

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**COMM. NOTICE OF MOTION NO.54 OF 2016
IN
COMMERCIAL ARBITRATION PETITION NO.66 OF 2016**

Mr. Sanjay Gupta
Sole Proprietor of
M/s White Feather Films

.... Applicant
(Ori. Petitioner)

IN THE MATTER BETWEEN

Mr. Sanjay Gupta
Sole Proprietor of
M/s White Feather Films

.... Petitioner

Vs.

Prithvi Nandy Communication Ltd.

.... Respondent

Ms. Pooja Patil a/w Mr. Gaurav Chorey i/by Advani & Co. for the
Petitioner.

Mr. Rohan Sawant a/w Ms. Miloni Gala i/by Mahesh Manadgut
for the Respondent.

Coram : **Smt. R.P. SondurBaldota, J.**

Date : 26th October, 2016

P.C.

1 The petition in which the present Notice of Motion for
interim relief is taken out was admitted on 29th September, 2016.
The petitioner now seeks interim stay of the impugned award.

2 The dispute that was taken to the arbitration was over a tripartite agreement between the parties regarding financing, producing and exhibiting a feature film. In the year 2001, the parties decided to co-produce alongwith one Film Club India Limited (FCIL) and Kate Productions Inc. (KPI), motion picture titled “Kaante”. The respondent had invested a sum of Rs.6.00 Crores for production of the film. When disputes arose between the parties, FCIL filed independent arbitral proceedings against the petitioner and the respondent, at Los Angeles. Both the proceedings resulted into settlement over exploitation of the film by the respective parties.

3 The respondent initiated arbitral proceedings for recovery of Rs.9,14,53,244/-, which was inclusive of part of original investment of Rs.3,35,23,956/-, production belated expenses, publicity expenses etc. of Rs.1,22,98,871/-, loss of profit of Rs.94,65,000/- and the loss caused by delay in release of the film in Delhi, Uttar Pradesh, East Punjab, Orissa etc. of Rs.1,94,73,205/-. The learned Arbitrator for the reasons stated in the award has held that the petitioner had exaggerated the production cost and failed to give proper audited accounts. Therefore he is liable to pay all costs beyond the budgeted cost. The Arbitral Tribunal therefore awarded a sum of Rs.3,52,07,727/- to the respondent after due adjustment of Rs.96,25,000/- received in the Los Angeles arbitration. In these facts of the case, the dispute between the parties is seen to be essentially a matter of

accounts. Hence, the Notice of Motion is allowed on condition that the petitioner deposits a sum of Rs.3,00,00,000/- (Rupees Three Crores) in the court within a period of eight weeks from today.

(Smt. R.P. SondurBaldota, J)