



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 30th DAY OF MARCH 2022

THE HON'BLE MR. JUSTICE M.SUNDAR

O.A.No.169 of 2022

and

O.A.No.847 of 2021

In the matter of Arbitration and Conciliation
Act, 1996.

and

In the matter of agreement dated 11.05.2020
along with addendum agreement dated
13.11.2020 between M/s.Flying Horse
Pictures and M/s.Rock Fort Entertainment
LLP Chennai.

M/s Flying Horse Pictures
Rep.by its Managing partner,
Mr.S.Hari Baskaran M/48 years,
Care of Sampathkumar,
Flat No.S 403, 44 Metro Zone,
Pillayarkoil Street,
Anna Nagar, Chennai 600 040.

...Applicant
(in both Original Applications)

-Versus-

M/s Rockfort Entertainment LLP
Rep.by its Designated Partner,
Mr.T.Muruganantham,
No.50, Ground Floor,
Shankara Krupa Flats,
Lakshmanasamy Salai,
K K Nagar,
Chennai 600 078.

... Respondent
(in both Original Applications)

**O.A.No.847 of 2021**

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Original Application praying that this Hon'ble Court be pleased to pass an order of injunction restraining the Respondent herein from releasing the movie KURUTHI AATTAM scheduled to be release on 24/12/2021 or any date in future, in theatres, OTT Platform, Web Etc. without settling the due amount of Rs.1,94,81,958/- (Rupees One Crore Ninety Four Lakhs Eighty One Thousand Nine Hundred and fifty Eight only) together with interest 24% per annum from 11/05/2020 to till date, of Principal amount Rs.1,40,42,738/- to the Applicant.

O.A.No.169 of 2022

Original Application praying that this Hon'ble Court be pleased to pass an order of Interim Injunction restraining the Respondent herein from releasing the movie MANMADHALEELAI scheduled to be release on 01/04/2022, in future in theatres, OTT Platform, Web etc, till the respondent settling the due amount of Rs.2,02,21,570/- (Rupees Two Crore Two Lakhs Twenty One thousand five hundred and seventy only) together with interest 24% per annum Principal amount of Rs.1,40,42,738/- from 11.05.2020 to till the date of realization to the Applicant.

These Original Applications coming on this day before this court for hearing in the presence of Mr.V.Raghavachari for Mr.A.Manoj Kumar,



Parasaran, Senior Counsel for Mr.R.Chandramohan, Advocates for the Respondent in both Original Applications and upon reading the Judges Summons and the Affidavit of S.HariBaskaran filed in O.A.No.169 of 2021 and the order dated 29.12.2021 made in O.A.No.847 of 2021 and

It is ordered as follows:-

That the Hon'ble Mr.Justice K.Kannan, Former Judge of this Court and Punjab & Haryana High Court residing at No.3/11, Lakshmi Colony, North Crescent Road, T.Nagar, Chennai [Mobile: 9780008145] be and is hereby appointed as sole arbitrator and this Hon'ble Former Judge shall constitute the Arbitral Tribunal [AT].

2. That the Distributor i.e., respondent in Senior and Junior OAs can release the third movie [MANMADHALEELAI] on 01.04.2022 [Friday] as per schedule i.e., theatrical release, OTT platforms and Web release etc., subject only to one condition and that one condition shall be deposit of proceeds of the collection to an extent of Rs.30 lakhs in a escrow account to be opened.

3. That irrespective of the collection i.e., irrespective of how the third movie [MANMADHALEELAI] does at the box office, a sum of Rs.30 lakhs shall be deposited in the escrow account within a period of 4 weeks



from 01.04.2022 i.e., on or before 29.04.2022.

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4. That all questions, contentions and issues between the Producer and the Distributer (except release of third movie on 01.04.2022 subject to aforesaid condition) are left open to the Hon'ble Arbitral Tribunal [AT] to adjudicate upon and decide.

5. That all questions being left open shall include the plea of varying the aforesaid sum of Rs.30 lakhs to be deposited in an escrow account within four weeks in the aforesaid manner, but such variance plea by Distributor (if that be so) can be made before Hon'ble Arbitral Tribunal [AT] post such deposit.

6. That the above also means that the senior and junior OAs can be presented (or applications with similar/same prayers can be made) before the Hon'ble Arbitral Tribunal [AT] with a request to treat the same as applications under Section 17 of the A and C Act and if this course is adopted, the Hon'ble Arbitral Tribunal [AT] shall consider both the senior, junior applications as applications under Section 17 and deal with the same on its own merits and in accordance with law.

7. That by consent of both sides, Hon'ble Arbitral Tribunal [AT]



be and is hereby requested to resort to arbitration by Fast Track procedure as adumbrated under Section 29-B of the A and C Act.

8. That as both sides informed that production of other cinematographic films other than the first movie [IRANDAM KUTHTHU], second movie [KURUTHI AATTAM] and third movie [MANMADHALEELAI] are in the pipeline, for the purpose of abundant clarity and specificity, it is made clear that Section 17 application shall be moved before the Arbitral Tribunal [AT] with regard to such movie/s in the pipeline also if the need arises.

9. That by consent the parties hereto agree that Hon'ble Arbitral Tribunal [AT] shall be at liberty to fix his cost and fee for the arbitration;

10. That as already alluded to supra, as regards the second movie [KURUTHI AATTAM] the undertaking on 29.12.2021 and extension of same on 03.01.2022 are by orders of this Court but the same shall be construed as undertaking given before Hon'ble Arbitral Tribunal [AT] and therefore, the Hon'ble Arbitral Tribunal [AT] shall be at liberty to modify, vary, rescind or amplify the same at the discretion of Hon'ble Arbitral



11. That likewise, deposit of Rs.30 Lakhs made pursuant to the order of this Court shall also be considered as deposit pursuant to order of Hon'ble Arbitral Tribunal [AT], so that when variation of the same is sought by one and or other party/parties, the same shall be dealt with without being stifled by judicial orders in any manner.

12. That there shall be no order as to costs.

WITNESS THE HON'BLE MR.JUSTICE MUNISHWAR NATH
BHANDARI CHIEF JUSTICE, HIGH COURT AT MADRAS
AFORESAID, THIS THE 30th DAY OF MARCH 2022.

Sd./-
ASSISTANT REGISTRAR (Comm.Cases)

//Certified to be true copy//
Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)
From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



KY

31.03.2022

O.A.No.169 of 2022
and
O.A.No.847 of 2021

ORDER

DATED : 30.03.2022

THE HON'BLE MR. JUSTICE
M.SUNDAR

FOR APPROVAL: 31.03.2022

APPROVED ON: 31.03.2022

Copy to:

The Hon'ble Mr.Justice K.Kannan,(Retd.,)
Madras High Court,
and Punjab & Haryana High Court,
Sole Arbitrator,
residing at No.3/11, Lakshmi Colony,
North Crescent Road,
T.Nagar, Chennai
[Mobile: 9780008145].

(With Covering Letter)



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Lakshmanasamy Salai,
K K Nagar,
Chennai 600 078.

... Respondent
(in both Original Applications)

**O.A.No.847 of 2021**

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O.A.No.169 of 2022

Original Application praying that this Hon'ble Court be pleased to pass an order of Interim Injunction restraining the Respondent herein from releasing the movie MANMADHALEELAI scheduled to be release on 01/04/2022, in future in theatres, OTT Platform, Web etc, till the respondent settling the due amount of Rs.2,02,21,570/- (Rupees Two Crore Two Lakhs Twenty One thousand five hundred and seventy only) together with interest 24% per annum Principal amount of Rs.1,40,42,738/- from 11.05.2020 to till the date of realization to the Applicant.

These Original Applications coming on this day before this court



This common order will dispose of captioned two applications which have been presented in this Court under Section 9 of 'The Arbitration and Conciliation Act, 1996 (Act 26 of 1996)', which shall hereinafter be referred to as 'A and C Act' for the sake of brevity, convenience and clarity.

2. To be noted, O.A.No.847 of 2021 which was last listed before this Court on 29.03.2022 is scheduled to be listed tomorrow (31.03.2022), but with the consent of learned counsel on both sides, case file was called for and O.A.No.847 of 2021 was also taken up today.

3. In both the captioned applications there is a sole applicant/lone respondent and the parties are same in both the captioned applications. In this order, for the sake of convenience and clarity 'applicant' shall be referred to as 'Producer' and 'respondent' shall be referred to as 'Distributor'. To be noted, this is only for the sake of convenience and it is not an accurate reflection of the actual roles of the applicant or respondent in the transaction or contractual duties/obligations.

4. In the hearing today, Mr.V.Raghavachari, learned counsel appearing on behalf of the counsel on record for Producer and Mr.Satish Parasaran, learned Senior counsel appearing on behalf of the counsel on



record for the Distributor are before this Court.

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5. Owing to the trajectory the matter has taken, it is not necessary to dilate much on facts. In other words, short facts shorn of elaboration/granular particulars will suffice. Short facts are that the nucleus of the *lis* is constituted by three Tamil Cinematographic Films titled 'IRANDAM KUTHTHU', 'KURUTHI AATTAM' and 'MANMADHALEELAI' which shall be referred to as 'first movie', 'second movie' and 'third movie' respectively for the sake of convenience and clarity; that there are multiple agreements between the Producer and the Distributor including agreements dated 11.05.2020 and an addendum agreement dated 13.11.2020; that there is no disputation, disagreement or contestation between the parties about existence of an arbitration agreement between the parties i.e., between the Producer and the Distributor and that this arbitration agreement being arbitration agreement within the meaning of Section 2(1)(b) read with Section 7 of A and C Act is in the form of clauses/covenants in these multiple agreements; that arbitrable disputes erupted between the parties qua these multiple agreement is also the obtaining factual position; that owing to the arbitrable disputes that erupted after exchange of notices 'O.A.No.847 of 2021' [hereinafter 'senior OA' for the sake of convenience and clarity] was presented in this Court on



23.12.2021 by the Producer seeking an interim order restraining release of second movie (KURUTHI AATTAM) which was scheduled to be released on 24.12.2021; that the Distributor gave an undertaking in the senior OA on 29.12.2021 saying he will not release second movie (KURUTHI AATTAM); that this undertaking was extended in and by further proceedings/orders made by Hon'ble Predecessor Judge on 03.01.2022; that this undertaking is now operating; that this second movie (KURUTHI AATTAM) has not been released as of today owing to the undertaking though it is ready for release; that no arbitration had been kick started qua senior OA; that under such circumstances 'O.A.No.169 of 2022' [hereinafter 'junior OA' for the sake of convenience and clarity] was presented in this Court on 24.03.2022 by the Producer under Section 9 of A and C Act with a prayer for an injunction to restrain release of third movie (MANMADHALEELAI) which is scheduled to be released on 01.04.2022; that the release of third movie (MANMADHALEELAI) i.e., theatrical release besides release on OTT platforms is in the anvil i.e., on 01.04.2022 is also the obtaining factual position;

6.The Distributor was on caveat in the junior OA. To be noted, the

Distributor had entered appearance through the same counsel in the senior



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7.As already alluded to supra, there is no disputation, disagreement or contestation between the parties about the existence of arbitration agreement and therefore, both sides agreed that the best course would be to have a sole arbitrator appointed for entering upon reference/adjudicating the arbitrable disputes that have erupted/arisen between the Producer and the Distributer qua multiple agreements i.e., agreements dated 11.05.2020 and addendum agreement dated 13.11.2020, so that the matter can be given a quietus/closure. It was also agreed that all questions including questions arising in the captioned OAs can be left open for being adjudicated upon/decided by the Hon'ble Arbitrator to be appointed.

8.In the light of the narrative thus far, the following consent order is made:

(i).Hon'ble Mr.Justice K.Kannan, Former Judge of this Court and Punjab & Haryana High Court residing at No.3/11, Lakshmi Colony, North Crescent Road, T.Nagar, Chennai [Mobile: 9780008145] is appointed as sole arbitrator and this Hon'ble Former Judge will constitute the Arbitral Tribunal [AT].

(ii).The Distributor i.e., respondent in Senior and Junior OAs can



release the third movie [MANMADHALEELAI] on 01.04.2022 [Friday] as per schedule i.e., theatrical release, OTT platforms and Web release etc., subject only to one condition and that one condition shall be deposit of proceeds of the collection to an extent of Rs.30 lakhs in a escrow account to be opened.

(iii). Irrespective of the collection i.e., irrespective of how the third movie [MANMADHALEELAI] does at the box office, a sum of Rs.30 lakhs shall be deposited in the escrow account within a period of 4 weeks from 01.04.2022 i.e., on or before 29.04.2022.

(iv). All questions, contentions and issues between the Producer and the Distributer (except release of third movie on 01.04.2022 subject to aforesaid condition) are left open to the Hon'ble Arbitral Tribunal [AT] to adjudicate upon and decide.

(v). All questions being left open will include the plea of varying the aforesaid sum of Rs.30 lakhs to be deposited in an escrow account within four weeks in the aforesaid manner, but such variance plea by Distributor (if that be so) can be made before Hon'ble Arbitral Tribunal [AT] post such deposit.

(vi). The above also means that the senior and junior OAs can be presented (or applications with similar/same prayers can be made) before the Hon'ble Arbitral Tribunal [AT] with a request to treat the same as



applications under Section 17 of the A and C Act and if this course is adopted, the Hon'ble Arbitral Tribunal [AT] shall consider both the senior, junior applications as applications under Section 17 and deal with the same on its own merits and in accordance with law.

(vii).By consent of both sides, Hon'ble Arbitral Tribunal [AT] is requested to resort to arbitration by Fast Track procedure as adumbrated under Section 29-B of the A and C Act.

(viii).As both sides informed that production of other cinematographic films other than the first movie [IRANDAM KUTHTHU], second movie [KURUTHI AATTAM] and third movie [MANMADHALEELAI] are in the pipeline, for the purpose of abundant clarity and specificity, it is made clear that Section 17 application can be moved before the Arbitral Tribunal [AT] with regard to such movie/s in the pipeline also if the need arises.

(ix).By consent, the parties agree that it is open Hon'ble Arbitral Tribunal [AT] to fix his cost and fee for the arbitration;

(x).As already alluded to supra, as regards the second movie [KURUTHI AATTAM] the undertaking on 29.12.2021 and extension of same on 03.01.2022 are by orders of this Court but the same shall be construed as undertaking given before Hon'ble Arbitral Tribunal [AT] and

therefore, it will be open to the Hon'ble Arbitral Tribunal [AT] to modify,



vary, rescind or amplify the same at the discretion of Hon'ble Arbitral Tribunal [AT]. Likewise, deposit of Rs.30 Lakhs made pursuant to the order of this Court shall also be considered as deposit pursuant to order of Hon'ble Arbitral Tribunal [AT], so that when variation of the same is sought by one and or other party/parties, the same can be dealt with without being stifled by judicial orders in any manner.

9.Captioned applications are disposed of in the aforesaid manner with the directives adumbrated supra. There shall be no order as to costs.

Sd./-M.S.J
30.03.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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