

FROM :

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Nov. 15 2011 03:30AM P1

HIGH COURT OF ANDHRA PRADESH
RUNNING INDEX

W.P.No

of 2011.

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mehar chandhary@nnico.com

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FROM :

FAX NO. :

Nov. 15 2011 03:31AM P2

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MEMORANDUM OF WRIT PETITION
(Under Article 226 of the Constitution of India)
IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

W.P.No. of 2011

Between:-

Vadlapatla Naga Vara Prasad, S/o. Sri Rama Murthy,
Hindu, aged about 44 years. Occ: private employment,
R/o. Door No.6-163/4, Kovvali, West Godavari District, ... Petitioner.

And

1. Chair Person, Central Board of Film Certification,
Bharat Bhavan, 91-E, Walkeshwar Road,
Mumbai-400 006.
2. The Regional Officer, Central Board of Film Certification,
Bharat Bhavan, 91-E, Walkeshwar Road,
Mumbai-400 006.
3. The Regional Officer, Central Board of Film Certification,
Samachar Bhavan, 10-2-1, 1st Floor, A.C.Guards,
Hyderabad- 500 028.
4. Ekta Kapoor, D/o. Jitendra Kapoor,
Producer, Balaji Tele Films, C-13, Balaji House,
Dalia Industrial Estate, Opp. Lakshmi Industrial Estate,
New Link Road, Andheri West, Mumbai - 400 053.
5. Sobha Kapoor, Producer Balaji Tele Films, C-13,
Balaji House, Dalia Industrial Estate,
Opp. Lakshmi Industrial Estate, New Link Road,
Andheri West, Mumbai - 400 053,
6. Sri Milan Luthria, S/o. not known to the petitioner.
Film Director, C-13, Balaji House, Dalia Industrial Estate,
Opp. Lakshmi Industrial Estate, New Link Road,
Andheri West, Mumbai - 400 053,
7. Balaji Tele Films Ltd., rep.by its Managing Director,
Plot No.74, Road No.9, Jubilee Hills, Hyderabad-500 034,
8. Balaji Motion Pictures Ltd., rep.by its Managing Director,
C-13, Balaji House, Dalia Industrial Estate, Opp. Lakshmi Industrial
Estate, New Link Road, Andheri West, Mumbai - 400 053,

... Respondent

The Address for service of all notices etc., on the petitioner is that of his Counsel
Smt.K.Sesharajyam, Advocate. Plot No.7, Noor Nagar, Road No.10, Banjara Hills,
Hyderabad 500 034.

FROM :

FAX NO. :

Nov. 15 2011 03:31AM P3

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IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT AHYDERABAD

W.P.No. of 2011

Between:-

Vadlapatla Naga Vara Prasad, S/o. Sri Rama Murthy.
Hindu, aged about 44 years, Occ: private employment.
R/o. Door No.6-163/4, Kovvali, West Godavari District. ... Petitioner.
And

1. Chair Person, Central Board of Film Certification,
Bharat Bhavan, 91-E, Walkeshwar Road, Mumbai-400 006.
2. The Regional Officer, Central Board of Film Certification,
Bharat Bhavan, 91-E, Walkeshwar Road, Mumbai-400 006.
3. The Regional Officer, Central Board of Film Certification,
Samachar Bhavan, 10-2-1, 1st Floor, A.C.Guards, Hyderabad- 500 028,
4. Ekta Kapoor, D/o. Jitendra Kapoor, Producer, Balaji Tele Films,
C-13, Balaji House, Dalia Industrial Estate, Opp. Lakshmi Industrial Estate,
New Link Road, Andheri West, Mumbai - 400 053.
5. Sobha Kapoor, Producer Balaji Tele Films, C-13,
Balaji House, Dalia Industrial Estate,
Opp. Lakshmi Industrial Estate, New Link Road,
Andheri West, Mumbai - 400 053,
6. Sri Milan Luthria, S o. not known to the petitioner,
Film Director, C-13, Balaji House, Dalia Industrial Estate,
Opp. Lakshmi Industrial Estate, New Link Road,
Andheri West, Mumbai - 400 053,
7. Balaji Tele Films Ltd., rep.by its Managing Director,
Plot No.74, Road No.9, Jubilee Hills, Hyderabad-500 034,
8. Balaji Motion Pictures Ltd., rep.by its Managing Director,
C-13, Balaji House, Dalia Industrial Estate, Opp. Lakshmi Industrial
Estate, New Link Road, Andheri West, Mumbai - 400 053,
... Respondent

AFFIDAVIT

I, Vadlapatla Naga Vara Prasad, S/o. Sri Rama Murthy, Hindu, aged about
44 years, Occ: private employment, R/o. Door No.6-163/4, Kovvali, West
Godavari District, came down to Hyderabad to hereby
solemnly and sincerely affirm and state on oath as follows:

Attested:

Deponent:

FROM :

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For the reasons stated in the accompanying affidavit it is prayed that this Hon'ble court may be pleased to issue a Writ, Order, or Direction more fully one in the nature of Writ of Mandamus declaring the action of the respondents No.4 to 8 in portraying the sister of the petitioner in obscene manner is illegal, improper and oppose to Article 21 of the Constitution of India and consequently direct the respondents No 1 to 3 not to issue film certification for exhibition and pass such further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Hyderabad.

Dated: 13-11-2011

U. Rajaram
Counsel for the Petitioner

FROM :

FAX NO. :

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:2:

1. I submit that I am the Petitioner herein and as such I am well acquainted with the facts of the case.

2. I submit that I am native of Kovvali, West Godavari District and I am eking out my livelihood by doing a private job. I submit that our native place is Kovvali and I am born and brought up at Kovvali and our relatives scattered in the nearby villages of the district.

3. I submit that there are two issues to my parents i.e. myself and my sister. I submit that my sister Kum.Vadlapatla Vijaya Lakshmi was born, brought up and educated at Kovvali, West Godavari District. I submit that she took up acting as a professional career and has very soon she gained popularity in the south Indian Film Industry and has acted in about 400 films in Tamil, Malayalam, Kannada and Telugu and played roles in few Hindi films also and was popularly known as Silk Smitha and was professional in her acting. I submit that she also played vital roles and got a mark and image of her own and attained celebrity status as a film actress.

4. I submit that in her real life she was different personality from the roles in the film characters acted by her and was having a different public image and good name and reputation in the film industry all over India without any complaint from any of the producers and her private life was unblemished and she remained unmarried and did social service by helping some of the poor students from our native place and developed respect and good reputation in the society. I submit that she expired on 23-09-1996 leaving me and my parents as her family members. I submit that later on my mother expired in 2000 and my father expired in the year 2009 and I am the only surviving family member of my sister Kum.Vadlapatla Vijaya Lakshmi.

Attested:

Deponent

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5. I submit that more than 15 years after her death respondents No.4 & 5 i.e., Eklu Kapoor & Shobha Kapoor producers of the respondents No.7&8 Balaji Tele films have been giving wide publicity and have been advertising the film "The Dirty Picture" through print and electronic media by announcing in their statements and press releases that they are producing the film on the real life story picture of my sister Vijaya Lakshmi @ Silk Smitha under the direction of 6th respondent Milan Luthria under the banner of Balaji Tele films directed by Sri Milan Luthria and lead role of my sister is being played by the actress Vidya Balan and proposed to release the movie in the first week of December, 2011.

6. I submit that the respondent No.4 to 8 have misused the popularity of my client's sister and have been publicizing the film through various advertising means i.e., Video clippings, paper statements and through the media (TV channels and Daily, Weekly Magazines and film Magazines) that the film "The Dirty Picture" is being produced on the basis of real life story of Kum.Vadlapatla Vijaya Lakshmi @ Silk Smitha and the same has been generating lot of curiosity and unwanted attention to my family members and relatives.

7. I submit that the producers never visited our village, nor collected any details of the early life lead my sister or enquired about her personal details such as likes and dislikes or about the real life lead by her. They also did not collect the details of social service done by her in helping poor students of our village and did not enquire any of our family members and without any basis they have started the film and have been misusing the name of my sister by making announcement that it is the real life story of my sister.

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Deponent

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8. I submit that from the posters, publicity material, clips and advertisements the lead role character of my sister is enacted by Vidya Balan in a cheap, obscene and vulgar manner of exploitation of women and is deeply hurting my feelings and that of family members as the story line is far from the truth and it is not the real character of my sister and the same is shown in utter deprivation and derogatory manner which is highly defamatory in nature. I submit that it is a settled principle that even the dead people are entitled to remain with their dignity in the grave but in case of my sister even after 15 years of her death she is not allowed to remain peace and the producer are resorting to character assassination of my sister in most inhuman manner by projecting the lead actress who is supposed to be playing the real life of my sister in cheap and vulgar manner of an exploited women which is hurting the sentiments of me and my family members and relatives who have known the real life character of my sister. I submit that the role of my sister is portrayed as a women of very loose and immoral character with obscene scenes which are opposed to public morality and decency which tend to appeal to the baser instincts and or oppose to human sentiments and the scenes deprive and degrade the women in general and cause disgrace and undermine the dignity and the same are oppose to decency and public morality and as such the film is not fit to be certified and ought not to allowed to be exhibited.

9. I submit that I have got issued notices to all the respondents to stop the production of the film and called upon the respondents No.1 to 3 not to issue film certification or censor certificate for the above film so as to enable the producer to release the film. I submit that the interviews, photos and film clippings and the

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Deponent

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of my sister and have not published my sister's personal and wedding articles about the film so as to propagate the view that the film is based on the real life story of my sister or that it had some thing to do it my sister's life.

10. I submit that I have understood that Right to life guaranteed under the Constitution means Right to live with human dignity and irrespective of the profession every human being is entitled for dignity and protection under law to maintain the dignity and rights granted under the constitution of India. It is not that merely because of certain roles played by my sister for some film in pursuance of profession as a film actress, the same cannot be attributed to her as if it is her real life character and producing films undermining the dignity of a dead person who cannot defend himself no dispute the truth no otherwise of her alleged real life character sought to be projected or shown and exhibited in movie titled as "The Dingy Business" cannot be allowed to be exhibited to the public viewing as it is not the true story and is undermining the dignity of a woman and results in depravity of the character and is highly defamatory and also as the person is no longer alive to defend herself. I submit that the respondents 1 to 3 who are instrumentalities of the state and are creatures under statutory law are duty bound to protect and uphold the rights guaranteed and enshrine in the constitution of India.

11. It is submitted that the action of the respondents 4 to 8 in going ahead with the production and preparing for release and the inaction of the respondents 1 to 3 is illegal, improper and oppose to Article 71 of the Constitution of India.

ANESTHETIC

Deposited

FROM :

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12. I submit that in the circumstances stated above, I have no other alternative effective remedy, except to approach this Hon'ble Court under Article 226 of the Constitution of India. I have not filed any Writ, Suit or other Proceedings for the relief or relieves sought herein.

13. It is therefore prayed that this Hon'ble Court may be to issue a Writ, Order, or Direction more fully one in the nature of Writ of Mandamus declaring the action of the respondents No.4 to 8 in portraying the sister of the petitioner in obscene manner is illegal, improper and oppose to Article 21 of the Constitution of India and consequently direct the respondents No 1 to 3 not to issue film certification for exhibition and pass such further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

14. It is therefore prayed that this Hon'ble Court may be to direct the respondents No.4 to 8 to desist from making advertisements announcements for the film "The Dirty Picture" by using the name of Silk Smitha pending disposal of the Writ Petition in the interest of Justice.

15. It is further prayed that this Hon'ble Court may be pleased to direct the respondents No.1 to 3 not to issue Film Certification/censor certificate for the release of the film "The Dirty Picture" pending disposal of the Writ Petition in the interest of Justice.

Solemnly sworn and signed by the deponent on this the
13th day of November 2011 at Hyderabad. Attested:

Deponent

Advocate, Hyderabad