to DW1. According to him, the one line story was prepared with intention to create a movie. He could not remember whether the one line story handed over to DW1 was the original or its copy. He specifically stated that the handwriting in Ext.A9 is his handwriting. He further deposed that he got information that DW1 had developed the one line story and script prepared by PW1 as the movie named Karmayodha. He denied the contention of the defendants that Ext.A9 was not handed over by him to DW1.

59. Admittedly, there was no agreement between PW1 and DW1 for writing the one line story. In practice, it is not necessary that the person who wrote the one line story would write the script also. According to PW1, there were certain

corrections made by DW1 in the script written by PW1. He stated that the script of Karmayodha was handed over to DW1 after September 2011. During cross-examination the learned counsel for the defendants has put a suggestion to PW1 that the one line story of Karmayodha was prepared by Santhosh Damodaran and it was subsequently purchased by DW1 during August 2011. PW1 replied that he is not aware about such facts. He is also not aware that the one line story of Karmayodha was registered in the name of DW1 with Film Writers Association. He further deposed that he had not participated in the meeting convened by DW1 to develop the one line story into script and screenplay. He denied the contention of the 1st defendant that he had received cheque of ₹10,000/- from DW1 while he attended such meeting.

60. PW1 was known to PW2 for around 24 years. He stated that PW1 had written scripts for 7 or 8 movies which were released. During cross-examination PW2 stated that PW1 had an agreement with the producer of the movie named 'Uppukandam Brothers - 2nd part' and payment of ₹5 lakhs was received by PW1. PW2 has also stated that if a movie is

converted into other languages, the script writer would get 1/3 share of the profit. PW3 was examined to prove that the movie Karmayodha was released without displaying the name of PW1 as the writer of story, script and screenplay. PW3 saw the movie on 22.12.2012. He knew PW1 since the year 2009.

61. According to DW1, he is connected with Malayalam film industry for around 20 years. He pleaded ignorance about the movies mentioned by PW1 in which PW1 had associated for literary works. He is not aware whether PW1 was the General Secretary of the association named MACA. He was not aware whether plaintiff was the Secretary of Film Writers Association. During the cross-examination of DW1, Ext.A10 was shown and he denied his handwriting in the said document. When Ext.A9 was shown, DW1 replied that the scene marked as scene No.7 is not contained in his move named Karmayodha. During his further cross-examination DW1 admitted that his handwriting in red ink is contained in 3 pages of Ext.A9 (series).

62. It is the specific case of DW1 that Ext.B1 was executed at Kochi. He could not remember whether Ext.B1 was prepared in the presence of Santhosh Damodaran. He stated

that the address of Santhosh Damodaran was incorporated in the agreement at the time of putting signature by Santhosh Damodaran. Ext.B1 was executed on 14.12.2011. The stamp paper was purchased on 31.05.2010 from Pattambi. He stated that the discussion related to Ext.B1 had started in the year 2010 itself. Then the agreement was executed for the convenience of parties when the story was materialised. He could not remember the date when ₹2 lakhs was paid to Santhosh Damodaran. He specifically stated that defendant Nos.3 and 4 are the owners of story, script, screenplay and dialogue of the movie, Karmayodha.

63. During cross-examination when Ext.B2 was shown to DW1, he replied that it is the one line story. According to DW1, the author of one line story is Santhosh Damodaran. Ext.B2 was produced before Film Writers Association on 04.01.2012. DW1 stated that he made some corrections in the one line story after receiving from Santhosh Damodaran. According to DW1, even though it is mentioned in Ext.B2 that the said document is screenplay, it is actually one line story. He stated that payment was given to Santhosh Damodaran for preparing Ext.B2. DW1

deposed that there is huge difference between one line story and screenplay. One line story is only conceptualization of the idea of the story. DW1 deposed that screenplay is the expansion of one line story. There would be separate scenes for the screenplay. He stated that defendant Nos.3 and 4 had written the dialogue of the movie at a subsequent stage. They have also written the screenplay of Karmayodha. The screenplay stated to be written by defendant Nos.3 and 4 is not produced by the defendants. He specifically stated that the defendant Nos.3 and 4 have not informed him the story of the movie 'Karmayodha'.

64. According to DW1 the script and screenplay are important documents as far as the production of a movie is concerned. DW1 deposed that 4 or 5 scenes would be shot per day. On each day, the Associate Director would show the scene to be shot on that day to DW1. Those would be written in separate sheets. If there is any correction, DW1 would carry out the same and hand over the corrected scene to the Assistant Director. According to him after shooting a particular scene, the above said sheets would be valueless. DW1 would not verify what was done by the Assistant Director

with the sheets after shooting a scene. DW1 could not remember the extent of correction carried out by him in the screenplay while shooting the movie. During the cross-examination he further deposed that the script and screenplay were seen by him after completing the shooting of the movie Karmayodha. Those were seen at the office of the lawyer. According to him he would not keep the corrected screenplay with him after the shooting. He further deposed that Ext.A9 (series) were stolen from his shooting location.

65. The cross-examination of DW1 would further reveal that the name of PW1 was displayed as the author of the story in the title card of the movie. The name of Santhosh Damodaran was not displayed. He admitted that he had paid ₹10,000/- by way of cheque to PW1. He further stated that once a film is produced and released 33% of the profit each would be divided among the director, producer and writer. He admitted that the name of defendant Nos.3 and 4 was displayed in the title card as writers of screenplay and dialogue. It was also admitted by DW1 that he had called few persons from cinema field for discussion of literary works 6 years ago. He could not

remember those persons who came for discussion. It was further deposed that he had not participated in the discussion. It was also deposed that prior to this suit, he had no acquaintance with PW1.

66. DW2 had heard about some movies in which PW1 was involved. During cross-examination also DW2 reiterated that the script and dialogues were written by him and defendant No.3. According to DW2, the story of the movie Karmayodha belonged to DW1. The one line story was provided by DW1. He is also aware that the names of defendant Nos.3 and 4 were displayed as the writers of screenplay and dialogue in the title of the movie. According to DW2 the script and dialogue were written by them after 1½ months from the date of providing the one line story by DW1. It was written at the flat of the producer at Ernakulam. He specifically stated that after completing the screenplay and script, those were handed over to DW1. He is not aware where the script and screenplay were kept at present. He also stated that with some producers there may be agreement, but some producers may not insist for agreement. Before starting the script and screenplay ₹15,000/-

was paid as part of remuneration by the production controller. He stated that there was no consensus about the total remuneration with the producer or director. A total amount of ₹2,50,000/- was paid to DW2 as consideration. He is not aware about the amount paid to defendant No.3 as consideration. When the movie was dubbed to Tamil language, no additional remuneration was given to DW2. He also stated that if there is any correction in the script or screenplay, it would be carried out in the handwriting of the director. He stated that there were 78 scenes in the screenplay written by him. There were corrections in 50 scenes. According to DW1, the shooting was conducted as per Ext.B2. No other script was used for shooting the movie Karmayodha. PW2 stated that there were slight differences in the dialogue in the movie from the dialogue contained in the script produced before court. He also stated that he was present at the location on most of the days during shooting. His oral evidence would further reveal that he had contacted defendant No.1 for the first time during December 2011. The name of the movie was suggested by DW1. After completing the work of DW2, name was fixed for the movie. He

further deposed that DW1 had demanded him to write the story and screenplay of the movie Karmayodha during July 2012. During that month itself, he started the work. The screenplay was prepared at the flat of defendant No.2 at Kochi.

67. As per section 2(d) of the Copyright Act, 1957 author means -(1) in relation to a literary or dramatic work, the author of the work; (2) in relation to a musical work, the composer; (3) in relation to an artistic work other than a photograph, the artist; (4) in relation to a photograph, the person taking the photograph; (5) in relation to a cinematograph film or sound recording, the producer; and (6) in relation to any literary, dramatic, musical or artistic work which is computer generated, the person who causes the work to be created. Section 13 of the Copyright Act deals with works in which copyright subsists. For brevity section 13 is reproduced as under;

“13. Works in which copyright subsists

(1) Subject to the provisions of this section and the other provisions of this Act, copyright shall subsist throughout India in

the following classes of works, that is to say,--

- (a) original literary, dramatic,
musical and artistic works;*
- (b) cinematograph films; and*
- (c) sound recording.*

(2) Copyright shall not subsist in any work specified in sub-section (1), other than a work to which the provisions of section 40 or section 41 apply, unless, -

(i) in the case of a published work, the work is first published in India, or where the work is first published outside India, the author is at the date of such publication, or in a case where the author was dead at that date, was at the time of his death, a citizen of India;

(ii) in the case of an unpublished work other than work of architecture, the author is at the date of the making of the work a citizen of India or domiciled in India; and

(iii) in the case of a work of architecture, the work is located in India.

(3) Copyright shall not subsist –

(a) in any cinematograph film if a substantial part of the film is an infringement of the copyright in any other work;

(b) in any sound recording made in respect of a literary, dramatic or musical work, if in making the sound recording, copyright in such work has been infringed.

(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 is made.

(5) In the case of a work of architecture, copyright shall subsist only in the artistic character and design and shall not extend to processes or methods of construction.”

68. As per section 16 of the Copyright 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. Section 17 of the Act provides that subject to the provisions of the Act, the author of a work shall be the first owner of the copyright therein. As per section 51 of the Copyright Act, copyright in a work shall be deemed to be infringed – (a) when any person, without a licence granted by the owner of the copyright or the Registrar of copyrights under this Act or in contravention of the conditions of a licence so granted or of any condition imposed by a competent authority under this Act - (i) does anything, the exclusive right to do which is by this Act conferred upon the owner of the copyright; or (ii) permits for profit any place to be used for the communication of the work to the public where such communication constitutes an infringement of the copyright in the work, unless he was not aware and had no reasonable ground for believing that such communication to the public would be an infringement of copyright; or (b) when any person – (i) makes for sale or hire, or sells or lets for hire or by way of

trade displays or offers for sale or hire, or (ii) distributes either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright, or (iii) by way of trade exhibits in public place or for imports into India in any infringing copies of the work. As per explanation to section 51, the reproduction of a literary, dramatic, musical or artistic work in the form of a cinematograph film shall be deemed to be an infringing copy.

69. As per section 55(1) of the Copyright Act, where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction, damages, accounts and otherwise as are or may be conferred by law or the infringement of a right. As per sub-section (2) of section 55, where, in the case of a literary, dramatic, musical or artistic work or subject to the provisions of sub-section (3) of section 13, a cinematograph film or sound recording, a name purporting to be that of the author, or the publisher, as the case may be, of that work, appears on copies of the work as published, or, in the case of an artistic work appeared on the

work when it was made, the person whose name so appears or appeared shall, in any proceeding, in respect of infringement of copyright in such work, be presumed, unless the contrary is proved, to be the author or the publisher of the work, as the case may be. As per section 56 where the several rights comprising the copyright in any work are owned by different persons, the owner of any such right shall, to the extent of that right, be entitled to the remedies provided by this Act and may individually enforce such right by means of any suit, action or other proceeding without making the owner of any other right a party to such suit, action or proceeding. Section 57 of the Act deals with special rights of the author. As per sub-section (1) of section 57, independently of the author's copyright and even after the assignment either wholly or partially of the said copyright, the author of a work shall have the right (a) to claim authorship of the work and (b) to restrain or claim damages in respect of any distortion, mutilation, modification or other act in relation to the said work if such distortion, mutilation, modification or other act would be prejudicial to his honour or reputation.

70. PW1 has produced Ext.A8 to content that it is the one line story and screenplay written in his handwriting as demanded by DW1. In the 1st page of Ext.A8, three names were suggested for the movie as (1) 'Raksha', (2) 'For sale' and (3) 'Karmayodha'. Ext.A8 was attested by a notary public on 10.09.2012. The date as 10.09.2011 is written at the top of page No.2 of Ext.A8. According to PW1, Ext.A8 was retained by him and the photocopy of Ext.A8 was handed over to DW1. Ext.A9 (series) were produced by PW1 to content that DW1 had made some corrections with red ink in some scenes written by PW1. DW1 has admitted his handwriting contained in Exts.A9(a), A9(b) and A9(c). The handwriting contained in Ext.A9 (series) is identical to the handwriting contained in Ext.A10. Ext.A10 is produced by PW1 as the original manuscript of detailed screenplay of the movie Karmayodha written by him. There were many corrections with red ink in some of the scenes contained in Ext.A10.

71. Ext.B1 is the agreement dated 14.12.2011 between DW1 and Mr. Santhosh Damodaran, which was prepared in a

stamp paper purchased on 17.05.2010. In the agreement, it is originally written that Santhosh Damodaran had agreed orally on 7th August 2011 to transfer the full rights of the story of Raksha to DW1 for proper consideration by executing an agreement in due course. The said date was subsequently corrected with pen as 14th December 2011. Ext.B3 agreement was executed on 21.05.2012 between DW1 on the one part and defendant Nos.3 and 4 on the other part. The said agreement was executed for jointly writing the screenplay and dialogue for the movie Karmayodha by defendant Nos.3 and 4. The remuneration was fixed as ₹2,00,000/-. Ext.B3 was prepared after 10.09.2011, which is the date appearing on the top of Ext.A8. According to DW1, one line story was prepared by Santhosh Damodaran during August 2011 and thereafter Ext.B1 agreement was executed.

72. Ext.B2 is titled as the screenplay of Raksha written by DW1 and it was registered with the Film Writers Association, Mumbai on 04.01.2012. According to DW1, Ext.B2 is not screenplay, but it is only one line story. The name Raksha appearing in Ext.B2 is one of the names suggested by PW1 as

per Ext.A8. There is no document produced before court stated to be written by defendant Nos.3 and 4 as the screenplay, script or dialogue of the movie Karmayodha. The original script and screenplay of the movie Karmayodha or its copy were not produced by the defendants on their side. A mere perusal of Ext.B2 and Ext.A8 would show that there is apparent similarity in the scenes contained in both documents. The defendants have no specific case that there is no similarity at all for any of the scenes contained in Exts.A8 and A10 with the movie directed by DW1. DW2 has also admitted such similarities. Further, there is also similarity for many characters contained in the movie and in Exts.A8 and A10.

73. Ext.A7 was relied on by PW1 to content that on 21.09.2021, ₹10,000/- was paid by DW1 to him for writing the one line story. The issue of cheque for ₹10,000/- to PW1 is admitted by DW1. He has not disputed his signature contained in the cheque. It would reveal that there was prior discussion between PW1 and DW1 in connection with the literary work of a movie. According to PW1, the original screenplay with dialogue titled as Vishudha Ravanam was obtained by DW1 from

him and he kept it in his custody. The said screenplay was prepared by PW1 by conceiving the idea and suggestion of DW1 to create a story based on feudal background. It is the specific case of the plaintiff that after prolonged discussions during September 2011, they decided to proceed with a story on woman trafficking and PW1 started his work on 10.09.2011. According to PW1, it was thereafter, Ext.A7 cheque was issued by DW1 after becoming satisfied on the one line story. Thereafter Ext.A8 was prepared with suggestion of three names for the movie. PW1 has also produced Ext.A9 (series) stated to be written in his handwriting and corrected by DW1.

74. Admittedly Exts.A8 and A10 were not published works of PW1. The movie named Karmayodha directed by DW1 was also released. The defendants have no case that there is no similarity for the scenes of the movie Karmayodha with Ext.A8. Defendant No.1 has stated in paragraph No.7 of the written statement that similarity of the characters and expressions found in any work will not affect the provisions of the Copyright Act. The story or screenplay written with the name Vishudha Ravanam was not produced by PW1 also. Even though there was

no agreement between PW1 and DW1, it is revealed in evidence that in some circumstances there may be agreement executed with the writers by producers and directors and in some cases, there may not be any agreement. The defendants have not examined Santhosh Damodaran who is the best witness to prove the fact that the one line story was written by him. While admitting payment of ₹10,000/- by way of cheque, PW1 has also stated about payment of ₹20,000/- as cash to PW1.

75. According to defendant Nos.3 and 4, DW1 had informed during September 2011 to write screenplay for the movie Karmayodha. In Exts.B1 and B2, which were subsequent to September 2011, the name of the movie is mentioned as Raksha. The oral evidence of DW2 regarding remuneration for writing the screenplay and dialogue is not in accordance with the terms of remuneration contained in Ext.B3. DW2 does not appear to be a believable witness.

76. PW1 has produced documents to show his association with cinema field. From the evidence adduced by DW1, it was revealed that he had called many persons related to cinema field for the literary work of the proposed movie and PW1 was

one among those persons. When DW1 has taken a contention that he has no prior acquaintance with PW1 and not aware about his involvement in film filed, it has come out in evidence that PW1 had also visited the residence of DW1 for discussions. The oral evidence of PW4 would also support the fact that he saw PW1 at the flat of DW1 when he visited there. The contention of DW1 that Ext.A8 and A10 were prepared by PW1 by stealing the loose sheets of screenplay from the shooting location is not probable. Exts.A8 and A10 are the full script and screenplay and it may not be possible for one to steal the loose sheets and to create the full screenplay. Further the corrections carried out in Ext.A9 (series) is also in the handwriting of DW1. There is no scope for doubt how Ext.A9 (series) sheets came to the possession of PW1. It is proved from the available evidence that the movie Karmayodha was created by developing the one line, script and screenplay written by PW1 as per Ext.A8. There may be changes in the dialogues contained in the movie. The dialogues may not be the same as per Exts.A8 or A10. The defendants have violated the authorship and copyright of the plaintiff in his literary work. It is held that the plaintiff is the

owner of the authorship right and copyright of the story, script and screenplay of the movie Karmayodha. He is entitled for a declaration as such. Hence issues Nos.(ii) to (iv) are found in favour of the plaintiff.

77. **Issue No.(v)** :- The plaintiff has prayed for decree of prohibitory injunction restraining the defendants, their men or anybody from exhibiting, re-making, converting into any other language by dubbing the Malayalam movie Karmayodha in any of the theatres in India, in film festivals, before award committees, convert it to Compact Disc or any other form to exhibit as video film, in television or satellite channels or any visual media otherwise than with the name of the plaintiff as writer of story, script, screenplay and dialogue or in any material from so as to infringe the authorship right and copyright of the story, script, screenplay and dialogue of the movie Karmayodha written by the plaintiff. It was also prayed to restrain defendants and their men from producing, reproducing, publishing the story, script, screenplay and dialogue of the movie Karmayodha or its translation in the form of book or article in any print media or to reproduce the same

in any form or in any manner so as to infringe the authorship right or copyright of the plaintiff. PW1 has also sought for a decree of prohibitory injunction to restrain the defendants and their men or anybody from exhibiting or utilizing or publishing any publicity material notifying the exhibition of the movie Karmayodha without including the name of the plaintiff as author of the story, script, screenplay and dialogue.

78. Vide, discussions under issues Nos.(ii) to (iv), it was held that PW1 is the owner of the literary work of the movie Karmayodha, namely, its one line story, script and screenplay. The plaintiff is successful in proving that he is the owner of the copyright of the story, script and screenplay. It was also proved that defendant Nos.1 and 2 have infringed the copyright of the plaintiff with respect to Exts.A8 and A10. In such a case, the plaintiff is entitled for decree of injunction which is one of the statutory remedies provided for infringement of copyright as per section 55 of Copyright Act 1957. Undisputedly, the movie was released in the year 2012 itself. It was also dubbed into another language. The television and satellite telecasting rights were also sold by defendant Nos.1 and 2. Right to convert the

movie to Compact Disc was also transferred to third parties. The available evidence and the facts and circumstances would entitle the plaintiff for a decree of prohibitory injunction restraining the defendants, their men or anybody else from producing, reproducing, publishing the story, script and screenplay of the movie Karmayodha or its translation in the form of book or article in print media or to reproduce in any form or manner so as to infringe the authorship and copyright of the plaintiff. He is also entitled for a decree of injunction restraining the defendants or their men from exhibiting, utilizing, publishing any publicity materials notifying the exhibition of the movie Karmayodha without including the name of the plaintiff as author of the story, script and screenplay.

79. The plaintiff has also claimed damages alleging infringement of copyright by the defendants. Already there is finding that the defendant Nos.1 and 2 have infringed the copyright of the plaintiff with respect to unpublished work as per Exts.A8 and A10 by converting the same with modifications into cinematograph film. The movie created by defendant Nos.1 and 2 is a colourable imitation of Exts.A8 and A10. In such a

case, the prayer of injunction claimed as per relief 'A' can be allowed by molding the relief thereby restraining the defendant Nos.1 and 2 from further exhibiting, re-making, converting into any other language by dubbing in any theatres in India, in film festivals or before award committees, converting into Compact Discs or any other form to exhibit as video film in any visual media otherwise than with the name of PW1 as the writer of story, script and screenplay. In view of the above discussions, issue No.(v) is also found in favour of the plaintiff.

80. **Additional issue Nos.(vii) and (ix):-** These issues are discussed together. Originally when the suit was filed, there was no claim for damages by the plaintiff. Subsequently, the plaint was amended by incorporating a specific relief to realise ₹40,00,000/- as compensation. According to the defendants, the amended relief for compensation is barred by limitation. The learned counsel for the defendants has argued that section 3 of the Limitation Act makes it obligatory on a court to dismiss a suit barred by limitation, although limitation has not been set up as a defence, indicating thereby that it is the duty of a plaintiff to establish, at any rate prima facie, that the suit is

within time. In **Abdulla v. Ismalutty Master and Others, 2018 (5) KHC 426**, the Hon'ble High Court has observed that the starting point of limitation has always been a question of fact and at the same time, the question of limitation is a mixed question of law and facts. In **Nagnath Jagannath Lomate and Another v. Narsing Sambha More and Others, 2009 KHC 6446**, the Hon'ble High Court of Bombay has observed that in view of the provisions of Article 58 of the Limitation Act, a relief in respect of declaration can be raised within a period of three years when the right to sue accrues first. The claim raised beyond prescribed period of limitation is bared by limitation. In **K. Raheja Constructions Ltd. v. Alliance Ministries and Others, 1995 KHC 633**, the Hon'ble Supreme Court has considered a case where there was subsequent amendment by claiming relief of specific performance. Suit was filed originally claiming relief of injunction. The Hon'ble Supreme Court has observed that the plea that amendment was necessary in view of subsequent knowledge about permission being granted by Charity Commissioner to alienation is not tenable. It was held that the relief of specific performance

added after lapse of period of limitation is barred. The learned counsel for the defendants has relied on the decision of Hon'ble High Court of Kerala in **Abdulla v. Pathumma, 2003 KHC 404**, to content that the question regarding limitation in including the fresh prayer can be raised as an issue in the suit. The plea that the relief sought by way of amendment was barred by time is arguable in the circumstances of the case by framing an issue. In **Subramonian R.D. and Another v. C. B. Sukumara Kurup and Others, 2019 (3) KHC 899**, it was held by the Hon'ble High Court that an introduction of a new cause of action, a new relief by incorporating a new schedule as subject matter of the suit by way of an amendment either in addition or substitution of what actually sought originally in the suit, would not fall under the ambit of Order VI Rule 17 of the Code of Civil Procedure. There may not be any application of doctrine of relation back in the later case though the amendment was happened to be allowed either in a wrong notion or without noticing whether it comes under the purview of Order VI Rule 17 of the Code of Civil Procedure. The amendment would not go back to the date of suit, if the

amendment satisfies that a new and entirely different cause of action and relief was incorporated or where there is introduction of entirely a new schedule to the suit which are not permissible under Order VI Rule 17.

81. The learned counsel for the plaintiff has argued that the above said decisions relied on by the defendants are not fully relevant or applicable to the present suit and already there was a relief for declaration in the suit. By way of amendment, damages were also claimed from the defendants. Relying on **Subramonian R.D.'s case(supra)** it was submitted by the learned counsel for plaintiff that when amendment was allowed without saving the question of limitation, the doctrine of relation back would come into play by bringing the amendment from the date of suit. This would be the legal position wherein the question of limitation was not raised at the time of amendment. Coming to the present case, the amended relief for compensation was based on the same cause of action relied on by the plaintiff while instituting the suit. While allowing the prayer for amendment also, the court has not saved the question of limitation. On considering the nature of pleadings

and the facts and circumstances, it is held that the prayer for compensation is not barred by limitation.

82. The question to be looked into is whether PW1 has sustained any loss or injury due to the act of the defendants and hence he is entitled to get damages. According to PW1, during the first week of September 2012, he got knowledge from some cinema publications about the movie proposed to be produced by DW1. From the contents of the publications, PW1 could gather that the story of the proposed movie is based on the one line and screenplay written by PW1. PW1 has filed I.A. No.1795/2012 to restrain the defendants 1 and 2 from releasing the movie. Subject to the interim order passed by court, the movie was released on 21.12.2012. According to PW1, the name of DW1 was displayed in the title card as author of the story. The names of defendant Nos.3 and 4 were also displayed as writers of screenplay and dialogue. PW1 has deposed that the defendants have sold the rights to display the movie in TV channels and also to dub the movie into Tamil language. Ext.A19 was produced by PW1 to substantiate his contention. According to DW1, the defendant Nos.1 and 2 have obtained

₹6 Crores as profit from such acts. He stated that if his authorship right was recognized by the defendants, PW1 would have received at least ₹50 lakhs as his remuneration. PW1 deposed that since his work was published in the name of different persons, he suffered mental agony and hardship. The satellite right of the movie was also sold by defendants to obtain profit. In the suit, PW1 has restricted his claim for damages to ₹40 lakhs.

83. PW1 has produced documents to substantiate his association and involvement in the film field. It was also revealed that DW1 had called PW1 for discussions to his flat and paid ₹30,000/- as remuneration. Ext.A6 would also show that PW1 was invited to attend the meeting of the Board of Directors of Kerala State Film Development Corporation on 01.10.2015. It was also revealed in evidence that in connection with Ext.A4 agreement, PW1 had received remuneration of ₹5,00,000/- for that work.

84. There is no dispute that the satellite and other telecast rights of the movie were commercialized by the defendants after production of the movie. There is no evidence

on record to ascertain the total profit or any amount obtained by defendant Nos.1 and 2 on release of the movie Karmayodha. PW1 has also not adduced any evidence with respect to any specific remuneration offered by defendant No.1 to him for writing the one line, screenplay or script of the movie. According to DW1, there was agreement with defendant Nos.3 and 4 and Ext.B3 would reveal that ₹2,00,000/- was paid to them as remuneration. There is no dispute that the movie Karmayodha was dubbed to Tamil language also. The right to create Compact Disc of the movie was also sold to third parties. There is evidence on record to ascertain that the profits may be shared among the writer, director and producer in 33% share each with respect to the profit from the movie. Vide, discussions under issue Nos.(ii) to (iv), it was already held that the plaintiff is entitled for a declaration that he is the owner of the authorship right and has copyright of the one line story, script and screenplay of the movie Karmayodha. In such a case, the plaintiff is successful in proving that he had sustained loss and injury on account of the acts committed by defendant Nos.1 and 2. Hence PW1 is entitled for compensation. There is

absolutely no ground or reason to grant compensation of ₹40,00,000/- as prayed for by PW1. The available circumstances and the evidence involved would only satisfy that a reasonable amount of compensation can be awarded in favour of PW1. Hence it is ordered that the defendant Nos.1 and 2 are liable to pay ₹30,00,000/- as damages to PW1. Hence additional issues Nos.(vii) and (ix) are found in favour of the plaintiff.

85. **Issue No.(vi):-** In view of the nature of dispute involved, facts and circumstances and the findings under the foregoing issues, it is held that the defendant Nos.1 and 2 are liable to pay costs of the suit to the plaintiff.

In the result, the suit is decreed as follows:-

- (i) It is declared that the plaintiff is the absolute owner of authorship right and copyright of the story, script and screenplay of the movie “Karmayodha”.**
- (ii) The defendant Nos.1 and 2, their men or anybody under them are restrained from further exhibiting, re-making, converting into other language by dubbing the movie Karmayodha in any of the theatres**

in India, film festivals, before award committees, convert it into Compact Discs or any other forms of video film to exhibit in visual media otherwise than with the name of the plaintiff as writer of story, script and screenplay.

- (iii) The defendant Nos.1 to 4, their men or anybody are restrained by way of a decree of permanent prohibitory injunction from producing, reproducing, publishing the story, script, screenplay and dialogue of the movie Karmayodha or its translation in the form of book or article in print media or to reproduce the same in any form or manner.**
- (iv) The defendant Nos.1 to 4, their men or anybody under them are restrained by a decree of permanent prohibitory injunction from exhibiting, utilising or publishing any publicity materials notifying the exhibition of the movie Karmayodha without including the name of plaintiff as author of story, script and screenplay.**

(v) The defendants Nos.1 and 2 are directed to pay ₹30,00,000/- (Rupees Thirty Lakhs only) as compensation to the plaintiff within two months from the date of decree, failing which the plaintiff is entitled to realise the same with interest at the rate of 6% per annum from the date of decree till payment, from the defendant Nos.1 and 2 and their assets.

(vi) The defendant Nos.1 and 2 are directed to pay costs of the suit to the plaintiff.

Dictated to the Confidential Assistant, transcribed and typed by him, corrected by me and pronounced in open court on this the 21st day of November, 2025.

Sd/-
Manish D. A.,
Judge, Commercial Court
(Principal Sub Judge)

APPENDIX :

Exhibits marked for the Plaintiff :

A1	:	Nil	: Photocard of the Film 'Uppukandam Brothers'.
A2	:	Nil	: Printed cover of Song C.D. of the Film 'Pass Pass'.

- A3 : Nil : Brochure of the Film 'Pass Pass'.
- A4 : 28.05.2004 : Photocopy of Agreement.
- A5 : Nil : Invitation card of the Pooja of the Telefilm 'Sneha Sankeerthanam'.
- A6 : 23.09.2015 : Letter from Kerala State Film Development Corporation Ltd. (No.1784/A4/2015/KSFDC).
- A7 : 21.09.2011 : Photocopy of Cheque for ₹10,000/- from IDBI Bank, Kochi Branch.
- A8 : 10.09.2012 : Screenplay and Dialogue.
- A8(a) : 10.09.2012 : Page No.106 of Ext.A8.
- A9 : Nil : Pages of Scene No.7.
- A9(a) : Nil : Page containing correction.
- A9(b) : Nil : Page containing correction.
- A9(c) : Nil : Page containing correction.
- A10 : Nil : Screenplay with Dialogue.
- A11 : 09.09.2012 : 'Vellinakshatram' film Magazine.
- A11(a) : 09.09.2012 : Page No.16 of 'Vellinakshatram' Film Magazine.

- A11(b) : 09.09.2012 : Page No.17 of 'Vellinakshatram' Film Magazine.
- A11(c) : 09.09.2012 : Page No.18 of 'Vellinakshatram' Film Magazine.
- A12 : 20.09.2012 : Chitrabhumi film Magazine.
- A12(a) : 20.09.2012 : Page No.10 of Chitrabhumi Film Magazine.
- A12(b) : 20.09.2012 : Page No.11 of Chitrabhumi Film Magazine.
- A12(c) : 20.09.2012 : Page No.12 of Chitrabhumi Film Magazine.
- A12(d) : 20.09.2012 : Page No.13 of Chitrabhumi Film Magazine.
- A13 : 05.12.2012 : Janayugam Daily.
- A14 : Nil : Report in Wikipedia about Film 'Karmayodha'.
- A15 : 26.09.2012 : Lawyer's Notice.
- A16 : Nil : Acknowledgment Card.
- A16(a) : Nil : Acknowledgment Card.
- A17 : Nil : Compact Disc.
- A17(a) : Nil : Compact Disc.

- A18 : 22.08.2014 : Computer Printout of Wikipedia Report.
- A19 : Nil : Photo Card of Tamil Version of 'Karmayodha'.
- A20 : Nil : Brochure of 'Poomaran' Film Release.
- A21 : 17.04.2015 : Letter issued by the Managing Director, KSFDC to the Plaintiff forwarding copy of Order of KSFDC G.O.(Rt)No.216/2015/CAD.

Exhibits marked for the Defendants :

- B1 : 14.12.2011 : Agreement.
- B2 : Nil : Screenplay.
- B3 : 21.05.2012 : Copy of Agreement.
- B4 : 11.07.2012 : Copy of Agreement.
- B5 : 30.11.2012 : Copy of Certificate from Central Board of Film Certificate.
- B6 : 04.12.2012 : Certificate from Central Board of Film Certificate.
- B7 : 07.10.2012 : Copy of Reply.
- B8 : Nil : Acknowledgment Card.
- B9 : Nil : Copy of Certificate from Kerala State Chalachithra Acadamy.

Court Exhibits : Nil

Third Party Exhibits : Nil

Witnesses Examined for Plaintiff :

PW1 : 17.03.2018 : Reji Mathew
07.11.2018

PW2 : 12.06.2018 : T. S. Suresh Babu

PW3 : 12.06.2018 : Binesh Mathew

PW4 : 26.07.2018 : Jaison P. John.

Witnesses Examined for Defendants :

DW1 : 23.10.2018 : Major A. K. Raveendran.
16.11.2018
02.02.2019

DW2 : 26.02.2019 : Sumesh V. Robin.
05.03.2019

Id/-
Judge, Commercial Court,
(Principal Sub Judge).

// True Copy //

Copied by :
Compared by:

Sd/-
Manish D. A.,
Judge, Commercial Court,
(Principal Sub Judge).