

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****ARBITRATION APPLICATION NO.140 OF 2016**

Eros International Media Ltd.

... Applicant

v/s

Firoz A. Nadiadwala

... Respondent

Mr Akshay Patil i/b Mr R.M. Azim for Applicant.

Mr Arif Bookwala, Sr. Counsel with Mr Aditya Shiralkar i/b M/s
Ranjit and Co. for Respondent.**CORAM : B.P. COLABAWALLA, J.****DATE : JANUARY 19, 2018****P.C.:**

1. This Application under section 11 of the Arbitration and Conciliation Act 1996 is filed seeking appointment of a Sole Arbitrator under section 11(6) of the said Act. This appointment is sought pursuant to clause 38 of the Agreement dated 23rd June 2015 read with the Agreement dated 2nd September 2015. The objection raised before me by the Respondent is that though the Agreement dated 23rd June 2015 is duly stamped, the subsequent Agreement viz. the Agreement dated 2nd September 2015 is insufficiently stamped. This being the case, no Arbitrator can be appointed under section

11(6) of the Act by this Court in so far as the disputes that are sought to be raised under the second agreement dated 2nd September 2015. On the other hand, it is the Applicant's contention that the second Agreement dated 2nd September 2015 is not a completely new Agreement that required any stamping but was only a modification of the first Agreement and which admittedly is duly stamped.

2. Be that as it may, the parties before me have agreed that without prejudice to their rights and contentions, the disputes and differences arising out of the aforesaid two Agreements (and especially with reference to the issue of stamping), can be referred to Arbitration. In these circumstances, by consent of parties, the following order is passed :-

- a) The disputes and differences arising out of the Agreements dated 23rd June 2015 and 2nd September 2015 are referred to Arbitration of a Sole Arbitrator under the provisions of the Arbitration and Conciliation Act 1996.

- b) By consent of parties, the Arbitrator appointed for this purpose is Mr Cyrus Ardeshir, Advocate of this Court. The Sole Arbitrator shall adjudicate upon the disputes and differences that arise out of and/or in connection with the aforesaid two agreements dated 23rd June 2015 and 2nd September 2015 respectively.
- c) The Sole Arbitrator shall give all further directions with reference to his fees, filing of pleadings, sharing of expenses etc.
- d) It is agreed between the parties that the Sole Arbitrator shall decide the issue of whether the Agreement dated 2nd September 2015 is properly stamped and/or insufficiently stamped as per the provisions of the Maharashtra Stamp Act 1958 as a preliminary issue and thereafter proceed with the matter in accordance with law.

3. The applicant herein shall file the disclosures in the

Registry by the Sole Arbitrator as contemplated under section 11(8) r/w section 12(1) of the Act within a period of two weeks from today.

4. The Application is disposed off in the aforesaid terms.
There shall be no order as to costs.

(B.P. COLABAWALLA, J.)