

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

O.S.A.Nos.304 and 305 of 2020

Vishal Krishna Appellant/ Respondent

Vs.

M/s.Trident Arts,
rep. by its Sole Proprietor
Mr.R.Ravichandran,
having office at No.1C and 1D,
Hari Mansion, J.P.Avenue
Dr.Radhakrishnan Road,
Mylapore, Chennai 4. Respondent/ Appellant

Prayer: Appeals filed against the Fair and Decretal order passed in A.No.2110 of 2012 and O.A.No.434 of 2020 dated 15.10.2020.

Prayer in A.No.2110 of 2012:

Judges Summons under order XIV Rule 8 of the Rules R/W under section 9(2)(a)(e) of the Arbitration and Conciliation Act 1996 this Hon'ble Court may not be pleased to direct the Respondent to furnish security for a Sum of rs.8,29,57,468/- (Rs.Eight Crores Twenty Nine Lakhs Fifty Seven Thousand Four Hundred and Sixty Eight Only).

Prayer in O.A.No.434 of 2020:

Judges Summons under order XIV Rule 8 of the Rules R/W under section 9(2)(a)(d) of the Arbitration and Conciliation Act 1996 this Hon'ble Court may not be pleased to grant an order of interim injunction restraining the respondent by themselves or by partners or successors of business, servants, agents, representatives, assignees and all other persons from releasing the film "Chakra" in any OTT platforms including Amazon Prime, Netflix, zee 5, Sun NXT etc or through direct theatrical release or through any satellite TV, pending disposal of the Arbitration.

JUDGMENT
(Delivered by the Hon'ble Chief Justice)

resultant finding, that the defendant or respondent may not be in a position to pay the amount by the time the likely award ripens for implementation. Indeed, an order without taking into consideration both aspects of the matter and expressing an opinion thereon may not pass muster in law as one made under Section 9(1) (ii) (b) of the said Act.

6. Even though, strictly speaking, the Code of Civil Procedure, 1908 may not govern every aspect of arbitration, but such code is the general law pertaining to all matters civil and the underlying principles recognized therein continue to remain as guiding factors. Though provisions in the Arbitration Act indicate that the Code of Civil Procedure and the Evidence Act, 1872 would not be binding, but such provisions do not indicate that such principal statutes should be disregarded altogether.

7. Since, in fine, the resolution at this stage has been arrived at by consensus, nothing further need be said. It is only put on record that an order in the nature of attachment before judgment, which a direction for furnishing security amounts to, must meet very exacting tests and such a high order has to be regarded as an exception rather than the rule.

O.S.A.Nos.304 and 305 of 2020 are disposed of by recording the consensus between the parties as above. This limited agreement for the purpose of the present appeals will be completely without prejudice to the rights and contentions of the parties in course of the arbitral reference. As a consequence, the judgment and order impugned are set aside. C.M.P.No.14577 of 2020 is also closed. There will be no order as to costs.

Sd/-

Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

tar

To,

The Sub Assistant Registrar,
Original Side,
High Court, Madras.

+1cc to Mr.A.Chidambaram , Advocate SR.No. 6418

O.S.A.Nos.304 and 305 of 2020

A.SK(18.02.2021) .