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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 09th DAY OF JULY 2019

THE HON'BLE MRS. JUSTICE PUSHPA SATHYANARAYANA

O.A. No.548 of 2019

and

A. No.3620 of 2019

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

And

In the matter of the
Agreement dated 28.09.2017
between the Applicant and
the Respondent in respect of
Tamil Film "JARAGANDI".

M/s.Shraddha Entertainment,
Represented by its Partner,
Mrs.Radha Krishnaswamy,
No.2, Seaface Road, Palavakkam,
Chennai - 600 041.

... Applicant
(in both applications)

-Versus-

M/s.Shvedh, a Partnership Firm,
Rep by its partner Nitinsathya,
29, Bawa Road, Abhiramapuram,
Chennai - 600 018.

... Respondent
(in both applications)

O.A. No.548 of 2019:-

Original Application praying that this Hon'ble Court be pleased to grant an interim injunction restraining the Respondent from encumbering or otherwise alienating or exhibiting or causing the exhibition of the Next Film, i.e. the Tamil Cinematograph film, untitled, produced by the Respondent and/or Nitinsathya, starring Vaibhav, Venkat Prabhu etc., and directed by SG Charles, or any rights in and over the such film or part thereof anywhere in the World and in any format whatsoever, pending disposal of the Proposed arbitration.



A. No.3620 of 2019:-

Application praying that this Hon'ble Court be pleased to render true and proper accounts, including all third party contracts entered into with respect to their Tamil Cinematograph film Titled "Jaragandi" Starring Jai and Reba Mounica.

These applications coming on this day before this court for hearing in the presence of Mr.K.Ravi for M/s.Rugan & Arya, advocate for the applicant in both the applications herein and Mr.Sathish Parasaran, Senior Counsel for Mr.Vijayan Subramanian, advocate for the respondent in both the applications and upon reading the common counter affidavit of NithinSathya filed in both the applications and the order herein dated 13.06.2019 and this Court having observed that the admitted outstanding amount financed, according to the respondent, is Rs.7,67,141/-, which, the respondent is liable to pay to the applicant without any delay to show his bonafides, as clause 9 cannot be specifically enforced without setting out the professional terms, as agreed, the applicant is not entitled to the injunction as prayed for and it is not the case of the applicant that he had funded or co-produced the next film in question, if at all the applicant has got any right, it should be on professional terms, which is not available here, therefore, the applicant has not made out a *prima facie* case for injuncting or restraining the respondent, as prayed for and as the balance of convenience is in favour of the respondent and the respondent, admittedly, has liability only to the extent indicated above, i.e., Rs.7,67,141/-, it is open to the respondent to pay to the applicant, without prejudice to their rights in the arbitral proceedings, the said amount, though the original interim order was obtained as early as on 16.05.2019, no steps have been taken for initiating the arbitral proceedings till date, it is ordered as follows:-



That the O.A. No.548 of 2019 and A. No.3620 of 2019 be and is hereby dismissed.

2. That the parties hereto, are directed to initiate arbitral proceedings within a period of two weeks from the date of receipt of a copy of this order.

3. That in respect of the undertaking given to this court with respect to the satellite rights of the film Jaragandi, the same shall continue till the parties work out their remedies before the arbitral tribunal.

WITNESS THE HON'BLE SHRIMATI.VIJAYA KAMLESH
TAHILRAMANI, THE CHIEF JUSTICE, HIGH COURT AT MADRAS
AFORESAID, THIS THE 09th DAY OF JULY 2019.

Sd./-

ASSISTANT REGISTRAR (Comm. Cases)

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER(O.S.)

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O.A. No.548 of 2019
and
A. No.3620 of 2019

ORDER

DATED: 09.07.2019

THE HON'BLE MRS. JUSTICE
PUSHPA SATHYANARAYANA

FOR APPROVAL:16/10/2019

APPROVED ON :17/10/2019