

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 29TH DAY OF NOVEMBER 2018

THE HON'BLE MR. JUSTICE M.GOVINDARAJ

O.A. Nos.1074 to 1081 of 2018

O.A.No.1074 of 2018:

In the matter of Section 9 of Arbitration and Conciliation Act, 1996

In the matter of Agreement dated 07.10.2017 between the Applicant and the respondents and in the matter of the Tamil Movie 'Dhruva Natchatiram'

M/s. Marina Holdings,
Represented by its Partner Rajkumar Sethupathy
Level 7A, Capitale Towers,
555, Anna Salai, Teynampet,
Chennai 600 018. ... Applicant

-Versus-

1. M/s. Kondaduvom Entertainment
Represented by its Partner
Mr.Goutham Vasudev Menon
69-A, Habibullah Road,
T.Nagar, Chennai 600 017.

2. Mr.Goutham Vasudev Menon

3. Mr.S.Venkataramanan

4. Ms.Reshma Ghatala

5. Mr.P.Madan, (2 to 5 having office at)
69-A, Habibullah Road,
T.Nagar, Chennai 600 017. ... Respondents

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the respondents, their agents, assignees and anyone claiming under or through the respondents from exhibiting, exploiting

and releasing the Tamil cinematography film titled "Dhruva Natchatiram" starring Vikram and others and directed by Mr.Goutham Vasudev Menon the 2nd respondent herein in any format whatsoever anywhere in the World without settling the dues of the applicant and pending disposal of the proposed arbitration.

O.A.No.1075 of 2018:

In the matter of Section 9 of Arbitration and Conciliation Act, 1996

In the matter of Agreement dated 07.10.2017 between the Applicant and the respondents and in the matter of the Tamil Movie 'Dhruva Natchatiram'

M/s. Marina Holdings,
Represented by its Partner Rajkumar Sethupathy
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Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the respondents, their agents, assignees and anyone claiming

under or through the respondents from exhibiting, exploiting and releasing the Tamil cinematography film titled "Enai Noki Payum Thota" produced by the 5th respondent herein, starring Dhanush, Mega Akash, Sunaina & Others and directed by Mr.Goutham Vasudev Menon, the 2nd respondent herein, in any format whatsoever anywhere in the World without settling the dues of the applicant and pending disposal of the proposed arbitration.

O.A.No.1076 of 2018:

In the matter of Section 9 of Arbitration and Conciliation Act, 1996

In the matter of Agreement dated 07.10.2017 between the Applicant and the respondents and in the matter of the Tamil Movie 'Dhruva Natchatiram'

M/s. Marina Holdings,
Represented by its Partner Rajkumar Sethupathy
Level 7A, Capitale Towers,
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4. Ms.Reshma Ghatala

5. Mr.P.Madan, (2 to 5 having office at)
69-A, Habibullah Road,
T.Nagar, Chennai 600 017.

... Respondents

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the respondents from encumbering or otherwise alienating the exhibition, exploitation and distribution rights in and over the cinematography film titled "Dhruva Natchathiram" starring Vikram and others and directed by Mr.Goutham Vasudev Menon, the 2nd respondent herein, for Chengelpet Area, pending disposal of the proposed arbitration.

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O.A.No.1078 of 2018:

In the matter of Section 9 of Arbitration and Conciliation Act, 1996

In the matter of Agreement dated 20.01.2017 between the Applicant and the respondents and in the matter of the Tamil Movie 'Dhruva Natchatiram'

Rajkumar Sethupathy
S/o. Shanmuga Sethupathy
No.27, 4th Main Road,
Raja Annamalaipuram,
Chennai 600 028.

... Applicant

-Versus-

1. M/s. Kondaduvom Entertainment
Represented by its Partner
Mr.Goutham Vasudev Menon
69-A, Habibullah Road,
T.Nagar, Chennai 600 017.

2. Mr.Goutham Vasudev Menon

3. Mr.S.Venkataramanan

4. Ms.Reshma Ghatala

5. Mr.P.Madan, (2 to 5 having office at)
69-A, Habibullah Road,
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... Respondents

Original Application praying that this Hon'ble Court be

<https://hcservices.ecpservices.in> grant an order of interim injunction restraining

the respondents their agents, assignees and anyone claiming under or through the respondents from exhibiting, exploiting and releasing the Tamil cinematograph film title "Dhruva Natchathiram" starring Vikram and others and directed by Mr.Goutham Vasudev Menon, the 2nd respondent herein, in any format whatsoever anywhere in the world without settling the dues of the applicant and pending disposal of the proposed arbitration.

O.A.No.1079 of 2018:

In the matter of Section 9 of Arbitration and Conciliation Act, 1996

In the matter of Agreement dated 20.01.2017 between the Applicant and the respondents and in the matter of the Tamil Movie 'Dhruva Natchatiram'

Rajkumar Sethupathy
S/o. Shanmuga Sethupathy
No.27, 4th Main Road,
Raja Annamalaipuram,
Chennai 600 028.

... Applicant

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4. Ms.Reshma Ghatala

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... Respondents

pleased to grant an order of interim injunction restraining the respondents their agents, assignees and anyone claiming under or through the respondents from exhibiting, exploiting and releasing the Tamil cinematograph film titled "Enai Noki Payum Thota" produced by the 5th respondent herein, starring Dhanush, Mega Akash, Sunaina & Others and directed by Mr.Goutham Vasudev Menon, the 2nd respondent herein, in any format whatsoever anywhere in the World without settling the dues of the applicant and pending disposal of the proposed arbitration.

O.A.No.1080 of 2018:

In the matter of Section 9 of Arbitration and Conciliation Act, 1996

In the matter of Agreement dated 20.01.2017 between the Applicant and the respondents and in the matter of the Tamil Movie 'Dhruva Natchatiram'

Rajkumar Sethupathy
S/o. Shanmuga Sethupathy
No.27, 4th Main Road,
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... Respondents

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the respondents from encumbering or otherwise alienating the exhibition, exploitation and distribution rights in and over the cinematograph film titled "Dhruva Natchathiram" starring Vikram and others and directed by Mr.Goutham Vasudev Menon, the 2nd respondent herein, for Chengelpet Area, pending disposal of the proposed arbitration.

O.A.No.1081 of 2018:

In the matter of Section 9 of Arbitration and Conciliation Act, 1996

In the matter of Agreement dated 20.01.2017 between the Applicant and the respondents and in the matter of the Tamil Movie 'Dhruva Natchathiram'

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Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the respondents from encumbering or otherwise alienating the exhibition, exploitation and distribution rights in and over the cinematograph film titled "Enai Noki Payum Thota" produced by the 5th respondent herein, starring Dhanush, Mega Akash, Sunaina and others and directed by Mr.Goutham Vasudev Menon the 2nd respondent herein for Chengelpet Area, pending disposal of the proposed arbitration.

These Original Applications coming on this day before this Court for hearing the court made the following order:-

The Original Application in O.A.No.1074 of 2018 has been filed by the applicant for an interim injunction restraining the respondents, their agents, assignees and anyone claiming under or through the respondents from exhibiting, exploiting and releasing the Tamil cinematography film titled "Dhruva Natchatiram" starring Vikram and others and directed by Mr.Goutham Vasudev Menon the 2nd respondent herein in any format whatsoever anywhere in the World without settling the dues of the applicant and pending disposal of the proposed arbitration.

2. The Original Application in O.A.No.1075 of 2018 has been filed by the applicant for an interim injunction restraining the respondents, their agents, assignees and anyone claiming under or through the respondents from exhibiting, exploiting and releasing the Tamil

cinematography film titled "Enai Noki Payum Thota" produced by the 5th respondent herein, starring Dhanush, Mega Akash, Sunaina & Others and directed by Mr.Goutham Vasudev Menon, the 2nd respondent herein, in any format whatsoever anywhere in the World without settling the dues of the applicant and pending disposal of the proposed arbitration.

3. The Original Application in O.A.No.1076 of 2018 has been filed by the applicant for an interim injunction restraining the respondents from encumbering or otherwise alienating the exhibition, exploitation and distribution rights in and over the cinematography film titled "Dhruva Natchathiram" starring Vikram and others and directed by Mr.Goutham Vasudev Menon, the 2nd respondent herein, for Chengelpet Area, pending disposal of the proposed arbitration.

4. The Original Application in O.A.No.1077 of 2018 has been filed by the applicant for an interim injunction restraining the respondents from encumbering or otherwise alienating the exhibition, exploitation and distribution rights in and over the cinematography film titled "Enai Noki Payum Thota" produced by the 5th respondent herein, starring Dhanush, Mega Akash, Sunaina and others and directed by Mr.Goutham Vasudev Menon the 2nd respondent herein for Chengelpet Area, pending disposal of the proposed

arbitration.

5. The Original Application in O.A.No.1078 of 2018 has been filed by the applicant for an interim injunction restraining the respondents, their agents, assignees and anyone claiming under or through the respondents from exhibiting, exploiting and releasing the Tamil cinematography film title "Dhruva Natchathiram" starring Vikram and others and directed by Mr.Goutham Vasudev Menon, the 2nd respondent herein, in any format whatsoever anywhere in the world without settling the dues of the applicant and pending disposal of the proposed arbitration.

6. The Original Application in O.A.No.1079 of 2018 has been filed by the applicant for an interim injunction restraining the respondents, their agents, assignees and anyone claiming under or through the respondents from exhibiting, exploiting and releasing the Tamil cinematography film titled "Enai Noki Payum Thota" produced by the 5th respondent herein, starring Dhanush, Mega Akash, Sunaina & Others and directed by Mr.Goutham Vasudev Menon, the 2nd respondent herein, in any format whatsoever anywhere in the World without settling the dues of the applicant and pending disposal of the proposed arbitration.

7. The Original Application in O.A.No.1080 of 2018 has been filed by the applicant for an interim injunction restraining the respondents from encumbering or otherwise

alienating the exhibition, exploitation and distribution rights in and over the cinematography film titled "Dhruva Natchathiram" starring Vikram and others and directed by Mr.Goutham Vasudev Menon, the 2nd respondent herein, for Chengelpet Area, pending disposal of the proposed arbitration.

8. The Original Application in O.A.No.1081 of 2018 has been filed by the applicant for an interim injunction restraining the respondents from encumbering or otherwise alienating the exhibition, exploitation and distribution rights in and over the cinematography film titled "Enai Noki Payum Thota" produced by the 5th respondent herein, starring Dhanush, Mega Akash, Sunaina and others and directed by Mr.Goutham Vasudev Menon the 2nd respondent herein for Chengelpet Area, pending disposal of the proposed arbitration.

9. The first respondent is a Partnership Firm comprising of four partners, who are respondents 2 to 5. The applicant and the first respondent joined together and ventured to produce a film called " Dhruva Natchathiram". They have entered into an agreement dated 20.01.2017 for financing the production and release of the said film in a sum of Rs.3.5 Crores and created a charge over the exhibition, exploitation and distribution rights in and over

the said film for the Chengelpet area.

10. By another agreement dated 07.10.2017, the applicant had advanced a sum of Rs.1 Crore (Rupees One Crore) through bank and the same is acknowledged by the respondents. As per Clause 5 of the said agreement, the respondents, who are the second party to the agreement, undertook that the film will not be released anywhere in the World in any manner whatsoever unless and until the amount borrowed together with interest is settled. It is also further agreed that the second party shall not deliver or cause the delivery of any copy in any format of the said film or any other film either under their production or to be produced or distributed or exploited by them directly or indirectly, individually or in association with others. Further, they have created a charge over the exhibition, exploitation and distribution rights in and over the said film for the Coimbatore and Nilgiris areas.

11. Now that, it is the apprehension of the applicant that the respondents are encumbering the right over the subject film specifically vested with the applicant to a third party. If third party interest is created, the applicant will be put in a disadvantageous position and their valuable rights will be defeated.

12. Denying the contention of the applicant, the

respondents *inter alia* raised so many objections and contended that the applications are not maintainable. However, the respondents have given an undertaking that they will not release the film "Dhruva Natchatiram" without settling the amount due to the applicant, along with interest at the rate of 12% per annum, calculated from 19.04.2018.

13. The learned counsel for the applicant vehemently contended that the respondents shall not be permitted to encumber and release the film "Dhruva Natchatiram" without settling their dues. Even though it was originally agreed that the money will be settled on or before 19.01.2018, it is periodically extended and till date, the respondents have not taken any steps either to release the movie or to settle the amount due to the applicant. On the other hand, it has been encumbered further. Materials reveals that third party rights were created over the subject film.

14. This Court is of the considered opinion that the contention of the learned counsel for the applicant has some force. In such circumstances, the interest of the applicant shall be protected and the respondents shall not be permitted to encumber the film further.

they will not release the film "Dhruva Natchatiram" without settling the dues to the tune of Rs.4.5 Crores with interest (Rs.3.5 Crores + Rs.1 Crore) in respect of agreements dated 20.01.2017 and 07.10.2017, to the applicant, is recorded.

16. Apart from the undertaking given by the respondents that they will settle the entire amount before the release of film "Dhruva Natchatiram", considering the *prima facie* case and balance of convenience, this Court grants an interim injunction that the respondents shall not encumber the rights of the applicant in respect of the movie "Dhruva Natchatiram" and that the respondents shall not create any third party right to exhibit, exploit and distribution rights in and over the cinematography film titled "Dhruva Natchathiram" for Chengalpet, Coimbatore and Nilgiris areas.

17. The applicant shall initiate arbitration proceedings as expeditiously as possible.

18. The applications are ordered in the above lines.

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Sd/-M.G.R.J

29.11.2018

//Certified to be a true copy//

Dated this the day of 2018
JJ 14/12/18

COURT OFFICER

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