AMAR NATH SEHGAL V UNION OF INDIA: AIDing THE DELHI HIGH COURT IN RECOGNIZING MORAL RIGHTS IN INDIA

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The Amar Nath Sehgal case is a landmark decision in the realm of Copyright Law in India as the Delhi High Court recognized moral rights of the author of a work and entitled him to take action despite the Copyright of the work being vested in someone else. The Plaintiff was represented by Anand and Anand. Facts: The Plaintiff, a sculptor of international repute and fame was commissioned by the Government of India in 1957 to design a mural sculpture for the lobby of Vigyan Bhawan. Vigyan Bhawan was a building that had been conceived then to be the hub of International and National conferences. The bronze mural sculpture took over half a decade to be made and manifested itself on one of the walls of the Vigyan Bhawan having a length of 140 feet and 40 feet height. It acquired the status of a national treasure, representing the essential part of Indian art heritage. Unfortunately, the sculpture was arbitrarily taken down in the year 1979 and was consigned to the store room, no longer available for viewing by the public. To correct this injustice, the Plaintiff ran from pillar to post but to no avail. Left with no option, the Plaintiff moved the Court seeking relief under Section 57 of the Copyright Act, 1957. The Concept of Moral Rights under the Copyright Act, 1957: The Court observed that Moral rights of the author are the soul of his works. The author had a right to preserve, protect and nurture his creations through his moral rights. The Court identified the following rights that came within the ambit of 'The Authors Moral Rights'.

- Paternity Right – The right of an Author to have its name on the work
- Right of Integrity – The right of an Author to maintain purity in the work. This implies that if the work is treated in a manner that is derogatory to the reputation of the author, or in some way degrades the work as conceived by the author then the same can be objected by it.
- Right of Retraction – This is the Author's right to withdraw its work from publication, if it feels that the same is advisable to do so in light of the changed opinion or passage of time.

The Court held that (1) Section 57 of the Copyright Act, 1957 protects the author's Right of Paternity as also the Right of Integrity and (2) any distortion, mutilation or modification if established that it is prejudicial to the author's reputation or honour would be actionable. Further, the Court held that Section 57 includes the right of integrity in relation to cultural heritage and that through the moral rights of an artist in Section 57 it was possible to protect the cultural heritage of India. The Court's finding was based on its observation that knowledge about authorship identified the creator, identified his contribution to national culture and also helped to understand the course of cultural development of a Country. The Physical Condition of the Mural discovered subsequent to Court direction: The Court ordered the physical condition of the mural to be reported to it and the same revealed that various parts of the mural were missing and that massive destruction had taken place.

The artistic composition had been dismembered in fragments which could not be put together even in parts. Arguments on Moral Rights: It was argued by the Union of India that since the work had been destroyed it no longer existed and could not be viewed by anyone. As a result there could be no prejudice to the author's reputation. Pravin Anand argued that destruction of a work prejudice the author's reputation as it reduced the volume of his creative corpus and this argument was accepted by the Court. Decision – Violation of Moral Rights: The Court held that physical destruction or loss of intellectual property has far-reaching social consequence. Knowledge which is grown with it is also lost. The Court stated that the Plaintiff could maintain an action for violation of its moral rights despite the Copyright being vested in the Defendant. Further, the Defendant had violated the Plaintiff's moral right of integrity in the mural and the integrity of the work in relation to the cultural heritage of the nation. Relief provided: The Court directed that the remnants of the mural be returned to the Plaintiff. It vested all the rights in the mural with the Plaintiff including the right to recreate the same and the right to sell, if required. The Court also awarded damages of Rs 5 lakhs and directed that an interest of 9% shall be paid by the Union of India if the damages were not paid within one month. The Court also recognized the assistance provided by Pravin Anand in aiding the Court to come to its conclusion.

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