

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

COMMERCIAL ARBITRATION PETITION (L) NO. 499 OF 2018

M/s. Y.T. Entertainment Limited ... Petitioner

Versus

Ram Gopal Varma ... Respondent

Mr. Aurup Dasgupta i/b. Jhangiani, Narula and Associates for the Petitioner.
None for the Respondent.

CORAM : S.J. KATHAWALLA, J.
DATED : 8TH MAY, 2018
(IN CHAMBERS)

P.C.:

1. Not on board. Upon mentioning, taken on board.
2. The Applicant - M/s. Y.T. Entertainment Limited has filed the above Commercial Arbitration Petition against the Respondent - Ram Gopal Varma under Section 9 of the Arbitration and Conciliation Act, 1996, as amended by Arbitration and Conciliation (Amendment) Act, 2015 (the Act) seeking protective reliefs.
3. The emails both dated 8th May, 2018, exchanged between the Advocate for the Petitioner and the Advocate for the Respondent, are taken on record and marked 'X' and 'X-1' respectively for identification.
4. The conduct of the Respondent is set out in Paragraph 3 of the Petition, which is reproduced hereunder :

"3. The Petitioners state that judging from the consistent conduct of

*the Respondent in renegeing from written and oral promises and assurances made to the Petitioners of making payment, the Petitioners verify believes that the Respondent has no intention of making payment of the balance amount of Rs.1,06,50,000/- (Rupees One Crore Six Lakhs and Fifty Thousand only) due and payable by the Respondent to the Petitioners as on date, which the Respondent has undertaken to pay before the release of the said film titled "Officer" and the second cheque being an undated cheque for an amount of Rs.1,01,50,000/- (Rupees One Crore One Lakh and Fifty Thousand Only) forwarded vide the Respondent's letter dated 20th March 2018, shall in all likelihood be dishonoured, upon presentation of the same. The Respondent has undertaken not to release or distribute any film, however contrary to that undertaking, the Respondent is full swing, preparing to release the film "Officer" on 25th May 2018 in total disregard to his undertaking not to do so. The Petitioners are certain that, the Respondent in complete and utter disregard to his undertakings, shall release the film "Officer", without making payment of the amounts due to the Petitioners. The Petitioners have obtained information regarding announcement made on the internet with regard to the release of the film "Officer on 25th May 2018. Hereto annexed and marked as **Exhibit "H"** is a copy of the announcement of the film "Officer", showing it's release date as 25th May 2018."*

5. On 4th May, 2018, an Application was made for urgent ad-interim reliefs before this Court, when the Advocate for the Respondent was present in Court and informed the Court that Respondent shall remain present before this Court on 7th

May, 2018 at 11.00 a.m. The matter was accordingly simplicitor adjourned to 7th May, 2018.

6. On 7th May, 2018, the Co-Producer of the Film titled 'Officer' - Mr. Sudheer Chandra Padiri was present in Court. The Court was informed that the Consent Minutes of Order were prepared in the matter and the Respondent agreed to pay to the Petitioner the sum of Rs.1,06,50,000/- on or before 18th May, 2018 or before the release of the film titled 'Officer' described in Exhibit-H of the Petition, whichever is earlier, by way of RTGS in the account of the Petitioner known to the Respondent. It was also pointed out to the Court that under the said Consent Minutes of Order the Respondent has agreed that till such time as the payment envisaged in Clause 2 of the Consent Minutes of Order is made, there shall be an injunction restraining the Respondent, his servants, agents, or assigns or anyone claiming through or under him from parting with possession of negatives, digital prints, release prints etc. and / or from releasing of the Suit film in any language or in any manner whatsoever. The said Consent Minutes of Order were signed by Mr. Sudheer Chandra Padiri, but were not signed by the Respondent, who has to repay a huge amount to the Petitioner. In view thereof, this Court informed the Advocate representing the Respondent that the Respondent should remain present in Court at 05.00 p.m. and sign the Consent Minutes of Order. The matter was therefore kept back upto 05.00 p.m. to enable the Respondent to sign the Consent Minutes of Order. At 05.00 p.m. the Advocate appearing for the Respondent informed the Court that the

Respondent is in a meeting. In view thereof, the Advocate for the Respondent was directed to keep the Respondent - Ram Gopal Verma present today only for the purpose of signing the Consent Minutes of Order. Since the Respondent has not turned up to sign the Consent Minutes of Order, the following order is passed :

i. Ad-interim relief is granted in favour of the Petitioner in terms of prayer Clause (b) of the Petition, which is reproduced hereunder :

"b) that pending the commencement and hearing of the Arbitral proceedings between the Petitioners and Respondent, this Hon'ble Court be pleased to restrain the Respondent his servants, agents or assigns or anyone claiming through or under the Respondent by an order and injunction of this Hon'ble Court from selling, transferring, assigning any rights in respect of the film titled "Officer" starring Nagarjuna, Myra Sareen and others and directed and produced by the Respondent and/or from parting with possession of the negatives, digital prints, release prints etc. and/or from releasing the film titled "Officer" starring Nagarjuna, Myra Sareen and others and directed and produced by the Respondent, in any language whatsoever, in any manner whatsoever"

ii. A copy of this Order shall be forthwith served on the Respondent - Ram Gopal Varma, who for the reasons best known to him is avoiding to remain present before this Court.

iii. A copy of this Order shall also be forthwith served on the Advocate for the

Respondent.

- iv. In the event of the Respondent - Ram Gopal Varma not accepting a copy of this Order and / or not giving his acknowledgment, the Senior Police Inspector of the local police station shall render all assistance to the Petitioner and / or its Advocate and / or their representatives in serving a copy of this Order on the Respondent and to obtain his acknowledgment.
- v. Stand over to 7th June, 2018.

(S.J.KATHAWALLA, J.)

