

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

ARBITRATION PETITION NO.1154 OF 2014

M/s N.N. Sippy Productions
(As mentioned in the impugned
Award) a sole Proprietary concern
of Mr. Praveh N. Sippy-HUF

... Petitioner

Versus
Bharat Shah

... Respondent

.....

Mr. Faran Khan a/w Mr. Manish Doshi i/b Vimadalal & Co. for the
Petitioner.

Mr. Anoshak Daver a/w Ms. Priyanka Mehta i/b Little & Co. for the
Respondent.

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CORAM : S.C.GUPTE, J.

DATE : 17 DECEMBER 2018

P. C. :

. Heard learned Counsel for the parties.

2 This arbitration petition challenges an award passed by a Sub-committee of Producers' Grievances Cell and In-House Settlement purportedly constituted under the Memorandum and Articles of Association of the Indian Motion Picture Producers' Association ("IMPPA"). The disputes between the parties arise out of Articles of Agreement dated 14 July 1997 executed between the parties. The agreement was for production and completion of a Hindi motion picture titled as "SILSILA HAI PYAR KA". The Petitioner was the production house, whilst the Respondent was the financier of the film. The film appears to have been unsuccessful at the

Box Office, resulting in losses being suffered by the production house. It is the Petitioner's case that after negotiations, the parties reached an agreement, whereunder the Petitioner was to pay a sum of Rs.25,00,000/- to the Respondent towards full and final settlement of the latter's investment in the motion picture. The agreement provided that the Petitioner would execute Film Right Acquisition Agreement for in all 16 films for a period of 11 years for all rights except India theatrical rights at a price of less than 50 per cent market value prevailing then with one Rishima International Pvt. Ltd. ("Rishima"). The rights were to be acquired in this manner for television channel B4U in which both the Respondent and Rishima held substantial stakes. It was agreed that out of a total consideration of Rs.55,00,000/-, a sum of Rs.25,00,000/- would be paid directly by Rishima to the Respondent towards full and final settlement and the balance amount of Rs.30,00,000/- would be paid to the Petitioner. It is submitted accordingly an agreement was executed on 8 January 2000 by the Petitioner with Rishima for a period of 11 years for a nominal price of Rs.55,00,000/-. Rishima claims to have paid a sum of Rs.25,00,000/- to the Respondent in full and final settlement of the latter's claim. In the circumstances, it is claimed that the disputes between the parties arising out of the Respondent's investment in the motion picture "SILSILA HAI PYAR KA" were settled. The Respondent appears to have raised a demand sometime in August 2008 claiming dues in respect of his investment in the motion picture.

3 The Respondent, by his letter dated 11 October 2008, addressed to the President of IMPPA requested for mediation between him and the Petitioner. IMPPA thereafter appears to have addressed a letter dated

2 July 2011 recording *inter alia* its proposal to consider the complaint filed by the Respondent through a Sub-Committee of Producers' Grievances Cell and In-House Settlement. The said committee not only appears to have met as proposed, but also to have passed an award in favour of the Respondent, inspite of the Petitioner's challenge to the Respondent's claim not only on merits, but also on competency and jurisdiction of the Sub-Committee, purportedly constituted under the Memorandum of Articles of Association of IMPPA, to entertain the alleged claim of the Respondent and arbitrate upon it.

4 The impugned award is challenged in the present petition basically on the ground that Sub-Committee had no authority or jurisdiction to adjudicate the disputes between the parties in an arbitration reference. It is pointed that even in his complaint registration form, the Respondent had declared to IMPPA that there was no arbitration agreement between the parties according to the rules of IMPPA. Nothing is pointed out to the court as to how the parties claim to have entered into an arbitration agreement and submitted the disputes to the Sub-Committee of IMPPA for arbitration. The Sub-committee clearly had no authority or jurisdiction to adjudicate the disputes between the parties in the absence of any arbitration agreement. The impugned award does not even discuss this aspect of the matter. It simply declares the decision of the Sub-committee based on the representation of the Respondent and in the absence of the Petitioner. There is hardly any reason cited for the decision even on merits. In the premises, the impugned award cannot be sustained and is liable to be set aside.

5 In the premises, the Arbitration Petition is allowed by setting aside the impugned award dated 3 February 2014. It is made clear that the impugned award is set aside on the basis of want of jurisdiction on the part of the arbitral tribunal and not on merits, though various points on such merits have been raised by the Respondent. As far as merits of the controversy are concerned, rights and contentions of the parties are not decided one way or the other.

(S.C. GUPTE, J.)