

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****ARBITRATION PETITION NO.456 OF 2016**

UFO Moviez India Limited
known as UFO India Limited

....Petitioner

vs

LMR Theatres

...Respondent

.....

Mr. Devashish Godbole, i/b. Parinam Law Associates, for the Petitioner.

.....

CORAM : S.C. GUPTE, J.

DATED: 11 FEBRUARY 2019

P.C.:

. Heard learned Counsel for the Petitioner. The Respondent is absent, though duly served. Learned Counsel tenders an affidavit in proof of such service. The application is under Section 9 of the Arbitration and Conciliation Act, 1996. Disputes between the parties arise out of equipment usage agreement executed between the parties. The Petitioner claims to have hired out equipment to the Respondent movie theatre for use during the hire period. The Respondent has terminated the agreement of hire and asked for refund of security deposit and offering the Petitioner its equipment. It is the grievance of the Petitioner that despite this, its equipment is not being returned by the Petitioner. Besides the Petitioner has claims against the Respondent including a claim for unpaid hire charges. There is no ad-interim order as of now in the petition. The petition is of the year 2016. No arbitration proceedings have been initiated as yet. Learned Counsel for the Petitioner submits

that as per instructions, a letter of invocation of the arbitration agreement has been sent. In these premises, there is no question of granting any interim protection to the Petitioner. Learned Counsel for the Petitioner submits that he may be permitted to pursue his remedy in arbitration. In the meantime, the equipment must be ordered to be returned to the Petitioner. Learned Counsel refers to clause (a) of the agreement, which provides for immediate return of the equipment to the Petitioner in the event of termination of the agreement. Learned Counsel submits that he is merely seeking relief of return of his equipment. In the first place, return of equipment is not a relief in the nature of interim protection. Return of equipment, in the premises, is part of the main relief to be claimed by the Petitioner and this relief Petitioner needs to claim before the arbitral forum. Despite more than three years having elapsed from the filing of the arbitration petition, the Petitioner has not initiated any process for appointment of the arbitrator, besides invoking the arbitration clause. In the premises, the prayer for return of equipment is rejected. The Petitioner will be at liberty to apply to any arbitral forum that may be constituted in the matter of disputes between the parties for any protective relief including return of equipment under Section 17 of the Arbitration and Conciliation Act, 1996. The petition is, accordingly, disposed of.

(S.C. GUPTE, J.)