

Introduction

Meaning of Copyright

Copyright is a unique kind of intellectual property. The right which a person acquires in a work, which is the result of his intellectual labour, is called his copyright. The primary function of a copyright law is to protect the fruits of a man's, labour, skill or test from being taken away by other people.

- In *Macmillan and Co. v. K.J. Cooper*, AIR 1924 PC 75, The Court was of the view that the question is not whether the material which are used are entirely new and have never been used before. The true question is whether the same plan, attunement and combination of materials have been used before for the same or any other purpose, if they have not, then the plaintiff is entailed to a copyright , although he may have gathered hints for his plan and arrangement from existing and known sources.

The statutory definition of copyright means the exclusive right to do or authorise other(s) to do certain acts in relation to-

- 1- Literary, dramatic or musical works;
- 2- artistic work:
- 3- cinematograph film: and
- 4- Sound recording .

Leading case law on Copyright Act.

In case of *Blackwood v. Parasuraman*, AIR 1959 Mad 410, In this case court has held that a translation of a literary work is itself a literary work and is entitled to copyright protection if it is original and the author has expended sufficient labour and skill on it. It was further held that if copyright subsists in the original work, then reproduction or publication of the translation without the consent or license of the owner of the copyright in the original will constitute infringement.

Eastern Book Company v. D.B Modak, (2008) 1 SCC 1:

- In This case Supreme Court has held that:-
The Judgment or order of court, tribunal or other judicial authority is exempted from copyright protection. Any person can reproduce or publish them unless such reproduction or publication has been prohibited by the judicial authority concerned.

4- In R.G. Anand v. Delux films, AIR 1978 SC 1613: It was laid down by the Supreme Court that one of 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 finds one work a copy in the other.

5- Copyright is a right recognised to subsist on its own. Registration is not a pre-condition for bringing an action against infringement of copyright.

In nav sahitya prakash v. Annand Kumar. AIR 1981 All 200,

It was held that registration is only optional, registration serves the purpose of being a prima facie proof of possession of copyright by the person.

Originality only in form not is idea

- The Supreme Court in the case R.G. Anand v. Delux Films, AIR 1978 SC 1613: Supreme Court has held the declared there can be no copyright in as idea, subject matter, themes, plots or historical or legendary facts, There needs to be an originality only in the form of expression.

Amar Nath Sehgal v. Union of India, 2005 (30) PTC 253 (Del)

- In this case, the Vigyan Bhavan was constructed at Delhi to house international conferences. The plaintiff was assigned a part of the decoration work inside the building. He produced a piece of art, a bronze mural sculpture, on one of its walls. It was highly acclaimed piece of art. In 1979, during partial reconstruction of Vigyan Bhawan, the mural was pulled down without the permission of the plaintiff and consigned to a storeroom. The sculpture was immensely damaged due to improper managing. The court held that the defendants have not only violated the plaintiffs moral right of integrity in the mural but have also violated the integrity of the work in relation to the cultural heritage of the nation. The Court granted-
 - (a) A mandatory injunction directing the defendants to return to the plaintiff the remnants of the mural art within two weeks:
 - (b) That all rights in the mural art shall henceforth vest in the plaintiff:
 - (c) The plaintiff would have an absolute right to recreate the mural at any place and would have the right to sell the same:

The knit pro International Vs. State of NCT of Delhi Criminal appeal no. 807 of 2022

- SC has held that offence of under 63 of the copyright Act 1957 are cognizable and non cognizable.
- The ruling is significant as the question of copy right infringement being a cognisable or non cognisable and bailable or non bailable offence has been debated between high court across India.

Super Cassettes Industries Ltd Vs. YouTube & Google others os no. 2192/2007 Delhi HC

- SCLL claimed that YouTube business model reaps substantial profit from the use of copyright work uploaded without availing approval from the rightful copyright owner and without paying royalty for the same. The High Court opined that video streaming giant and Google should stop reproducing, distributing, transmitting or displaying on their portal any audio. Visual work which are in the exclusive ownership of SCIL.