

# WISDOM CRUX

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## Case Summary on –

THE CHANCELLOR, MASTERS & SCHOLARS OF THE UNIVERSITY OF OXFORD AND  
ORS.

VS.

RAMESHWARI PHOTOCOPY SERVICES AND ORS.

CITATION: 233(2016)DLT279; MANU/DE/2497/2016

## Author /'s Name -

V.S. Krishna; SASTRA Deemed to be University Tanjore, Tamil Nadu.

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## **BRIEF FACTS AND INFERENCES**

This is a case pertaining to copyright infringement wherein a petition was filed by three publishers, Oxford, Cambridge and Taylor Francis, in August 2012 against Rameshwari Photocopy Services (a photocopy shop located in the Delhi University campus) and the Delhi University itself seeking relief of a permanent injunction restraining the two defendants from infringing the copyright of the plaintiffs by way of photocopying, reproduction and distribution of copies of plaintiffs' publications on a large scale and further circulating the same. The plaintiffs were aggrieved by the large scale production and sale of compilations of the plaintiffs publications in the form of course packs. These course packs were put together based on the readings or syllabus assigned by the Defendant University and the Defendant photocopier admittedly ran its enterprise from the University. The above-mentioned facts empowered the Plaintiffs to implead the university itself.

## **ISSUES DISCUSSED**

- 1) Whether or not the inclusion of the copyrighted work in the course pack could be justified as fair use for educational purpose?

And

- 2) Whether or not photocopying of the book in its entirety would be permissible?

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## **CONTENTIONS PUT FORTH BY BOTH THE PARTIES**

### **PLAINTIFFS CONTENTIONS**

The Plaintiffs argued that the creation of course packs, including the photocopying of copyrighted materials was an infringement of the exclusive copyright of the authors and publishers. Furthermore, they alleged that reproduction of the copyrighted work for distribution to the public was not legally permissible and this in turn caused huge financial loss as students stopped buying textbooks from the plaintiffs.

### **DEFENDANTS CONTENTIONS**

The defendants denied the allegations put forth and reiterated that their usage was solely for educational purposes and it would fall under the purview of fair use and would not amount to copyright infringement. In addition to that, the defendants had been granted license as regards a small shop within the University campus to provide photocopy services to the students and faculty at nominal rates and as per the terms of license, the defendant had to provide 3000 photocopies per month to the University of Delhi, free of cost and to charge only the prescribed rate for photocopy services meted out to others. Based on the above-mentioned facts and circumstances, the defendants submitted that their services were availed by the students and faculty solely for educational purposes and reference and hence is not commercially exploiting the plaintiff's copyright.

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The University of Delhi contested the suit and opposed that calling reproduction of copyrighted books for educational purpose as infringement was erroneous. They pleaded that Universities all over the world permit students to copy limited pages from any work for use in research and for use in the classroom by a student or teacher and this is recognized by **Section 52(1)(a) & (i) of the Copyright Act, 1957**. The exemptions of ‘fair use’ of work under the act encompasses the use for educational purposes.

## **JUDGMENT**

The Delhi High Court held that the actions of the defendants did not amount to infringement of the copyright of the plaintiffs and the suit was dismissed without costs.

Initially, the defendants were restrained by the order of the Delhi High Court from issuing copies of the textbooks of the Publishers until the final disposal of the application for interim relief. The defendants appealed against the restraining order along with two other associations i.e., **Society for the Promotion of Educational Access and Knowledge (SPEAK) and Association of Students for Equitable Access to Knowledge (ASEAK)** which was formed by a group of students to highlight the suffering caused by the court’s restraining order. They submitted before the court of law that it was not possible for them to continue studying without photocopied notes as hardly any of them could afford buying new books. It was noted that while examining the issue of copyright infringement in the present scenario, the Indian law has to consider the unique socio-economic condition of the country such as resource constraints. The Court also noted that the phrase ‘*to issue copies of the work to the public*’ under **Section 14(a)(ii)** cannot be interpreted as ‘*making copies of the work*’.

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## **RATIO DECIDENDI**

The court stated that, *the legislature having declared the actions listed in Section 52 of the act to be not amounting to infringement, the same cannot be done to the extent permitted by the language of Section 52*. The rights of persons mentioned in Section 52 of the act are to be interpreted following the same rules as the rights of a copyright owner and are not to be read narrowly or strictly or so as not to reduce the ambit of Section 51.

## **RATIONALE IN ARRIVING AT THE JUDGMENT**

The court stated that the original defendant photocopy was not a competitor of the plaintiffs as they were only making compilations of certain parts of prescribed textbooks for educational purposes. Hon'ble Justice Mr. Rajiv Sahai Endlaw opined Copyright, especially in literary works, is thus not an inevitable, divine, or natural right that confers on authors, the absolute ownership of their creations. It is designed rather to stimulate activity and progress in the arts for the intellectual enrichment of the public. Copyright is intended to increase and not to impede the harvest of knowledge. It is intended to motivate the creative activity of authors and inventors in order to benefit the public.

## **STATUTES AND PROVISIONS OF LAW INVOLVED**

### - **STATUTE:**

The Copyright Act, 1957

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### - **PROVISIONS INVOLVED:**

- Section 2(m) of the Copyright Act, 1957.
- Section 14(a)(i) and (ii) of the Copyright Act, 1957.
- Section 51 and 52 of the Copyright Act, 1957.

### **CONCLUSION**

This landmark verdict has set a precedent for the applicability of copyright law in educational cases in India. Content creation, copying and reproduction are getting easier every day across industries, and the easier it gets to ‘copy’, the harder it will be to control ‘copying’. In such an era, it is important to reframe the balance between the rights of the publishing houses and the interests of the students in such a way that they are protected simultaneously without amounting to copyright infringement. Photocopying can be prevented by putting an embargo on the photocopying kiosks from creating course packs of academic books unless they are granted licenses from the **Indian Reprographic Right Organization (IRRO)** in order to proceed with photocopying. This would not only ensure that there is no commercial exploitation but also the interest of the publishers are not kept at dark.

The usage of ‘Fair use’ has been wrongfully seen as a ‘defence’ to claim a copyright infringement. As rightly said, *‘Ignorance of Law is of no excuse’*. What is ignored here is the fact that ‘fair use’ is actually a *right*, an essential part of the copyright law itself. Fair use is a

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gateway to the commons, rather than a mere defence to claims of ownership of intellectual property.

With all due respect to the Delhi High Court, It is the humble opinion of the author that the Court could have taken a more '*balanced*' approach i.e., it could have delineated circumstances when unauthorized photocopying would be allowed and circumstances for the use of compulsory licenses or pair a similar breadth of permission for photocopying with the University paying a substantial amount to the publishers through a licensing arrangement.