

WISDOM CRUX

[ISSN: 2456-6233]

www.wisdomcrux.lawtimesjournal.in

Case Analysis of “The Chancellor, Masters & Scholars of the University of Oxford and Ors.
Vs.Rameshwari Photocopy Services and Ors.”

(Author /’s Name)– *Samyuktha Banusekar*; *SASTRA Deemed to be University Tanjore, Tamil Nadu.*

CASE NAME:The Chancellor, Masters & Scholars of the University of Oxford and Ors. Vs.Rameshwari Photocopy Services and Ors.

CITATION(s): MIPR 2017 (1) 39; 233 (2016) DLT 279; MANU/DE/2497/2016; 233(2016)DLT279

HON’BLE JUDGE: Rajiv SahaiEndlaw, J.

COURT: Delhi High Court**DATE OF JUDGMENT:** 16th September, 2016

1. BRIEF INTRODUCTION AND FACTS:

1.1. A Brief Background:

The case appertains to a complaint filed by the publishers of textbooks against a photocopy service carrying on business under a university in Delhi for infringement of their copyright. The publishers sought to constrain the photocopy shop from production and supplying of photocopied course packs to students and teachers of the university. The entire outline of the case revolves around the exceptions to copyright infringement under the Copyright Act, 1947.

1.2. The Facts of the Case:

WISDOM CRUX

[ISSN: 2456-6233]

www.wisdomcrux.lawtimesjournal.in

**Case Analysis of “The Chancellor, Masters & Scholars of the University of Oxford and Ors.
Vs.Rameshwari Photocopy Services and Ors.”**

(Author /’s Name)– Samyuktha Banusekar; SASTRA Deemed to be University Tanjore, Tamil Nadu.

The five plaintiffs involved in the case, a) Oxford University Press, b)Cambridge University Press, United Kingdom (UK), c)Cambridge University Press India Pvt. Ltd., d)Taylor & Francis Group, U.K. and, e)Taylor & Francis Books India Pvt.Ltd., have collectively initiated a suit against the two defendants of the case, Rameshwari Photocopy Services which carries on business under the Delhi School of Economics, University of Delhi andthe University of Delhi for purported infringement by photocopying, reproducing and distributing the copies of the publications of the plaintiffs on a large scale, for circulation of the stated copies and also for sale of course packs or anthologies of unauthorised compilations inclusive of substantial extracts from the publications of the plaintiffs.

A vide order was directed at the University of Delhi, dated 26th of September, 2012 to consider procuring a license from the Reprographic Rights Organisation for the preparation of course packs.

A vide order was directed at the Rameshwari Photocopying Services, dated 17th of October, 2012 to restrain the making and selling of course packs involving substantial extracts from the plaintiffs’ publications until final disposition of application for interim relief.

2. ISSUES:

- a. **Whether the suit is maintainable before the Hon’ble Delhi High Court.**
- b. **Whether the making of copies by the University, storage in its library and distribution of said copies to students amounted to doing of acts which vested exclusively in the owner of the publications and infringement of copyright under Section 51 of the Copyright Act, 1957.**
- c. **Whether the respondent photocopy shop’s photocopying work was prima facie in the course of instruction.**
- d. **Whether the exception of fair use can be availed under Section 52(1)(i).**

3. STATUTES AND PROVISIONS OF LAW INVOLVED:

The aforementioned case surrounds copyright infringement under the Copyright Act, 1957. More specifically, Section 2,14, 51 and 52 are dealt with in this case.

WISDOM CRUX

[ISSN: 2456-6233]

www.wisdomcrux.lawtimesjournal.in

**Case Analysis of “The Chancellor, Masters & Scholars of the University of Oxford and Ors.
Vs. Rameshwari Photocopy Services and Ors.”**

(Author /’s Name)– Samyuktha Banusekar; SASTRA Deemed to be University Tanjore, Tamil Nadu.

4. CONTENTIONS PUT FORTH BY BOTH THE PARTIES:

4.1. Plaintiffs:

The Counsel: SaikrishnaRajagopal and SahilSethi, Advs.

The plaintiffs contended that the actions of the defendant amounted to infringement of copyright as no additional matter was being added except the publications of the plaintiffs.

It is highlighted by the plaintiffs that Rameshwari Photocopy Services is operating for profit evident from the price and that they are competing with the plaintiffs.

The learned counsel appearing on behalf of the plaintiffs denied the defence under Section 52(1)(i) and asserted its inapplicability in this case as the reproduction was not by a teacher or a pupil and not in the course of instruction and that would delineate Section 52(1)(h) to be redundant.

The plea of the plaintiffs places certain emphasis on the fact that Section 52(1)(i) only entails ‘reproduction in the course of instruction’ and not ‘reproduction in the course of preparation for instruction’.

According to the plaintiffs, the action of Rameshwari Photocopy Services is bound by the subsection of Section 52(1)(h). This interpretation is purportedly braced by Article 13 of the Agreement on Trade-Related Aspect of Intellectual Property Rights, 1995 as well as Articles 9 and 10 of the Berne Convention, 1886.

WISDOM CRUX

[ISSN: 2456-6233]

www.wisdomcrux.lawtimesjournal.in

**Case Analysis of “The Chancellor, Masters & Scholars of the University of Oxford and Ors.
Vs.Rameshwari Photocopy Services and Ors.”**

(Author /’s Name)– Samyuktha Banusekar; SASTRA Deemed to be University Tanjore, Tamil Nadu.

Reliance was placed on the decision of *Princeton University Press v. Michigan Document Services Inc.*¹ and certain other cases to plead that the University must be directed to obtain a license from Indian Reprographic Rights Organisation to reproduce extracts from publications, stating that the unrestricted reproduction of these books would lead to suffering of incurable loss to the publishers.

4.2. Defendants:

The Counsel: Rajesh Yadav and Saurabh Seth, Advs.

The learned counsel representing the defendants pleaded that the preparation of course packs fell within the ambit of fair use under Section 52(1)(a) and (h).

The affordability of the students is pleaded to be taken into account pertinent to the extracts in the syllabi of the University.

Furthermore, the action of copying course packs for research or educational purpose is pleaded to be allowed under Section 52(1)(i). It is brought to light that the photocopy shop is licensed to operate within the premises of the University.

An aspect highlighted which is of paramount significance is the plea that Section 52(1)(i) is not restricted to classroom education, as certain level of significance is placed on the case of *Longman Group Ltd. v. Carrington Technical Institute Board of Governor*².

It is contended that as educational research is involved, unlimited photocopying would be permissible. The distinction between the terms ‘reproduction’ in Section 52(1)(i) and ‘publication’ in Section 52(1)(h) was reiterated, emphasising that Section 3 of the Act

¹Princeton University Press v. Michigan Document Services Inc., 99 F.3d 1381 (6th Cir. 1996).

²Longman Group Ltd v. Carrington Technical Institute Board of Governors, 2 NZLR 574 (1991).

WISDOM CRUX

[ISSN: 2456-6233]

www.wisdomcrux.lawtimesjournal.in

**Case Analysis of “The Chancellor, Masters & Scholars of the University of Oxford and Ors.
Vs.Rameshwari Photocopy Services and Ors.”**

(Author /’s Name)– Samyuktha Banusekar; SASTRA Deemed to be University Tanjore, Tamil Nadu.

defining ‘publication’ states the availability to ‘public’ which has a wider interpretation compared to that of ‘students’.

It is also contended that the need for obtainment of an IRRO License does not arise as the actions of the defendants does not constitute copyright infringement.

5. JUDGMENT AND RATIO DECIDENDI:

5.1. THE DECISION OF THE CASE:

What is ‘justified for the purpose and what would ‘unreasonably prejudice the legitimate interest of the author’ must be left to the sagacity of the legislators. As the legislators have allowed reproduction of any work by a teacher or a pupil in the course of instruction, the legislators have found the reproduction of any work for the purpose of imparting of education and it does not ‘unreasonably prejudice the legitimate interest of the author’.

It is therefore adjudged by the Hon’ble Judge that the actions of the defendants do not amount to infringement of copyright. The suit is dismissed.

5.2. RATIO DECIDENDI:

The decision given is predominantly contingent on the usage of the exceptions under Section 52(1)(i) as fair use and this is concluded based on the extent justified by the purpose of the action. It is also based on the fact that there is no element of profit involved in the process as there is imparting of education to pupils.

6.THE RATIONALE BEHIND THE JUDGMENT:

In the Judgment, at the outset, it is accentuated that Copyright is neither a natural nor a common law right but rather a statutory right. The Judgement is arrived at based on some aspects:

- a. The scope of the clauses (h), (i) and (j) of Section 52 of the Act cannot be restricted by the conditions under general clause (a).

WISDOM CRUX

[ISSN: 2456-6233]

www.wisdomcrux.lawtimesjournal.in

**Case Analysis of “The Chancellor, Masters & Scholars of the University of Oxford and Ors.
Vs. Rameshwari Photocopy Services and Ors.”**

(Author /’s Name)– Samyuktha Banusekar; SASTRA Deemed to be University Tanjore, Tamil Nadu.

- b. The phrase ‘in the course of’ is not limited to personal interface between the teacher and the pupil but includes the entire academic session.
- c. The word ‘publication’ used in Section 52(1)(h) is different from the word ‘reproduction’ used in Section 52(1)(i) and the defendants are involved in only reproduction to a limited number of persons such as students.
- d. Since the act of the University of Delhi does not amount to infringement of copyright, it would not be considered as infringement purely based on the assistance taken by an independent contractor.
- e. The actions of the defendants come within the purview of the exceptions under Section 52(1)(i) and the photocopying falls within fair use since it is only used for imparting knowledge by the educational institution.
- f. Pertinent to international conventions, the exception under Article 10(2) of the Berne Convention and the three step test laid in Art. 9 of the Berne Convention and Art. 13 of the TRIPS agreement include reproduction in certain special cases exclusive of exploitation of the work. It is supposed to be to the extent justified and there is testing in accordance to the compatibility with fair practice.

7. CONCLUSION

The decision given the Hon’ble High Court has attracted international attention as a landmark judgment for copyright violation. Following the judgment, there was a withdrawal of the case by the plaintiffs.

The Judgment involved strains the balance between the rights given to copyright owners under the Act and the dissemination of knowledge. The author believe that in a developing country such as India, the path to growth is provision of education. The availability and affordability of education is crucial to curtail poverty and other issues that undermine India.

In the view of the author, it is perfectly right to restrict the rights given to copyright owners if the need for education in the country is addressed. Also, it is not plausible that the minuscule target market of the photocopy shop would affect the gigantic market of the publishers and subject them to loss. Thus, the author would like to second the judgment of the aforementioned case.

WISDOM CRUX

[ISSN: 2456-6233]

www.wisdomcrux.lawtimesjournal.in

**Case Analysis of “The Chancellor, Masters & Scholars of the University of Oxford and Ors.
Vs.Rameshwari Photocopy Services and Ors.”**

*(Author /'s Name)– Samyuktha Banusekar; SASTRA Deemed to be University Tanjore, Tamil
Nadu.*
