

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

COMMERCIAL MISC.PETITION NO.1 OF 2022

Anil G. Karkhanis

...Petitioner.

Versus

Kirloskar Press, Mukund Nagar, Pune,
& Anr.

...Respondents.

Mr.Amit Jamsandekar with Ms Oindirilla Mukherjee i/b Link Legal with
Vighnesh Kamat for petitioner.

CORAM : MANISH PITALE, J

DATE : 11th OCTOBER, 2022.

P. C. :

1. By this petition filed under Section 32 of the Copyright Act 1957 (hereinafter to be referred as the 'said Act' for brevity) r/w Copyright Rules 2013, the petitioner is praying for grant of license to produce and publish a translation of a literary work titled "The Spirit's Pilgrimage" authored by Madeleine Slade known as Mira Behn.

2. It is stated in the petition, that the aforesaid work was published in India in the year 1960 by Orient Longman Private Limited and in Great Britain by the publisher Longmans, Green & Co. The author passed away on 20.7.1982. It is stated that since the book was published in India, way

back in the year 1960, the conditions for grant of such license u/s 32 of the said Act are indeed satisfied.

3. Mr Jamsandekar, the learned Counsel for the petitioner, invited my attention to Rules 32 and 33 framed under the said Act, to contend that the petitioner satisfies the three requirements contemplated u/s 32 of the said Act for grant of such license i.e. *firstly* the work was published in India, *secondly*, it was published more than 7 years prior to the petition being filed and *thirdly*, that the petition/application is being moved in the prescribed form i.e. form VI which is appended to the Rules and in addition, it is stated that the petitioner is ready and willing to pay royalty to the person entitled to such royalty under the provisions of the said Act.

4. Learned Counsel for the petitioner submits that the petition contains all details about the efforts made by the petitioner towards tracing the original Publishers, but none of the Publishers exist as on today. The petitioner found that an abridged version of the said work was translated by one Ranga Marathe and it was published by the respondent no.1, but neither the said Translator nor the respondent no. 1, as on today, exist for petitioner to pursue the matter in the context of license sought u/s 32 of the said Act. It is in these circumstances, that the petitioner has approached this Court by moving the present petition. The intention to produce and

publish the translation is not for private use or any commercial enterprise but the petitioner intends to translate the work in Marathi for public interest.

5. In view of the material placed on record and upon hearing the learned Counsel for the petitioner, this Court is satisfied that notice as contemplated under Rule 33 of the aforesaid rules ought to be issued for considering the prayers made in the present case.

6. Rule 33 of the aforesaid rules, prescribes that the notice of such petition shall be published in a Journal. The word "Journal" has been defined in Rule 2(da) of the said Rules to mean Copyright Journal made available at the official Website of the Copyright office.

7. Rule 33 also mandates that if the Court thinks fit, such notice is to be published in one or two newspapers and copy of the notice be sent to the owner of the copyright, wherever practicable. In the present case, as noted above, the owner of the copyright could not be traced despite efforts made by the petitioner.

8. This Court is satisfied that the notice as contemplated under Rule 33 of the aforesaid rules deserves to be issued in order to consider prayers

made in the present petition.

9. Learned Counsel for the petitioner has handed over a proforma notice, which could be given in the Journal by the Registrar of Copyrights and same could also be published in two newspapers, as required under Rule 33 of the said Rules. The suggested format of the notice reads as follows;

***“IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION***

PUBLIC NOTICE

RE: COM. MISC. PETITION NO.1 OF 2022

This is for information of all concerned that in view of Section 32 of the Copyright Act, 1957, read with Rule 33 of the Copyright Rules, 2013 and upon an application in this regard filed by Mr. Anilkumar G. Karkhanis, the Hon’ble High Court of Judicature at Bombay is required to give notice of the application filed for seeking, a license to produce and publish a Marathi translation of a literary work titled ‘ The Spirit’s Pilgrimage’ written by Madeleine Slade originally in English language.

Particulars are as follows:

(a) the date of the application : 14.10.2021.

(b) the name, address and nationality of the applicant:

ANILKUMAR G. KARKHANIS,

*an Indian national
residing at Vikasini CHS, Flat no.A-151,
Plot No.1C, Sector 8B, CBD Belapur,
Navi Mumbai-400 614.*

(c) particulars of the work which is to be translated:

The Spirit's pilgrimage written by Madeleine Slade.

(d) the date and country of the first publication of the work:

First published in 1960 by Longmans in Great Britain and by Orient Longman Pvt. Ltd. In India.

(e) the name, address and nationality of the owner of the copyright as stated in the application:

The exact owner of the copyright is not known to the applicant, however:

-Madeleine Slade (deceased) is the author and the first owner of the copyright.

-It was first published in English by Orient Longman Pvt. Ltd in India.

-A abridged translation in Marathi language titled "एक चैतन्य यात्रा" was written by 'Ranga Marathe and published by Kirloskar Press, Mukund Nagar, Pune-411037.

*(f) the language in which the work is to be translated:
Marathi*

(g) the registration number of the work in Registrar of Copyrights, if any: Not Available.

This public notice is issued to inform all those interested persons regarding the Hon'ble Bombay High Court's

intention to consider the application for a license to produce and publish a Marathi translation of the literary work titled “The Spirit’s Pilgrimage” by Madeleine Slade as mandated under section 32 of the Copyright Act, 1957 read with Rule 33 of the Copyright Rules, 2013 and any person claiming any interest in the copyright of the aforesaid work may submit its application, in writing.

In accordance with Rule 33, it is stated that any person claiming any interest in the copyright of the work may within one hundred and twenty days from the date of this publication file an application, in writing, with adequate evidence. No further time will be granted after the expiry of 120 days of Public Notice.

By order

Registrar of Copyrights”

10. In view of the above, respondent no.2 i.e. Registrar of Copyrights is directed to publish the notice in the above quoted format concerning the present petition moved by the petitioner u/s 32 of the said Act, seeking license to produce and publish translation of the said work in the copyright Journal made available at the Copyright office. Such notice shall be published within 2 weeks from today and compliance thereof be submitted before this Court, by respondent no.2, within 3 weeks from today.

11. The petitioner shall cause above quoted notice to be published in two newspapers i.e. Free Press Journal and Loksatta (Marathi) within 3 weeks from today. The petitioner shall bear the expenses for publication of such notices.

12. List this petition for further consideration on 15.2.2023.

(MANISH PITALE, J.)