

HIGH COURT OF DELHI

Bench : Hon'ble Mr. Justice Anish Dayal

Date of Decision: 5th April 2024

CS(COMM) 88/2021 & I.A. 78/2023

THE BHAKTIVEDANTA BOOK TRUST INDIA ...Plaintiff

VERSUS

WWW.FRIENDWITHBOOKS.CO ...Defendant

Legislation:

Order XIII A of the Code of Civil Procedure, 1908 (CPC)

Sections 14(a), 18, 19, 21 of the Copyright Act, 1957

Bombay Public Trusts Act, 1950

Subject: Intellectual property rights dispute involving copyright of literary works created by a sanyasi (renunciate) – Assignment of copyrights to a charitable trust.

Headnotes:

Issue of Copyright Ownership by Sanyasi – Civil Suit for Copyright Infringement – Consideration whether a renunciate (sanyasi) retains copyright ownership in his literary works – Plaintiff Trust holds copyrights of works by Srila Prabhupada, a renounced spiritual leader – Defendant reproduced these works online without authorization – Defendant contended that Srila Prabhupada, being a sanyasi, could not own or assign copyright – Held, renunciation does not inherently lead to the relinquishment of property rights including intellectual property. References to historical and judicial examples affirming the capacity of renunciates to own and bequeath property. [Paras 8, 14, 17-27]

Summary Judgment Under Order XIII A CPC – Plaintiff seeks summary judgment claiming unauthorized copyright use by Defendant – Defendant acknowledges injunction and complies by removing the disputed content – Legal arguments focus on the capability of a sanyasi to hold copyrights – Court finds in favor of Plaintiff, concluding no legal prohibition against sanyasis owning or transferring property

rights – Copyrights assigned in life by Srila Prabhupada upheld as legally valid and effective. [Paras 1, 5-6, 31-32]

Decree in Favor of Plaintiff Trust – The Court decrees suit in favor of Plaintiff Trust under Order XIII A of CPC – Finds Defendant has no substantial defense against the claim – All pending applications declared infructuous, and suit disposed of as all issues resolved with decree. [Paras 31-35]

Referred Cases:

- Swami Dr. Kishore Dass Ji v. State and Anr, 2012 SCC OnLine Del 3903
- Math Sauna v. Kedar Nath alias Uma Shankar, (1982) 1 SCR 659
- Sulamangalam R. Jayalakshmi and Anr. V. Meta Musicals & Ors, 2000 3 LW 38
- Shri Krishna Singh v. Mathura Ahir, (1981) 3 SCC 689

Representing Advocates:

For Plaintiff: Mr. Saikrishna Rajagopal, Mr. Himanshu Bagai, Ms. Deepshikha Sarkar, and Ms. Bhanu

For Defendant: Mr. Siddharthan (via VC)

JUDGMENT

ANISH DAYAL, J.

I.A. 78/2023 (Application under Order XIII A of CPC)

1. This application has been filed by plaintiff under Order XIII A of the Code of Civil Procedure, 1908 (“**CPC**”) seeking summary judgment in favour of plaintiff and against the defendant.

2. The issue being considered for the purpose of this application is whether a *sanyasi* (renunciate) is entitled to own copyright in literary works of his creation. The factual context is as under:

Background Facts

2.1 The Bhaktivedanta Book Trust India (“**plaintiff Trust/plaintiff**”) is a public charitable trust registered under the Bombay Public Trusts Act, 1950. It is engaged in printing, publishing and distributing books, writings and speeches of His Divine Grace A.C. Bhaktivedanta Swami Prabhupada (“**Srila Prabhupada**”), who is the author/settlor of the plaintiff Trust.

2.2 Srila Prabhupada was a scholar, philosopher, spiritual teacher, prolific author, and exponent of Vedic literature. It is claimed that he relinquished his worldly possessions and became a *sanyasi* in the year 1959 and set out to America in 1965. He went on to establish the ‘*International Society for Krishna Consciousness*’ (“**ISKCON**”).

2.3 ISKCON was registered in the year 1971 in Bombay under the Bombay Public Trusts Act, 1950. Through his lifetime, Srila Prabhupada delivered thousands of lectures, wrote innumerable letters and books of his teachings, essentially being translations and explanations of ancient Vedic texts as well as that of the Bhagavad Gita. These books were used as the primary medium to propagate ISKCON, which eventually became a world-wide movement.

2.4 Plaintiff Trust was established by a deed of trust dated 30th March, 1972 by Srila Prabhupada, as the settlor of the plaintiff Trust (“**the trust deed**”). It was registered with the Charity Commissioner (Regn. No. E-5032), and Srila Prabhupada was also one of the first three trustees of the Trust. The recitals of the trust deed state that the settlor was entitled to copyright and rights in his writings; and as per Clause 1, he assigned unto the trustees the publication rights in the said writings; and the trustees acknowledged, in Clause 2, that they held the said rights (*copyrights and publication rights of his writings*) as trust property, in consonance with the objectives of the trust (*delineated in Clause 4*).

2.5 *Vide* deed of confirmation dated 15th January, 1975, the settlor (Srila Prabhupada) ratified the contents of the trust deed, and the copyright in the works authored by him stood assigned to the plaintiff Trust.

2.6 Srimla Prabhupada passed on in November 1977. The plaintiff Trust went on to edit and format his manuscripts, writings and speeches, and published them as books. The books published by the plaintiff Trust include over 70 volumes based on the writings of Srimla Prabhupada. These publications achieved huge renown and success, particularly in its reach across the world, and several hundred versions of the translations of the same are currently being disseminated.

2.7 During an anti-piracy sweep, as claimed by plaintiff, carried out on the internet in December 2020, it transpired that certain websites, such as, that of the defendant, www.friendwithbooks.co, were carrying complete copies of some of the books in which copyright vests in the plaintiff Trust. Not having authorised any third party, including the defendant, to reproduce the books, store them in an electronic format, communicate them to the public, or create sound recordings, plaintiff filed the instant suit seeking a decree of permanent injunction restraining defendant from infringing their copyright under Section 14(a) of the Copyright Act, 1957.

3. The books found on the impugned website have been tabulated by plaintiff as under:

S. No.	Book Name	Language
1	Bhagavad Gita As It Is	English
2	Srimad Bhagavatam Canto 5	English
3	Srimad Bhagavatam Canto 12	English
4	Science of Self-Realization	English
5	Spiritual Yoga	English
6	Chaitanya Caritamrta Adi Lila 1	English
7	Bhagavad Gita As It Is	Hindi
8	Srimad Bhagavatam Canto 1	Hindi
9	Srimad Bhagavatam Canto 5	Hindi
10	Sri Caitanya-Caritamrta Adi-Lila, Vol. 1	Hindi

1 1.	Raja-vidya, The King of Knowledge	Hindi
1 2.	Transcendental of Maharaja	Teachings Prahalada
1 3.	A Second Chance	Hindi

1 4.	Bhagavad Gita As It Is	Marathi
1 5.	Srimad Bhagavatam Canto 1	Marathi
1 6.	Srimad Bhagavatam Canto 5	Marathi
1 7.	Sri Caitanya-Caritamrta Adi-Lila, Vol. 1	Marathi
1 8.	Beyond Birth and Death	Marathi
1 9.	Krsna Consciousness: The Topmost Yoga System	Marathi
2 0.	Transcendental Teachings of Prahalada Maharaja	Marathi
2 1.	Bhagavad Gita As It Is	Gujarati
2 2.	Srimad Bhagavatam Canto 1	Gujarati
2 3.	Krishna Reservoir of Pleasure	Gujarati
2 4.	On the way to Krsna	Gujarati
2 5.	Perfection of Yoga	Gujarati
2 6.	On the Way to Krishna	Telugu
2 7.	Raja-vidya - The King of Knowledge	Telugu
2 8.	Transcendental Teachings of Prahalada Maharaja	Telugu
2 9.	Sri Caitanya-Caritamrta (Adi-Lila Volume one)	Telugu
3 0.	Beyond Birth & Death	Telugu

3 1.	On the way to Krsna	Tamil
3 2.	Srimad Bhagavatam Canto 1	Tamil
3 3.	Sri Caitanya-Caritamrta Adi-Lila, Volume-1	Tamil
3 4.	Beyond Birth & Death	Tamil
3 5.	Bhagavad Gita As It Is	Tamil
3 6.	Srimad Bhagavatam Canto 1	Odia
3 7.	Sri Caitanya-Caritamrta (Adi-Lila Vol 1)	Odia
3 8.	Beyond Birth & Death	Odia
3 9.	Bhagavad Gita for children	Odia
4 0.	Bhagavad Gita As It Is	Bengali
4 1.	Transcendental of Maharaja	Teachings Pralhada
4 2.	Chaitanya Caritamrta Adi Lila 1	Bengali
4 3.	Srimad Bhagavatam Canto 1	Bengali
4 4.	Raja-Vidya, The King of Knowledge	Nepali
4 5.	Perfect Questions Perfect Answers	Nepali

4 6.	Path of Perfection	Kannad a
4 7.	Bhagavad-gita As It Is	Kannad a
4 8.	Laws of Nature	Kannad a
4 9.	Transcendental of Maharaja	Teachings Prahalada
5 0.	Beyond Birth & Death	Assame se

4. In February, 2021, this Court granted an *ex parte ad interim* injunction restraining defendant, its directors, proprietors, principal officers, servants, agents, assignees, representatives, and all others acting for and on its behalf, from engaging in or authorizing the reproduction of the plaintiff's books and artworks in any material form, including the storing thereof in electronic medium, communicating the books (including by way of sound recordings) and artworks to the public, issuing copies of the plaintiff's books and artworks through any website including the one at www.friendwithbooks.co, or doing any other act amounting to infringement of plaintiff's copyright in their books and artwork.

5. Subsequently, pursuant to a notice, counsel for defendant appeared and stated on instructions that, in compliance of the injunction order, defendant took down all references and content relating to plaintiff's books, artworks, and sound recordings from all possible media, digital or otherwise, including from their website www.friendwithbooks.co. The said statement was taken on record by this Court on 15th February, 2024, and the *ad interim* order of 22nd February, 2021 was, therefore, made absolute.

6. This application seeking summary judgment was, consequently, pressed by plaintiff. While counsel for defendant had no quarrel or dispute with regard to the relief sought in the suit being awarded in favour of plaintiff, a fundamental objection was raised in that a *sanyasi*, as Srila Prabhupada was, could not own copyright in his works, since post renunciation, there could be no ownership of property, as renunciation is akin to a civil death.

7. This issue requires some deliberation on the respective submissions made by counsel for plaintiff and defendant.

Submissions on behalf of Plaintiff

8. Sri Saikrishna Rajagopal, counsel for plaintiff, made the following submissions:

8.1 He contended that there was no legal prohibition by virtue of any statute or by judge made law proscribing a *sanyasi* from holding private property, including, intellectual property.

8.2 The concept of 'civil death', as claimed by counsel for defendant, at best arose in a situation of intestate succession, where there was no successor of a deceased. There is no reference in any law contemplating the legal position of a renunciate.

8.3 Reliance was placed upon a decision by a Single Judge of this Court in ***Swami Dr. Kishore Dass Ji v. State and Anr***, 2012 SCC OnLine Del 3903, where it was held that there is no bar to a *swami* owning properties or making a will, and a *sanyasi* was capable in law of owning a property and bequeathing the same. Reliance by the Single Judge was on the decision of the Supreme Court in ***Math Sauna v Kedar Nath alias Uma Shankar***, (1982) 1 SCR 659.

8.4 Reliance was also placed on a decision by a Single Judge of the High Court of Madras, in ***Sulamangalam R. Jayalakshmi and Anr. V. Meta Musicals & Ors***, 2000 3 LW 38, a decision dated 16th June, 2000. The Madras High Court, in the context of music compositions of a *swami* which were rendered by the "Sula-Mangalam Sisters", rejected the objection taken by a subsequent licensee of the copyright, that since the *swami* was an ascetic who had renounced the world, he cannot be the owner of the composition and had no authority to assign the same. It was, therefore, held that copyright was a right granted by statute and it should be governed solely by the provisions of the Copyright Act and the argument that such right is obliterated by virtue of renunciation by a *sanyasi* was untenable.

8.5 Assignment of copyright is covered under Section 18 of the Copyright Act, while the mode of assignment is prescribed under Section 19 of the Act. Srila Prabhupada specifically assigned the copyright in his lifetime to the plaintiff Trust; therefore, it could not be contended that upon becoming a *sanyasi* his right had extinguished.

Submissions on behalf of Defendant

9. Counsel for defendant, however, stated that Srila Prabhupada's situation was not akin to a *swami* in a monastic order and, therefore, the transmission of the rights from a *sanyasi* cannot be acceptable under law. He conceded, however, that there was no statutory bar as such relating to extinguishment of rights upon renunciation by a *swami*.

Analysis and Conclusion

10. Heard counsel for parties and perused the material on record.

11. In the opinion of this Court, the issue has to be assessed and examined purely in a legal matrix and not from the perspective of a broad half-baked understanding of the rights of a renunciate.

12. Counsel for parties have not adverted to any law precluding a renunciate from holding tangible or intangible property. Due to the lack of any statutory framework in this regard, or any law, rule or policy, the issue would have to be seen from the lens of judicial determination.

13. A renunciate is a person who, by statement, utterance, writing or otherwise, renounces or gives up possessions, rights or claims. The legal twin of this concept can be found in the word "relinquishment". The act and the consequence of relinquishment certainly finds expression in various laws including property law, testamentary law, contract law, as also intellectual property law.

14. During his life, a human being in this world becomes entitled to property, tangible or intangible, by birth, gift, transfer or acquisition. Various aspects of ownership, possession, transfer, enjoyment and exploitation of such right in property arise as a consequence.

15. It is not necessary to delve and expand on these issues for the purposes of this determination. What needs focus is, that a person who seeks to renounce the world and give up his rights to property in law, must do so within the recognized rubric of relinquishment.

16. As regards the right to relinquish copyright, the same is covered under Section 21 of the Copyright Act, which is extracted as under for ready reference:

"21. Right of author to relinquish copyright.—(1) The author of a work may relinquish all or any of the rights comprised in the

copyright in the work by giving notice in the prescribed form to the Registrar of Copyrights or by way of public notice and thereupon such rights shall, subject to the provisions of sub-section (3), cease to exist from the date of the notice.

(2) On receipt of a notice under sub-section (1), the Registrar of Copyrights shall cause it to be published in the Official Gazette and in such other manner, as he may deem fit.

(2-A) The Registrar of Copyrights shall, within fourteen days from the publication of the notice in the Official Gazette, post the notice on the official website of the Copyright Office so as to remain in the public domain for a period of not less than three years.

(3) The relinquishment of all or any of the rights comprised in the copyright in a work shall not affect any rights subsisting in favour of any person on the date of the notice referred to in sub-section (1)."

17. The provision categorically provides for a prescribed form to be utilized for the purposes of relinquishment of a copyright. Subject to compliances entailed in the provision, the copyright in favor of the author stands extinguished. It is nobody's case that any such relinquishment had been executed by Srila Prabhupada of his copyright in his literary works.

18. In law, therefore, whether *sanyasi* or otherwise, relinquishment has certainly not occurred. What has however, taken place is that Srila Prabhupada assigned his right in the trust deed to the plaintiff Trust in his lifetime.

19. Assignment being recognized under Section 18 of the Copyright Act and the mode of assignment mandated to be in writing under Section 19, is therefore, squarely applicable to this situation. It is also nobody's case that the assignment by Srila Prabhupada was not proper or compliant of the provisions of the Copyright Act.

20. What, therefore, remains to be deliberated upon is whether copyright in his own works stood extinguished upon his self-declared renunciation in 1959. Does the act of renunciation, pursuant to a belief, faith or religious or spiritual tenets, in law, amount to extinguishment of property rights in a person? As stated above, this aspect is not covered by any statute.

21. The judicial rumination on this aspect, finds reflection in the decisions cited by counsel for plaintiff as noted above. It would be worthwhile to examine these.

22. Chronologically, the first in line would be the decision of the Supreme

Court in **Math Sauna** (*supra*), a 1981 decision. In the said decision, a claim had been made by the *Mahant* of a temple to be entitled to all the properties on the death of his predecessor. The High Court held that properties did not belong either to the *math* or the *deity* but were personal and separate properties of the predecessor *Mahant*. The Hon'ble Supreme Court, in upholding the decision of the High Court, observed that certain sects of *sanyasis* could acquire personal property of their own. The relevant extract from the said decision is produced below:

*“6. The mahants and members of Math Sauna belonged to the Dashnami Sanyasi sect. The material on the record establishes that they could own and possess personal property. They included sanyasis who had formerly been married men and householders, men who had passed through the grihastha ashram. Some of them continued to possess and even to acquire personal property after taking sanyas. It was observed in *Susil Chandra Sen v. Gobind Chandra Das* [AIR 1934 Pat 431 : 150 1C 61] that Dashnami sanyasis mixed freely in the business world and carried on trade and often accumulated property. This Court in *Gurcharan Prasad v. P. Krishnanand Giri* [AIR 1968 SC 1032 : (1968) 2 SCR 600] affirmed that Nihang Dashnami sanyasis could pursue money-lending business and could own property as absolute owners, and enjoy them as their personal property. That certain sects of sanyasis could acquire personal property was accepted by that eminent Judge, Dr B.K. Mukherjee, in his Hindu Law of Religious and Charitable Trusts [4th Edn, pp 358, 359, § 757, 758] where he says:*

“A Mohunt, and for the matter of that, any other Sanyasi can acquire personal property of his own The Pronamis given to a Mohunt are generally his personal property.... The mere fact that a Mohunt is an ascetic does not raise any presumption that a property in his possession is not his personal property. Strictly speaking, there is no presumption either one way or the other, and in each case the burden is upon the plaintiff to establish that the properties in respect of which he is asking for possession are properties to the possession of which he is entitled in the right in which he sues.”

(emphasis added)

23.Math Sauna (*supra*) was relied upon by the Coordinate Bench of this Court in **Swami Dr. Kishore Dass Ji** (*supra*), where this Court held as under:

“18. Purely, on first principles, I was of the opinion that if there is no bar to a Swami owning properties, then surely there cannot be a bar to the said Swami making a Will. The making or barring from making a Will has necessarily to be governed by the provisions of Indian Succession Act, 1925. Admittedly, there is no provision in the Indian Succession Act, which prevents a Hindu, even if he is a Swami or Sannyasi, from making a Will. Therefore, a Sannyasi is very much capable in law of owning a property and also bequeathing the same inasmuch as, unless there is a bar which is proved to

exist in law (including customary law), there cannot be any bar for a Swami/Sannyasi owning a property and bequeathing the same.

19. My view as per first principles is confirmed by the judgment cited on behalf of the petitioner of the Supreme Court in in the case of Math Sauna v. Kedar Nath @ Uma Shankar, (1982) 1 S.C.R. 659.”

(emphasis added)

24. The Division Bench of this Court upheld the above decision in **Swami Gurudev Muni Chela Sant Sewa Dass Ji v. State**, 2015 SCC OnLine Del 12506, and highlighted the absence of any presumption in law towards a *sanyasi's* inability to hold property and held that civil death only breaks the normal line of succession without having any adverse effect on a *sanyasi's* capacity to hold property. This legal principle was articulated in the following paragraph:

“19. Certain legal principles, therefore, emerge, which have to be applied upon the death of a sanyasi or ascetic. Firstly, his entry into the monastic order has the consequence of a civil death. The “normal” line of succession then gets broken; all properties vest in the Math. Secondly, upon his death, the properties held by him are to be treated as the monastic order's property. Thirdly, there is no presumption regarding lack of the sanyasi's capacity to hold property for himself.”

(emphasis added)

25. Similarly, in **Sulamangalam** (*supra*), the Madras High Court held that the right acquired by an individual in a work, which is the result of his intellectual activity, is called his copyright and by being a saint or an ascetic, the person does not lose the exclusive right in his copyright. The Sula Mangalam Sisters, who claimed assignment of copyright from one Santhanantha Swamigal of Pudukottai, author of the lyrics, brought a claim against an infringer of the copyright. The objection taken by defendant was that the *swami*, being a saint and ascetic, and having renounced the world cannot claim that he was the owner of the lyrics and could have assigned the same to the plaintiff. In this context, the Madras High Court held as under:

“57. On a careful consideration of the submission, it is quite clear that it is strange and rather mischievous for the respondents to contend that the Swamigal had renounced the entire world inclusive of the exclusive right over his composition of Kandha Guru Kavacham and consequently, he cannot the same to any other person.

....

62. The Swamigal may be a saint or ascetic but it does not mean that he has lost his exclusive right in the literary work done by him by using his intellectual labour and skill. The law of copyright has to protect a man's copyright irrespective of his status as a family man or saint."

(emphasis added)

26. Additionally, the decision in **Shri Krishna Singh v. Mathura Ahir**, (1981) 3 SCC 689, may also be instructive. The issue before the Hon'ble Supreme Court was whether the plaintiff therein, being a *sudra*, could be ordained to a religious order to become a *sanyasi* or *yati*. In this factual context, and on the specific issue of inheritance, it was observed that entrance into a religious order, and the consequent civil death, does not inhibit subsequent procurement or holding of property by such persons. The relevant paragraph is produced below:

"31. One who enters into a religious order severs his connection with the members of his natural family. He is accordingly excluded from inheritance. Entrance to a religious order, is tantamount to civil death so as to cause a complete severance of his connection with his relations, as well as with his property. Neither he nor his natural relatives can succeed to each other's properties. Any property which may be subsequently acquired by persons adopting religious orders passes to their religious relations. The persons who are excluded on this ground come under three heads, the vanaprastha, or hermit; the sanyasi or yati, or ascetic, and the brahmachari, or perpetual religious student. In order to bring a person under these heads it is necessary to show an absolute abandonment by him of all secular property, and a complete and final withdrawal from earthly affairs. The mere fact that a person calls himself a byragi, or religious mendicant, or indeed that he is such, does not of itself disentitle him to succeed to property. Nor does any Sudra come under this disqualification, unless by usage. This civil death does not prevent the person who enters into an order from acquiring and holding private property which will devolve, not of course upon his natural relations, but according to special rules of inheritance. But it would be otherwise if there is no civil death in the eye of the law, but only the holding by a man of certain religious opinions or professions [Mayne : Hindu Law and Usage, 11th Edn., pp. 721-22]."

(emphasis added)

27. In any event, the decisions adverted to by plaintiff's counsel are unanimous in their conclusion in relation to similar issues which arose i.e. that rights in works authored by a saint or ascetic can subsist in their name. Even on first principles, as noted above, defendant's assertion to the contrary, is infirm and untenable and is based upon an amorphous concept, not sanctioned or endorsed by law, of a renunciate automatically

deemed as relinquishing all rights in property upon becoming a *sanyasi*. A copyright vests in a person by virtue of his sweat and toil and therefore, subsists by law, *inter alia*, per Section

17 of the Copyright Act. Once the person is the repository of the right recognized by law it can only extinguish *qua* him or her by a legal mode.

28.The right would stand extinguished in the hands of the renunciate, only if the person transfers or relinquishes the right by a process known to law, and not otherwise. There could be a situation where it may be implied that by subjecting themselves to a monastic order, of which there were rules agreed to and accepted by conduct, oral utterance or writing, that the right and property would be deemed to be transferred in accordance with those rules, but even this hypothetical situation requires evidence to prove that the renunciate had agreed to his property being transferred to a beneficiary in a particular manner or mode. However, in this case, there was a categorical written assignment by Srila Prabhupada in favor of the plaintiff Trust.

29.Needless to delve further into any abstractions, the issue at hand is clearly and cleanly decided against the defendants and in favor of the plaintiff in this case.

30.In light of the defendant having accepted the injunction and willing to abide by it and the existence of the copyright in Srila Prabhupada of his works as determined above, there is no other aspect which remains for adjudication and the defendant has no real prospect of successfully defending the claim.

There is also no other compelling reason why the claim should not be disposed of before recording oral evidence, especially since the trust deed by which copyright was assigned in favor of plaintiff's Trust is registered and the defendant does not claim to be either the owner, assignee or licensee of the said right. Moreover, the defendant does not dispute that these works being communicated to the public are authored by Srila Prabhupada.

31.In this view of the matter, considering that both the parties were heard extensively, the procedure under Order XIII A of CPC has been complied with, and the parties do not wish to file any further documentary evidence, this Court finds merit in the instant application.

32.Accordingly, the present application, being I.A. 78/2023 under Order

XIIIA of CPC, is allowed and the suit is decreed in favor of the plaintiff Trust and against the defendant in terms of the prayer in paragraph 30(a) of the plaint.

33. Decree Sheet be drawn up by the Registry in the above terms.
34. Since nothing survives for further adjudication, the suit is disposed of.
35. Pending applications, if any, are rendered infructuous.
36. Judgment be uploaded on the website of this Court.

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