



O.A.No.743 of 2023

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KRISHNAN RAMASAMY, J.

This application has been filed to grant an order of interim injunction restraining the respondents from theatrical screening of Tamil feature film titled as “Kadhal Conditions Apply” or through OTT platform or any satellite TV or in any other form.

2. In the present case, the applicant and the 1st respondent had entered into an Investment Agreement dated 14.05.2021, which was amended on 13.01.2022, wherein it was agreed by both the parties that if there is any dispute between the parties, the same shall be referred to arbitration. Thereafter, the applicant and the respondents 1 and 2 had entered into Memorandum of Understanding dated 16.02.2022, wherein the 2nd respondent had agreed to pay the amount directly to the applicant and the same was agreed by the applicant and the 1st respondent.

3. The learned counsel for the 2nd respondent would submit that he is no way party to either the Investment Agreement dated 14.05.2021 or the Amended Agreement dated 13.01.2022. Further, by referring the



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clause 15 of the MOU, he would submit that there is no specific reference with regard to the arbitration clause in the said MOU and hence, he would contend that the question of impleading the 2nd respondent in the arbitration proceeding will not arise. In this regard he had also referred to the Judgement of the Hon'ble Apex Court in ***Inox Wind Limited, vs. Thermocables Limited*** reported in ***(2018) 2 SCC 519***.

4. The Clause 15 of the said MOU is extracted hereunder:

“15) Except the terms mentioned here in this agreement, all other clauses in the Investment Agreement dated 14.05.2021 and the Amendment Agreement dated 13.01.2022 shall remain unchanged and binding on all the parties.”

5. The learned counsel for the 1st respondent had also accepted the above submission and would submit that this application is not maintainable against the 2nd respondent since there is no specific clause available in the MOU.



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6. In reply, the learned counsel for the applicant would submit that though the present application is filed only for interim injunction, since the claim amount is only around a sum of Rs.1,70,00,000/- he would requests this Court to appoint an Arbitrator. Further, he would submit that he will file his claim statement before the Arbitrator by impleading only the 1st respondent.

7. The said submission was accepted by learned counsel for 1st respondent and hence, he would also request this Court to appoint an Arbitrator to adjudicate the dispute between the applicant and the 1st respondent.

8. Heard the learned counsel for the applicant and the respondents and also perused the materials available on record.

9. In the present case, the dispute between the applicant and the 1st respondent is arbitrable as per the clause 14 of the agreement, which reads as follows:



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“14.Dispute Resolution

14.1 Any dispute arising out of or in connection with or relating to this agreement (dispute), including any question regarding its existence, validity or termination or breach will be referred to and finally resolved by arbitration under the Arbitration and Conciliation Act, 1996 as amended from time to time.

14.2 The seat and venue of the arbitration will be in Chennai and the proceedings will be conducted in English.

14.3 All disputes shall be referred to arbitration to be settled by a sole Arbitrator to be nominated by the INVESTOR.”

9. Therefore, considering the submissions made by both the learned counsel and in view of the fact that the dispute between the applicant and the 1st respondent squarely falls within the purview of the Clause 14 of the Agreement dated 14.05.2021, this Court is inclined to appoint an Arbitrator.

10. Further, since the 2nd respondent is not a party to the said agreement, the applicant is directed not to implead the 2nd respondent as a party before the learned Arbitrator.



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11. Accordingly, this Court feels it appropriate to pass the following order:

i) **The Hon'ble Mr.Justice M.Govindaraj, Former Judge, Madras High Court, residing at No.4/225, Sri Kapaleeswarar South 2nd Street, Neelangarai, Chennai -41 and (Contact No.9444094403),** is appointed as sole arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties

ii) The learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of the Order. The learned Arbitrator is also directed to decide the matter without influenced by the observations made by this Court in the present order.

iii) The learned Sole Arbitrator appointed herein shall be paid fees and other incidental charges, as per Schedule IV of the Act and the same shall be borne by the parties equally. In the event of non-appearance of the respondent, the applicant shall bear the entire remuneration and other expenses and thereafter, the applicant can recover the same directly from the respondent and vice versa.



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12. With the above directions, this application is disposed of. No
cost.

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