

# News

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## Continuous transfer of music rights that are not restricted to tangible media: High Court of Bombay



*The ruling was made in the case that Rupali Shah, the late OP Ralhan's daughter, brought to stop Saregama from using music from movies that her late father had created.*

In a recent ruling in **Rupali Shah v. Adani Wilmar Limited**, the Bombay High Court held that copyright assignments made under agreements that date back decades cover exploitation through digital and non-physical media, even if such technologies were not considered at the time of signing.

The ruling was made in the lawsuit that Rupali Shah, the late OP Ralhan's daughter, sued to stop Saregama Adani Wilmar from using music from movies that her late father had produced. Saregama had been given the rights in perpetuity. One of the tracks was later licensed to Adani Wilmar by Saregama.

The assignee would be entitled to the sole rights, including those of use and performance (including broadcasting) worldwide by any and all means, according to the June 11 ruling by Justice **Manish Pitale**.

*"The use of the aforementioned words in the above-quoted clause 10 of the agreement make it abundantly clear that the assignee had the right to exploit the works by all means,"* the court wrote.

The conflict started when Shah took issue with Adani Wilmar's usage of the famous song "*Meri Duniya Hai Maa Tere Aanchal Mein*" from the movie *Talash* in a commercial. She asserted that after the original agreements expired, she regained ownership of the underlying musical works, which were no longer available for use in digital or non-physical media.

Saregama retorted that it had legally leased the song's use to Adani Wilmar and had been granted the rights in perpetuity.

Shah's claim was dismissed by the Court, which found that Ralhan and Saregama's predecessor had agreed in 1967 to grant a wide range of rights, including the ability to use, transmit, and reproduce the works "by any and every means whatsoever."

The Court held that statutory changes did not retroactively affect rights that had already been lawfully assigned, even though the Copyright Act was later amended in 1994 and 2012 to add terms like "sound recording" and a proviso to Section 18 restricting assignments of certain rights.

Shah's claim that perpetual assignments might have expiration dates was essentially dismissed by the Court.

Justice Pitale determined that *"the assignment of rights in the subject works was in perpetuity and the restriction of time period was only to indicate that such rights were perpetually assigned in the context of works that were created within the said time period."*

The ruling made it clear that the agreements' time restrictions only related to the production of new works and not to the length of time that existing compositions might be used.

The Court found several elements that supported the assignment's everlasting nature. These rights were listed as "property" in the will of the original producer, OP Ralhan, indicating that

he thought the assignments were unrestricted.

Furthermore, Ralhan and his daughter had consistently acknowledged the defendants' enduring rights across all media by accepting royalties for decades, including payments for digital exploitation.

The Court decided that parties could not go back in time and say that permanent assignments made before the invention of digital or streaming rights did not contain such rights.

*"The substance contained in the work being nothing other than sound, it would be inappropriate to hold that such substance was never assigned to the assignee,"* the Supreme Court ruled.

The Court emphasized that perpetual rights transfer the full economic value of copyrighted works across all potential exploitation techniques.

*"Defendant No.2 (Saregama) has proved that it has perpetual rights to exploit the music and the songs belonging to the estate of OP Ralhan and also holds perpetual right to grant licence to others in respect of the said music and songs,"* the court stated when it dismissed the lawsuit.

Under the direction of K Ashar & Co., Shah was defended by Senior Advocate **Ashish Kamat** and Advocates Rohan Kadam, Shirley Mody, and Rucha Vaidya.

Advocates Naresh Thacker, Shailendra Poria, and Samarth Saxena, under the direction of Economic Laws Practice, represented Adani Wilmar.

Under the direction of Khaitan & Co., Senior Advocate **Veerendra Tulzapurkar** defended Saregama, accompanied by Advocates Gaurav Mehta, Chakrapani Misra, Jigar Parmar, and Pranali Vyas.