HIGH COURT FOR THE STATE OF TELANGANA

HON’BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN
AND
HON'BLE Dr. JUSTICE SHAMEEM AKTHER

<u>CIVIL MISCELLANEOUS APPEAL No.747 of 2019</u>

Date: 19.08.2019

<u>Between</u>:

Kuncham Venkat Reddy
…Appellant

And

M.L.V.Satyanarayana
…Respondent

Counsel for the Appellant : Sri P.Shivakumar

Counsel for the Respondent : Sri P.Amarender Reddy

The Court made the following:

JUDGMENT: *(Per Hon'ble Dr.Justice Shameem Akther)*

This Civil Miscellaneous Appeal, under Section 37 of Arbitration and Conciliation Act, 1996, is filed by the appellant-petitioner, aggrieved by the dismissal order dated 01.07.2019 passed in Arb.O.P.No.58 of 2019, by the III Additional Chief Judge, City Civil Court, Hyderabad.

2. Heard Sri P.Shiva Kumar, learned counsel for the appellant, Sri P.Amarender Reddy, learned counsel for the respondent and perused the record.

3. The facts that led to filing of this appeal are that the appellant is the director of the subject movie and the respondent is its producer. The appellant purchased the remake rights of the movie '2 States' vide Remake Rights Agreement dated 01.09.2016 from M/s.Nadiadwala Grandson Entertainment Private Limited, Mumbai, by paying consideration of Rs.50,00,000/- to remake the movie in Telugu language. The respondent-producer proposed to produce the said film in Telugu language and an agreement dated 21.12.2017 was entered into in between the respondent and the appellant. As per the agreement dated 21.12.2017, the appellant was appointed as director for the said film. In terms of the agreement, the total budget of the film was assessed at Rs.4.5 crores, including remake rights consideration of Rs.50,00,000/- spent by the appellant and the remuneration of the appellant, as the director, was fixed at Rs.11,00,000/- and a sum of Rs.99,000/- was paid as token advance. Clause 2 of the agreement specifies that if the budget crosses beyond Rs.4.5 crores, the appellant as a director shall take the responsibility and complete the film without

requesting the respondent producer to invest any further amount. Clause 8 of the agreement contemplates that the amount of Rs.50,00,000/- paid by the appellant for acquiring remake rights of the film is to be the investment of the appellant in the project and the respondent producer agreed to give share in the profits as per the investment ratio. Clause 19 of the agreement specifies that any dispute arising out of the agreement should be referred to the Arbitration. It is the grievance of the appellant that the respondent has hatched an ingenious plan to knock away the entire profits including the initial investment of Rs.50,00,000/- spent by the appellant, towards purchasing the remaking rights. The respondent producer is proposing to appoint a new director and is holding consultations with the interested persons. If the respondent succeeds in his attempt, the appellant will suffer serious hardship and irreparable loss as he is a debut director. Therefore, the appellant filed Arb.O.P.No.58 of 2019, seeking to grant injunction against the respondent and his agents restraining them from appointing a new director in his place. The said Arb.OP was dismissed by the impugned order, which resulted in filing of this Civil Miscellaneous Appeal.

4. Learned counsel for the appellant-petitioner would contend that the appellant gained substantial interest in the subject movie and became co-producer. The Remake Right Agreement dated 01.09.2016 was entered into between the appellant and M/s. Nadiadwala Grandson Entertainment Pvt Limited, Mumbai to remake the Hindi movie “2 States” in Telugu language. The appellant paid an amount of Rs.50,00,000/- for such remake rights. The appellant has become co-producer and is a new entity.

His arbitrary removal as director at the behest of the mother of the heroine is against the terms of the agreement dated 21.12.2018 entered into in between the appellant and the respondent**.** There is a *prima facie* case and balance of convenience in favour of the appellant. If the relief is not granted as prayed for, the appellant would be put to irreparable loss. The Court below erroneously dismissed Arbitration OP, and ultimately prayed to set aside the order impugned and grant the relief as prayed for.

5. Learned counsel for the respondent would contend that an agreement dated 21.12.2017 was entered into in between the appellant and the respondent. As per Clause 7 of the agreement, the respondent producer has right to terminate the services of the appellant as director. There is an arbitration clause in the agreement and as per Clause 19 of the agreement any dispute arising out of the agreement should be referred to the arbitrator. Monetary considerations are involved and the Arbitral Tribunal is the authority to adjudicate the grievance in between the parties. The learned counsel ultimately prayed to dismiss the appeal and sustain the order impugned.

6. In view of submissions made by both sides, the issue that arises for determination is as follows:

1. ***Whether the impugned order and decree dated 01.07.2019 passed in Arb. O.P.No.58 of 2019 by the III Additional Chief Judge, City Civil Court, Hyderabad is liable to be set aside and whether the appellant is entitled for the relief as prayed for?***

POINT:

7. There is no dispute with regard to entering into written agreement, between the parties to the litigation. It is the specific

case of the respondent that as per Clause 7 of the agreement entered in between the appellant and the respondent producer, the respondent producer has the discretion to remove the appellant director, if he is not satisfied with the performance of the appellant director. There are allegations of the appellant director deviating from the original story and incorporating new clippings, which are not in the script of the movie. Shooting of the movie was also not completed within the time agreed and only 60% of the shooting is completed. The respondent has already spent an amount of Rs.4.7 crores and amount is exceeded by Rs.20 lakhs as the total cost of the movie agreed between the parties was Rs.4.5 crores. Both the parties to the litigation are making allegations against each other, with regard to exceeded amount, as well as not completing the movie within the agreed time. Moreover, mainly monetary considerations are involved in the subject matter. There is also a specific clause under the agreement to refer the subject dispute to the arbitrator for settlement. The losses alleged to have occasioned to the appellant or the respondent, as the case may be, are required to be dealt with by an arbitrator as per the terms of the agreement. The contention of loss of reputation is not a ground to allow the appeal. Further more, there is a specific clause under Clause No.7 of the agreement dated 21.12.2017 enabling the respondent producer to terminate the services of director under certain conditions.

8. Therefore, the Court below is justified in holding that the appellant-petitioner has no *prima facie* case and balance of convenience in his favour and the appellant failed to prove that he would suffer irreparable loss if the relief as prayed for is not

granted. The Civil Miscellaneous Appeal is devoid of merits and is liable to be dismissed.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall also stand dismissed.

RAGHVENDRA SINGH CHAUHAN, HCJ

Dr. SHAMEEM AKTHER, J

Date:19.08.2019
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