

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL ARBITRATION PETITION (L) NO. 368 OF 2017

Viacom 18 Media Pvt Ltd ...Petitioner

Versus

B.R. Films ...Respondent

Mr. Aspi Chinoy, Senior Advocate a/w. Ashish Kamath, Ms.
Megha Chandra, Ms. Madhu Gadodia and Rahul Mehta
I/b. Naik Naik & Co. for the Petitioner.

Mr. Raj Patel a/w. Ms. Sukhada Wagle & Ms. Apurva Gupte I/b.
Hariani & Co. for the Respondent.

CORAM: G.S. KULKARNI, J.
DATED: 29th August, 2017

PC:-

1. In this petition under Section 9 of the Arbitration and Conciliation Act, 1996, the only prayer being made on behalf of the petitioner is for continuation of the order dated 13/02/2014 passed by this Court in Arbitration Petition No.123 of 2013 and Arbitration Petition No. 203 of 2013 pending enforcement of the award dated 30/05/2017. It may be noted that, the Court disposing of both the above arbitration petitions in Para 3 of the

order had directed as under :

“3. Accordingly, both these petitions are disposed of by directing the Respondents not to sell, alienate, encumber and/or create any third party rights in respect of Bangalow No.1 and Bangalow No.2 at Garden Homes, St. Vincent Paul's Co-operative Housing Society Ltd, Khar (W), Mumbai-400, as in particular mentioned in Clause 5 (I) and (ii) of the Minutes of Decree on Admission dated 16 October 2012 passed in Summary Suit No.811 of 2011 till the disposal of the arbitration proceedings and four weeks thereafter.”

2. Mr. Chinoy, learned senior counsel for the petitioner submits that arbitration reference which was subject matter of Arbitration Petition No. 123 of 2013 has been decided in favour of the petitioner by an award dated 30/05/2017 received by the petitioner on 05/07/2017.

3. As regards the second reference which was subject matter of Arbitration Petition No. 203 of 2013, the proceedings are still pending arbitration. In this view of the matter Mr. Chinoy would urge that the reliefs which were granted by the order dated 13/02/2014, which was a common order in respect of both the references be continued till the award dated 30/05/2017 becomes enforceable as per Section 36 of the Arbitration and Conciliation Act, 1996. The request is quite reasonable.

4. The petitioner having succeeded in the arbitration in view of an award dated 30/05/2017, the protection which was granted by this Court by the order dated 13/02/2014, in this circumstances surely needs to be continued till the enforcement of the award.

5. In the above circumstances, the directions as contained in Para 3 of the order passed by this Court in Arbitration Petition No. 123 of 2013 and Arbitration Petition No. 203 of 2013, order dated 13/02/2014 (Supra) shall continue to operate till the award dated 30/05/2017 becomes enforceable. Ordered accordingly.

6. It is not in dispute that the second reference is pending arbitration before the learned arbitrator being subject matter of Arbitration Petition No. 203 of 2013. Learned counsel for the respondent would be right in his contention that the respondent be permitted to make a necessary application for modification/recall of this order in case respondents succeed in the said arbitration proceedings. If that be so, Mr. Chinoy cannot have any objection for the respondent to move necessary application. Reserving the said liberty to the respondents, the petition is disposed of in the above terms. No costs.

(G.S. Kulkarni, J.)