

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION NO. 145 OF 2025**

Impossible Films Pvt Ltd

...Applicant

Versus

Sparkling Studios & Ors

...Respondents

Ms. Yesha Mahesh Thaker, i/b LJ Law for the Applicant.

Mr. Ashwin Bhadang, a/w Arpit Choudhary, Krunal Mehta, i/b ANM Global, for Respondent No.1.

Mr. Ritambhara Singh for IMPPA.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : JULY 16, 2025

ORDER :

1. This is an Application filed under Section 11 of the Arbitration and Conciliation Act, 1996 (“***the Act***”) in connection with disputes and differences relating to a deed of Assignment executed between the parties on June 15, 2022 (“***Agreement***”).

2. The Agreement relates to theatrical distribution rights to a Nepali movie called “Prem Geet 3” to be dubbed in Hindi and distributed worldwide. The Applicant has levelled various allegations about deliberate delay on the part of a number of people related to the Respondent in providing prints and software of the final dubbed version

and also about further distribution rights created by the Respondent in favour of third parties.

3. A careful reading of the Agreement would show that Clause 18 of the Agreement contains an explicit arbitration agreement choosing the Indian Motion Pictures Producers Association (“**IMPPA**”) as the institution that would conduct arbitration. In other words, this arbitration clause is consistent with the by-laws of IMPPA which requires members of IMPPA to put counterparties to notice that the dispute resolution would be before the institutional arbitration mechanism of IMPPA, for such arbitration to be applicable.

4. Be that as it may, after the arbitration commenced, the Applicant took serious objection to IMPPA’s independence and credibility inasmuch as according to the Applicant, one Ms. Sushma Shiromanee, the founder / partner of the Respondent is herself the Vice President of IMPPA. Consequently, the insinuation is that the arbitral institutional forum has one of the parties to the arbitration as an office bearer, and this would undermine the independence and impartiality of the arbitral forum.

5. It is now explicit from the record that IMPPA has taken a position vide its letter dated July 3, 2025 that in order to maintain

institutional neutrality in form and appearance, it is formally recusing voluntarily from conduct of the arbitration proceedings.

6. Therefore, the arbitral forum that the parties had agreed upon not being available, it would be necessary to appoint an arbitral tribunal. No useful purpose would be served holding up this Application any further.

7. Learned Counsel for the Respondent has taken pains to make submissions that there is no valid invocation or that the invocation notice as perceived from letters dated November 12, 2022 and January 2, 2023 are incoherent, with the Respondent having no clue about the dispute. I have no hesitation in rejecting this contention. The Respondents have had no quarrel with arbitration so long as the arbitration was before IMPPA. When participating in those proceedings, the Respondent had no doubt about whether dispute sought to be referred to arbitration was incoherent or coherent. Consequently, at this stage, this Application purely partakes the character of substituting the arbitral forum, which has voluntarily recused from conduct of the arbitration.

8. In these circumstances, no further analysis is required. The existence of the arbitration agreement is writ large on the face of the

record. A recusal by the arbitral institution is writ large on the face of the record. Therefore, there is no further scope for examination by this Court. Consequently, this Application is allowed appointing a substitute arbitral tribunal in the following terms:-

A) Mr. Rashmin Khandekar, an advocate of this Court, is hereby appointed as the Sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of and in connection with the Agreement referred to above;

Office Address:-

2nd Floor, New Wadia Building,

Opposite BSE, Dalal Street,

Fort, Mumbai -400001

Email ID: rashmin.khandekar@gmail.com

B) A copy of this Order will be communicated to the Learned Sole Arbitrator by the Advocates for the Applicant within a period of one week from the date of upload of this order. The Applicant shall provide the contact and communication particulars of the parties

to the Arbitral Tribunal along with a copy of this Order;

C) The Learned Sole Arbitrator is requested to forward the statutory Statement of Disclosure under Section 11(8) read with Section 12(1) of the Act to the parties within a period of two weeks from receipt of a copy of this Order;

D) The parties shall appear before the Learned Sole Arbitrator on such date and at such place as indicated, to obtain appropriate directions with regard to conduct of the arbitration including fixing a schedule for pleadings, examination of witnesses, if any, schedule of hearings etc. At such meeting, the parties shall provide a valid and functional email address along with mobile and landline numbers of the respective Advocates of the parties to the Arbitral Tribunal. Communications to such email addresses shall constitute valid service of correspondence in connection with the arbitration;

E) All arbitral costs and fees of the Arbitral Tribunal shall be borne by the parties equally in the first instance, and shall be subject to any final Award that may be passed by the Tribunal in relation to costs.

9. Needless to say, nothing contained in this order is an expression of an opinion on merits of the matter or the relative strength of the parties. All issues on merits are expressly kept open to be agitated before the arbitral tribunal appointed hereby.

10. This Application is ***finally disposed of*** in the aforesaid terms.

11. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]