

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL UNDER ARBITRATION ACT NO.11 OF 2017

La Calpypso Hotel (P) Ltd.
Duly incorporated Act, 1956,
Having its Registered under the
Companies Act, 1956, having its
Registered office at Sauntawaddo,
Baga, Calangute Road,
Calangute Bardez Goa,
represented herein by
Mr. Kaushal Khanna,
51 years of age, CMD,
Having office at Sauntawaddo,
Baga, Calangute Road,
Calangute Bardez Goa
Authorized vide Board of
Resolution dated 14/07/2017.

..... Appellant.

Versus

Atlantis Entertainments
A Partnership firm duly
Registered with the Registrars
Of Firms, represented herein
By its partner Mr. Baldevraj
Arora through its Power of
Attorney Mr. Rahul Keheterpal
s/o. Mr. Ashok Khetrepal,
r/o. Miramar, Goa.

..... Respondents.

WITH

MISCELLANEOUS CIVIL APPLICATION No. 820 OF 2017

La Calypso Hotel (P) Ltd.
Duly incorporated Act, 1956,
Having its Registered under the
Companies Act, 1956, having its
Registered office at Sauntawaddo,
Baga, Calangute Road,
Calangute Bardez Goa,
represented herein by
Mr. Kaushal Khanna,
51 years of age, CMD,
Having office at Sauntawaddo,
Baga, Calangute Road,
Calangute Bardez Goa
Authorized vide Board of
Resolution dated 14/07/2017.

..... Applicant.

Versus

1. Atlantis Entertainments
A Partnership firm duly
Registered with the Registrars
Of Firms, represented by its Partners:

a. Mr. Baldevraj Arora,
Major of age,
partner of Atlantis Entertainments

Both having office at:
La Calypso,
South Waddo, Calangute,

Maria S.

3 aua-11-2017 with mca-820-2017dt.08.12.2017

Baga Road,
Calangute, Goa.

2. Mr. Srinivas Naik,
Major of age, Authorised
person/Authorised signatory
of Atlantis Entertainment
having office at Miramar,
Goa.

3. Mr. Abhimanyu Roy,
Major of age,
General Manager,
Atlantis Entertainment,
(Operator of Hotel La Calypso
under agreement)

..... Respondents.

Mr. A. D. Bhobe, Advocate for the Appellants.
Mr. Parag Rao, Advocate with Ms. Agnetha C. Lobo for the
Respondents.

Coram : N.M. Jamdar, J.

Date : 8 December 2017.

ORAL JUDGMENT:

This Appeal is admitted by Order dated 8 September
2017.

2. When the Miscellaneous Application No. 820 of 2017 in
this Appeal had come up on the board for orders, by the consent of
the learned Counsel for the parties the Appeal itself is taken up for

consideration.

3. The Appeal challenges the order passed by the learned Principal District and Sessions Judge, North Goa in the application filed under Section 9 of the Arbitration and Conciliation Act, 1996. It appears that certain disputes have arisen between the parties regarding management of a hotel. The Respondent, vide application under section 9 of the Arbitration & Conciliation Act, prayed for a relief to restrain the Appellant from acting in breach of the terms of the said agreement, from interfering with the management, operation and running of the business and causing nuisance and from issuing threats, etc. The Appellant contested the application.

4. By Order dated 14 July 2017, the learned District Judge directed the Appellant to take all necessary measures, action, steps to complete formalities regarding renewal and to sign particular documents. This order was by way of an interim order pending application under Section 9 of the Act.

5. When the Civil Application had come up on board earlier, the learned Counsel for the Respondent submitted that what is directed by the learned District Judge is only an ad-interim measure and the main application under section 9 can be disposed of on its

own merits and the order dated 14 July 2017 can be set aside. Learned Counsel for the Appellant contended that the application filed under Section 9 of the Act itself is not maintainable in view of Section 17 of the Act. If the impugned order is perused, the learned District Judge has not definitely opined on this issue.

6. Since the impugned order is being set aside on the statement of the learned Counsel for the Respondent, the arguments advanced by the Appellant in this Appeal as well as the reply of the Respondent can be left open to be considered by the learned District Judge or the Arbitrator, as the case may be. In view of this position, even the subject matter of the Miscellaneous Civil Application no. 820 of 2017 also can be considered by the learned District Judge.

7. In these circumstances, the Appeal Under Arbitration no. 11 of 2017 is disposed of by quashing and setting aside the Judgment and Order dated 14 July 2017 passed by the learned District Judge, in the circumstances mentioned above.

8. All contentions of the parties are kept open to be considered in the application under section 9 including the ones referred above. It is informed that the learned District Judge has listed the application under section 9 for consideration on 11

Maria S.

6 aua-11-2017 with mca-820-2017dt.08.12.2017

December 2017. The learned District Judge will no doubt decide the matter expeditiously.

N.M. Jamdar, J.