

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

ARBITRATION PETITION NO. 716 OF 2015

Mr.Salim Khan

...Petitioner

vs

M/s.Ahuja Films

...Respondent

Mr.Amit G. Dubey I/b. A.M. Saraogi for Petitioner.

CORAM : S.C.GUPTE, J.

DATE : 31 JANUARY 2019

P.C. :

The arbitration petition challenges an award passed by a committee of arbitrators claiming to be an Adjudication Sub-Committee of the Indian Motion Picture Distributors' Association. The Petitioner claims to be a producer/right holder in respect of a film titled "Gautam Govinda" for the territory of Mumbai. The Respondent claims to be a distributor and exploiter of rights in the motion picture. It claims to have acquired rights in the picture under an agreement dated 31 July 2002 for a period of 10 years from the date of its first release in the Bombay circuit. The picture was released in the circuit on 11 April 2003. As the picture failed at the box office, the Respondent distributor could not recover his investments and advances. It was the Respondent's case that in terms of clause 10 of the agreement, the Petitioner had agreed to refund to the distributor the unrecouped portion of the refundable advance immediately after six months of the release of the film. The Respondent, who was a complainant before the arbitrators, submitted a statement of account showing a total realisation of about Rs.13.43 lakhs till March 2004 and accordingly, claimed from the producer unrecouped balance refundable advance of

about Rs.10.45 lakhs together with interest. It appears that after hearing the complainant and going through the relevant papers, the arbitrators passed an award. The award, in the first place, has no reasons. It simply holds that the agreement was valid, subsisting and binding on the parties and the producer was liable to pay to the complainant distributor a sum of Rs.10.45 lakhs along with interest. The Petitioner's grievance is that at no point of time, any notice was served on the Petitioner of the arbitration proceedings or indeed the impugned award. The Petitioner claims to have come to know of the award only when execution proceedings were taken in pursuance of the award. It is also the Petitioner's case that the Petitioner had not consented to the sub-committee of the association acting as arbitrators.

2 None appears for the Respondent. Even on the last occasion, i.e. on 14 December 2018, none had appeared and the matter was stood over as a last chance.

3 The Respondent's reply is on record. There is nothing in his reply to indicate how the sub-committee of the association had the authority and jurisdiction to act as arbitrators and no issues have been joined so far as the Petitioner's averments in the petition concerning want of service of arbitration proceedings and award on the Petitioner. There is no averment in the Respondent's reply disputing the Petitioner's case that a copy of the award came to be served on the Petitioner by the Respondent's Advocate only on 16 January 2015 and as such, the present petition was within time. The award is, as noted above, wholly devoid of reasons.

4 In view of the above circumstances, the arbitration petition is allowed by setting aside the impugned award dated 12 May 2004.

(S.C. GUPTE, J.)