TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL

NEW DELHI

Dated 09th September 2026

Cyber Appeal No. 1 of 2020

With MA No. 266 of 2023

Aditya Dhananjay Satwe and Anr …Appellants

Vs.

Smt Sheela Balram Sharma and Anr. …Respondent(s)

Cyber Appeal No. 6 of 2020

Smt Sheela Balram Sharma …Appellant(s)

Vs.

Aditya Dhananjay Satwe and Ors. …Respondent(s)

BEFORE:

HON'BLE MR. JUSTICE RAM KRISHNA GAUTAM, MEMBER

For Appellant in CA 1/2020 : Mr. Subodh Moreshwar Joglekar, Advocate

For Respondent in CA: 1/2020 Mr. Ankur Saboo, Advocate

JUDGMENT

1. This Appeal, alongwith Cyber Appeal filed by Smt Sheela Balram Sharma, were taken together for hearing.
2. This Appeal No. 1 of 2020, under Sections 57 and 58 of the Information Technology Act, 2000,(IT Act) has been filed by Mr Aditya Dhananjay Satwe, Appellant No. 1, Mr Ulhash Raghvendra Amrite, Appellant No. 2, against

Smt Sheela Balram Sharma, Respondent No. 1 and Investigating Officer, Khadak Police Station, Respondent No. 2, against impugned Judgment of Learned Adjudicating Officer / Principal Secretary(IT), Government of Maharashtra, in a complaint, filed under section 46 of IT Act 2000 (as amended in 2008), by Smt. Sheela Balram Sharma, in Complaint No. 20 of 2014, dated 10.04.2014, is with this contention that Learned Adjudicating Officer, failed to appreciate the facts placed before it in above complaint and Review Application, filed against the order, passed in above complaint on 12.12.2019, which was got received by appellant on 19.12.2019. In above adjudication proceeding, the present appellants were directed to compensate Rs. 10 lakhs in the ratio of Rs. 5 lakhs each for the wrongful loss caused to complainant, because of source code theft, made by appellants, of the Copyright, Registered Software of complainant, got stolen by respondent no. 1, who was an employee of complainant and subsequently, got the same developed by Appellant No. 2. The interest @ 12% p.a, to be compounded monthly, was also to be paid. There was a further direction restraining appellants to sell CARE software to any further or to install the same. Rather, to get it uninstalled from the customers' devices, to whom it was sold.

3. The complainant filed complaint, dated 11.4.2014, under section 43, 61, 66 read with 66B of the IT Act, with contention that present Appellant No. 1, who was respondent no. 1 in the main complaint, had stolen computer source code during his employment with complainant and developed his own software CARE, by using the same source code from Pharma SYS+, thereby had caused substantial loss to the complainant.

4. The notice was got issued in above proceeding, wherein reply was filed, with all denial of the allegations, and it was specifically said to be a complaint, owing to a business rivalry. The appellant had developed his own software in 'Visual Foxpro' and obtained the copyright certificate from Registrar of Copyright, Delhi, whereas, complainant's software was said to be developed in 'Foxpro DOS' base platform. Commands for Foxpro 2.6 are backwards compatible and fully functional with 'Visual Foxpro'. The Adjudicating Officer had passed the impugned order, without any reason of same. Rather, it was a subjective satisfaction of the Adjudicating Officer with no objectivity and reason. The personal whims and fancies is the basis of impugned judgment. The documents taken into consideration are of police investigation and the 'expert report', made the basis of judgement, is not of any specific conclusion with regard to theft of software. Rather, is of development and match in the tune of 80% in between CARE software and Pharma SYS+. Whereas both of the softwares were of different platforms. Moreso, the above police investigation report, or the documents obtained therein, were not admissible, as evidence in this proceeding of civil nature, nor there was any opportunity for getting those reports contradicted or examined at the anvil of cross examination.

5. Learned counsel for respondent, i.e main complainant has vehemently opposed contention of appellant. The alleged contention of appeal was said to be never made before Learned Adjudicating Officer and the complainant, being a lady of 80 years, had suffered a lot, for which a partial compensation by Learned Adjudicating Officer has been made. The software CARE is developed from source code of the complainant's

software Pharma SYS+, developed and owned by her, and got copyright registered in her name as Pharma SYS+. Hence, the entire contention of appeal is of no merit. The documents in evidence tried to be filed before this Appellate Tribunal, by way of a Miscellaneous Application, was not there before Learned Adjudicating Officer, while making the judgment impugned in the appeal. Hence, those may not be raised at this stage.

6. The amount of Rs. 10 lakhs awarded towards the loss suffered by complainant was with no reason and was most inappropriate. Hence, Cyber Appeal No. 6 of 2020, was filed by complainant, Smt Sheela Balram Sharma, assailing the impugned judgment, with a prayer for enhancement of awarded compensation in the tune of relief prayed in this appeal.

7. For appreciating these facts, and material placed, proved, contested and decided before Learned Adjudicating Officer, the original record of the proceeding of Learned Adjudicating Officer, was got summoned in sealed envelope. The same were produced on today itself, and got opened in open court.

8. Having heard learned counsel for both sides and gone through the impugned judgment, it is apparent that the learned Adjudicating Officer has clearly opined that he is not concerned with the infringement of copyright mark by present appellants, who were respondents in above complaint, because of the fact that for this grievance, there is another forum. His judgment is restricted to fact of theft of source code only and for this limited sphere, impugned judgment has been passed. But to this limited sphere, there is no reasoning, no evidence, no opportunity to lead evidence by complainant and rebut evidence by respondent was there. Learned

Adjudicating Officer has taken in account the report of cyber university expert, filed in criminal proceeding of investigation of alleged offence, without affording opportunity for making that report admissible in evidence. The prima facie appearance of that report is with no finding of any theft; rather is of match to the tune of about 80% and the specific finding is of development of software in CARE software. No fact is there that the Pharma SYS software was of 'Foxpro DOS' platform and this CARE software is of 'Visual Foxpro' platform, which is admittedly, a window platform. Hence, the contention of development of software and the registration of CARE software, as a copyright of present appellants, in the office of Registrar of Copyright is there on record. Hence, what was the evidence before Learned Adjudicating Officer and what was the reasoning for coming to conclusion by Learned Adjudicating Officer in impugned judgment is not there in the impugned judgment.

9. This impugned judgment may never be said to a judgment of any judicial or quasi judicial proceeding, which requires that there must be a fact, pleaded by complainant or petitioner, the reply given by other side to above fact, then replication, if any, to that fact, then points framed for determination i.e. issues to be decided, then evidences led by one side, then evidences rebutted and filed by other side, then argument advanced by one side, replied by other side, then the judgment as per Order XX of CPC, having mention of all these facts pleaded. Facts admitted, facts disputed, issues raised and got framed, evidence led, then conclusion with reasoning and decision made on these points for determination, on the basis of evidence led is to be written. But, in this impugned judgment, there is no compliance

of these ingredients at all. So far as reasoning is to be said, there is no reasoning at all ; though there is a specific mention of limit of jurisdiction. Meaning thereby, Learned Adjudicating Officer was fully aware that for a dispute, regarding the infringement of copyright, some other forum of civil court jurisdiction is provisioned in CPC, 1908 as well as Copyright Act. And in this IT Act, the remedy and dispute is very well specified under section 43 as well as 46 of IT Act, for which this complaint was filed. And for this determination and adjudication, the proceeding before this Tribunal, as well as before Learned Adjudicating Officer has been given to be a civil court proceeding, which requires a judgment concluded to be with reasons. Hence, without commenting on the merit of the case, these appeals merit to be allowed, on the basis of those deficiencies written above, with order of remand to Learned Adjudicating Officer, for giving opportunity afresh to both sides for placing their pleadings before it, then making points for determination, then opportunity for evidence to both sides, then hearing opportunity and then making the judgment alongwith reasons for coming to conclusion.

10. Accordingly, these appeals are being allowed. The File received in sealed envelope, is being remitted to Learned Adjudicating Officer with a direction to give opportunity of hearing to both sides and adjudicate the matter with regard to alleged theft of source code, specifically coming in the jurisdiction of provisions of I T Act, and not within the Copyright Act, for which other civil court is there, with reasons for making conclusions.

11. Parties to appear before Learned Adjudicating Officer on 3.11.2026.

12. The proceeding is of old year of 2014, hence, expeditious disposal is to be made by Learned Adjudicating Officer and parties are not to take unnecessary adjournments, rather to extend their full cooperation for getting the matter adjudicated speedily.

13. It is further being made clear that Learned Adjudicating Officer is not to be influenced by any finding given as above regarding the merit of claim, rather the above findings are limited to procedural aspect and manifest error, apparent on the record, in the impugned judgment regarding the conduct and the judgment, which is without any reason.

.....
(Justice Ram Krishna Gautam)
Member

09.09.2026
/NC/