SHUMITA DEB v SAREGAMA INDIA LTD. & ANR. [SLP (C) No. 8522-23 before the Hon'ble Supreme Court)

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The Hon'ble Supreme Court on 15th April 2019 disposed of an SLP in favour of the Petitioner, Smt. Shumita Deb, the sole surviving legal heir of the legendary Singer, late Shri Manna Dey. The SLP challenged an order/judgment of the Karnataka High Court which had refused to entertain the appeal of the Petitioner against an order of the City Civil Court.

The SLP was disposed of on the first day itself directing the Respondents to remove late Shri Manna Dey's name and photograph from the Cover Versions released by them of his songs. The Hon'ble Supreme Court passed the order in view of the prohibition present in the *proviso* to sub-section (2) of Section 31C of the Copyright Act, 1957, which stipulates that a Cover Version shall not be sold with any packaging, cover or label which is likely to mislead the public and in particular shall not contain the name or depict in any way any performer of an earlier sound recording of the same work.

A Cover Version or Version Recording involves the making of a new sound recording wherein a new singer / set of musicians sing / perform a previously rendered popular song.

The Respondents tried to argue that since there were concurrent findings of fact by two lower Courts, the Hon'ble Supreme Court should not interfere with the exercise of discretion under appeal, in line with the judgement of *Wander v Antox*. The Hon'ble Supreme Court was not impressed by this argument since the orders of the Karnataka High Court and City Civil Court had not properly dealt with a mandatory legal provision.

In fact, the Hon'ble Bench was keen to admit the appeal and stay the operation of the Karnataka High Court order. However, upon the Respondents undertaking that they would remove the photograph and name of late Shri Manna Dey from the Cover Version, the Hon'ble Supreme Court was pleased to finally dispose of the appeal and direct the expeditious disposal of the lawsuit within a year.

Late Shri Manna Dey was a legendary classical singer and music composer and was honoured by the Government of India with the Padma Shri in 1971, Padma Bhushan in 2005 and Dadasaheb Phalke Award in 2007.

The underlying lawsuit before the City Civil Court relates to the infringement of Copyright and other special rights of late Shri Manna Dey over the musical compositions and songs which form part of a Cover Version CD titled *"Hyoto Tomari Jonno".*

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