

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

FAO No.7624 of 2017(O&M)

Date of Decision:-24.11.2017

NGC Network (India) Pvt. Ltd.

.....Appellant.

Versus

**Orangefish Entertainment Pvt. Ltd Trading as: Seventy Event Media
Group.**

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Gaurav Chopra, Advocate &
S/Sh. Sagar Chandra, Ankit Rastogi,
Paramdeep Singh, Advocates for the Appellant.

Mr. Vikas Bahl, Senior Advocate assisted by
S/Sh. R.S. Mittal, Ujjawal Sharma,
Akshat Bhatnagar, Amandeep Singh, Ankit Midha &
Akshay Rawal, Advocate for Respondent-Caveator.

JASWANT SINGH, J.(ORAL)

1. Appellant-NGC Network (India) Pvt. Ltd. is in appeal under Section 37 of the Arbitration & Conciliation Act 1996 (hereinafter referred to as the 1996 Act) directed against the order dated 16.11.2017 passed by the learned Additional District Judge, Gurugram, whereby the application of the appellant/petitioner under Section 9 of the 1996 Act for grant of temporary injunction has been dismissed.

2. The facts in brief are that the appellant-company broadcasts and operates National Geographic Television Channel as also other stated channels. The respondent company is in the business of organizing events.

The appellant company being the promoter and respondent company being the logistic provider entered into MoU dated 16.10.2012 in respect of event “India Bike Week” (for short IBW) for an initial period of three years wherein the intellectual property like brand name, logo was held jointly. The profit sharing in the event was in the ratio of 40% of the appellant-NGC and 60% to respondent-Orangefish Entertainment Pvt. Ltd. Trading as: Seventy Event Media Group. The term of the MoU stood extended till 16.10.2017. In the previous years the IBW event was successfully organized by the parties. The dispute between the parties arose in June/July 2017 when the appellant-company discovered that the respondent-company had applied for the trademark of IBW in its sole name claiming it to be the sole proprietor, in violation of the condition of MoU whereas respondent company claimed that the appellant-NGC was not fulfilling its obligations in holding the event. Both the parties have terminated the MoU in August 2017 in terms of the relevant clause and by following the laid down procedure as per the MoU for the alleged violation of the conditions by the other party. The appellant on 09.09.2017 filed a petition under Section 9 of the 1996 Act seeking to restrain the respondent from unilaterally exploiting IPR and holding the event “India Bike Week”, in view of Clause-10 of the MoU, which has been dismissed vide impugned order dated 16.11.2017 while permitting the respondent-company to hold/organize event IBW on 24./25.11.2017 at Goa after the expiry period of the MoU, however, with the condition that the respondent-company shall maintain the ledger account of such event and shall produce the same before the arbitrator for adjudication. Hence the present appeal by the appellant-company.

3. At the time of first motion hearing on 22.11.2017, the

following order was passed:-

“ *It is contended that the effect of Clause-10 of the Memorandum of Understanding (MOU) dated 16.10.2012 has been illegally ignored by the learned Additional District Judge, Gurugram, while dismissing the application for temporary injunction vide impugned order dated 16.11.2017.*

Learned counsel for the respondent-caveator submits that in view of the urgency of the matter, without going into the merits of the contention, his clients are ready and willing to work out workable modalities for the successful holding of the event, subject to the ultimate decision by the Arbitrator.

In response, counsel for the appellant is not averse to such an arrangement at this stage.

*List on **24.11.2017** for further consideration.*

Let the parties to file an affidavit detailing the modalities thrashed out, on the date fixed.

*To be shown in the **urgent list**.*

4. At the time of hearing today, Counsel for the parties have placed on record a joint statement dated 23.11.2017 on behalf of the appellant and respondent through their counsel, namely Sh. Gaurav Chopra, Advocate and Mr. Akshat Bhatnagar, Advocate respectively. In support, the affidavits dated 24.11.2017 of Sh. Sahil Vohra, the authorised signatory on behalf of the appellant-company and Sh. Sushant Arora the authorised signatory on behalf of the respondent have been annexed acknowledging and accepting the joint statement. The same is taken on record as Annexure **Mark-A**.

For ready reference the joint statement dated 23.11.2017 reads as under:-

“ *That NGC Network (India) Pvt. Ltd. & Orangefish Entertainment Pvt. Ltd. Jointly held the IPR as defined in*

Clause 1.3 of the MoU dated 16th October, 2012. Disputes have arisen with regard to the same and the same is subject matter of determination in Arbitration. Adequate notice or mention of this shall be made by Orangefish Entertainment Pvt. Ltd. on the website www.indiabikeweek.in, Facebook Page, Twitter Page of India Bike Week as well as on the website of Orangefish Entertainment Pvt. Ltd. being www.seventyemg.com. The disclaimer to the contrary posted by Orangefish Entertainment Pvt. Ltd. shall be removed/deleted from the above websites/facebook and twitter handle.

Orangefish Entertainment Pvt. Ltd. shall maintain ledger account while trading as Seventy EMG for organizing the Event 'India Bike Week' on 24-25th November, 2017 and shall preserve the accounts which can be audited by NGC Network (India) Pvt Ltd. Orangefish Entertainment Pvt. Ltd. Shall render its audited accounts with the Arbitrator for IBW 2017 on or before 25th December, 2017.

NGC Network (India) Pvt. Ltd., and Orangefish Entertainment Pvt. Ltd., post conduct of the IBW 2017 event on 24-25 November, 2017, shall not directly or indirectly organize India Bike Week event as defined in Clause 1.1 of the MoU or use the IPR as defined under Clause 1.3 of the MOU uptill the arbitration proceedings commence and for a period of one week thereafter, subject to a maximum of two months from today. Both the parties will be at liberty to move an appropriate application including an application under Section 17 of the Arbitration and Conciliation Act, 1996 before the Arbitrator for appropriate Orders.

The present statement would be without prejudice to rights of both the parties to raise all pleas in all forums including before the Arbitrator both at the interim stage as well as final hearing and the statement made would have no bearing in the said adjudication.

Both the parties shall meet within one week from today

to discuss and decide the name of the Arbitrator. ”

5. In light of the above, learned Counsel for the parties pray for modification of the impugned order dated 16.11.2017 in terms of the aforesaid joint statement dated 23.11.2017 (**Mark-A**) and disposal of the present appeal as infructuous.

In view of the aforesaid agreed stand, impugned order dated 16.11.2017 is modified in terms of the aforesaid joint statement dated 23.11.2017 and the appeal is disposed of as infructuous. The parties shall be bound by their respective stand therein.

(JASWANT SINGH)
JUDGE

November 24, 2017
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>