

**The Chancellor, Masters & Scholars of the University of Oxford  
&Ors.**

**V.**

**Rameshwari Photocopy Services &Anr.**



CS (OS) No. 2439/2012

Delivered on: 16/09/2016

**Coram-** The Hon'ble Mr. Rajiv Sahai Endlaw, J.

*Lex Saturates*

By- Adv.Lakshmi Menon

## **FACTS OF THE CASE**

Rameshwari Photocopy Services is a small photocopy shop operating from the Delhi School of Economics. They serve the students and faculty of the institution by providing Xerox copies of academic works, including compilations of syllabi materials, at nominal rates. The plaintiffs, five major publishers in the academic field, sued the first respondent alleging violation of their copyright in the said works. The University of Delhi was also impleaded on the claim that the compilations are based on the University's syllabus and that its faculty and libraries are directly encouraging the photocopying and hence, the copyright violation. The main contention of the respondents was that their services were for the educational benefit of the students and it amounted to statutorily recognised fair use of the petitioners' copyright.

## **ISSUES RAISED**

- Whether the reproduction of materials for educational purpose fall within the exception of copyright section 52 (1) (i) of the Copyright Act?
- Scope of "fair use" under section 52 (1) (a), in the context of photocopying.

## **JUDGMENT IN BRIEF**

The honorable High Court held that, copyright is not an inevitable, divine or natural right which confers on the author absolute ownership of their creations. It is for stimulating activity and progress in the arts for the intellectual enrichment of the public. It is intended to increase and not to impede the harvest of knowledge.

Students who are getting books from Delhi university library or its authorised photocopy shop enjoy protection under section.52 of the copy right act which exempts education from copyright infringement. If Delhi University can photocopy relevant portions of prescribed text books to make course pack within its library to impart education to students, then similar protection is enjoyed by the contractor, Rameshwari Photocopy Service.

## **CRITICAL ANALYSIS**

The question involved in this case is whether the act of the university in making a course pack by extracting relevant provisions of different books prescribed as reference and entrusting an external agency the authority to make available copy of the same to students can be treated as reproduction by b a teacher or a pupil in the course of instruction. In higher educational institutions teachers prepare the syllabus and provide the list of reference books. In most of the cases only some portions of such books are needed for study. Thus it is not practical for students to buy each and every book prescribed, which is an expensive thing. Likewise university may not be able to provide enough copies of such books too. So if the students are allowed to take photocopy of whatever they want from these books, which is perfectly legal for them to do, there is a chance of these books being destroyed by frequent folding etc.,. And it is perfectly legal for students to take one photocopy of the same and distributing that amongst themselves for further copying. What the university did is the same thing that the students or teachers are

empowered to do. Teachers can make such course pack and distribute the same between their students. Then the only question arises here is whether the photocopy shop can do the same thing for the students and make monetary benefit from it. In this case it is the university who entrusted this shop to do the same on their behalf. They are getting only nominal monetary benefit from this, only the technical charges they incurred during the process. Moreover they are not selling this course pack to any person who does not produce a valid identity card of the economics department of the university. So here reproduction is done by the students and teachers, and the photocopying shop is just a facilitator between them. Thus it will fit perfectly into the exception provided under s.52 (a) (i) of the act.

Fair dealing and not fair use what is provided under s.52 (a). In my opinion this situation is clearly within the purview of this exception. The course pack is used by the students for their study purpose which is private use as well as use for research purpose.

Moreover the market of these books is not affected through this reproduction as this course pack is useful only for those who study the particular subject that even from this particular institution. Syllabi are revisable and once there is a revision in the same this particular course book won't be of any avail. Thus in this case there is no reproduction of the copyrighted books for commercial purpose, but for education purpose. As the court rightly said copyright is not a divine or natural right. And law as it stands now allows these students to make any loss which may be made during the reproduction of the same solely for educational or research purposes.

