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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 215 OF 2023

Polimer Media Private Limited)
A company incorporated under the)
Companies act, 1956 having its address)
at 30, Balaji Nagar, First Street,)
Royapettah, Chennai – 600014)… Petitioner

Versus

Ultra Media and Entertainment)
Private Limited)
A company incorporated under the)
Companies Act, 1956 having its)
registerd office at 2-C, Thakkar)
Industrial Estate, N.M. Joshi Marg,)
Lower Parel(East), Mumbai- 400011.)..Respondent

Mr. Akshay Doctor, Priyanka Dadpe i/b. Mr. Aagam Doshi for the Petitioner.

Mr. Rashmin Khandekar, Mr Pranav Nair a/w. Jyoti Ghag a/w. Shailesh Prajapati and Mr. Ankit Singhal i/b. Dua Associates for Respondent.

CORAM : GAURI GODSE, J.

RESERVED ON : 21st NOVEMBER 2025

PRONOUNCED ON : 5th MARCH 2026

JUDGMENT :-

1) This petition is filed under Section 34 of the Arbitration

and Conciliation Act, 1996 ('**Arbitration Act**') by the original respondent to challenge the award allowing the respondent's claim with costs, by directing the petitioner to pay an amount of Rs. 30,45,000/- with interest. The respondent had filed the claim to recover the amount due and payable under the license agreement dated 5th December 2019. The claim concerns the license fee for telecasting the episodes of the TV series pursuant to the agreement between the parties.

2) The parties entered into an agreement dated 5th December 2019, whereby the respondent agreed to grant the petitioner a license to broadcast 350 episodes of its tv serial known as "Jai Hanuman". The petitioner had agreed to broadcast on its TV channel 'Polimer TV', 350 episodes on the terms and conditions agreed in the license agreement. As per the agreement, the serial comprised 350 episodes to be broadcast till 30th November 2021, or until the completion of 350 episodes, whichever was earlier. The consideration was calculated as a sum of Rs. 10,500/- per episode. According to the respondent, in view of the agreed terms, the petitioner would be liable to pay a total license fee of Rs. 36,75,000/-

for all the episodes.

3) The first 60 episodes were delivered, telecast, and payment was made. The dispute pertains to balance episodes from 61 onwards. Since the petitioner did not telecast the remaining episodes, the respondent alleged breach of the license agreement. The respondent, therefore, by legal notice, called upon the petitioner to make payment towards the balance amount of Rs. 30,45,000/- for the remaining episodes. Since there was a dispute over the payment of license fees for episodes that the petitioner neither collected nor telecast, arbitration proceedings were initiated.

4) The respondent accordingly filed a statement of claim to recover the amount of Rs. 30,45,000/- as per the terms and conditions of the license agreement for the balance episodes that were not collected and not telecast. The petitioner denied the respondent's claim mainly on the ground that the license fee was at the rate of Rs. 10,500/- per episode. Thus, according to the petitioner, the license fee was payable only towards the episodes that they actually

telecast. According to the petitioner, because the episodes received poor reviews and the TRP dropped significantly, the petitioner was forced to stop airing further episodes. Hence, according to the petitioner, no amount was payable towards the license fees.

5) The learned Sole Arbitrator accepted the respondent's grievance by recording findings that the respondent had offered to deliver 61 to 90 episodes to the petitioner, as agreed in the license agreement and was always ready and willing to discharge its obligations. Hence, the petitioner was liable to pay the license fees for the agreed-upon episodes under the terms and conditions of the license agreement. Accordingly, the claim is allowed with costs, directing the petitioner to make payment towards the license fees.

SUBMISSIONS ON BEHALF OF THE PETITIONER:

6) Learned counsel for the petitioner submitted that the findings recorded in the impugned award render various terms of the contract otiose and nugatory as they are contrary to the pleadings and thus, the reasons are contrary

to the public policy of India. The series consisted of 350 episodes, and only 60 were delivered. The delivery of balance episodes was not taken by the petitioner as the print quality of the serial was poor, and there had been a drop in the petitioner's TRP. At the highest, the offer of delivery, even if accepted, was only in respect of the further 30 episodes. Thus, in total, only 90 episodes could have been accepted as delivered. Thus, the respondent was not entitled to a license fee for the entire 350 episodes. The license was granted only until 30th November 2021, or until all 350 episodes were delivered. However, as per clause 8(i), consideration of Rs. 10,500/- per episode was agreed; hence, the entire amount of Rs. 36,75,000/- was payable only if all 350 episodes were delivered.

7) According to the petitioner, the respondent had not demonstrated any actual loss or injury, and that damages were claimed only for the license fees for episodes that were never delivered. As per clause 8(viii), any default in payment would result in the automatic termination of the agreement. Hence, if the petitioner had not paid the license fees, the

agreement stood terminated automatically. Hence, if the contract came to an end by way of automatic termination, the respondent was always free to license it to a third party. Clause 13.3 provides that termination would not affect any of the parties' obligations. Hence, any claim to the full license fee cannot be accepted. The respondent failed to provide any evidence of entitlement to the full 350 episodes.

8) According to the learned counsel for the petitioner, the learned Arbitrator has misinterpreted the terms and conditions of the contract. He erred in granting the claim for the entire episodes only on the ground of execution of the agreement without considering the relevant clauses regarding automatic termination of the contract. Even clause 13.2 of the agreement provided that upon breach of obligation, the respondent was entitled to terminate the agreement. He erred in holding that the nature of the claim was in the nature of damages; however, completely ignored that no claim towards the damages was demonstrated by the respondent. The petitioner relied on clauses 8(viii) and clause 6(c) of the agreement to support the contention that,

in the event of termination of the contract, the right to license the serial to the third party was always available with the respondent. Clause 6(a)(i) states that “subject to the licensor’s receipt of the license fee”. Thus, the termination of the contract would result in the automatic reversion of the seller's rights, which the seller was free to license to a third party. Hence, there was no question of granting any claim on the ground of loss.

9) Learned counsel for the petitioner submitted that the respondent failed to establish any mitigative steps to treat the contract as terminated and to attempt to mitigate its loss. Hence, even under Section 73 of the Contract Act, the respondent was not entitled to claim damages. Learned counsel for the petitioner relied upon the decision of the Hon’ble Apex Court in the case of ***Murlidhar Chiranjilal Vs. Harishchandra Dwarkadas and Anr***[1]***,*** to support his submissions that the two settled principles for grant of damages, i.e. firstly, proof of a breach of a bargain to supply what was contracted and secondly, to mitigate the circumstances to show the loss consequent on the breach

1 1961 SCC Online SC 100

were not satisfied in the present case.

10) Learned counsel for the petitioner relied upon the decision in ***Bachhaj Nahar Vs. Nilima Mandal and Anr***[2], to support the submissions that in the absence of the respondent demonstrating any loss, it would not be entitled to claim damages. He also relied on the decision of this Court in ***Union of India Vs Recon, Mumbai***[3], to support his submission that the Award is liable to be set aside as the grounds raised by the petitioner are within the scope of interference under Section 34 of the Arbitration Act. Learned counsel for the petitioner, therefore, submits that the award is liable to be set aside on the ground that it is opposed to the public policy of India and suffers from patent illegality and perversity in interpreting the terms and conditions of the contract.

SUBMISSIONS ON BEHALF OF THE RESPONDENT:

11) Learned counsel for the respondent submitted that unless perversity and patent illegality are shown, the award cannot be set aside on the ground of reappreciating the

2 (2008) 17 SCC 491
3 2020(6)Mh.L.J 509

evidence to show that some other view is possible. The interpretation done by the learned Arbitrator in respect of the terms and conditions of the contract is on the correct reading of the agreement as a whole. The ground of quality of the episodes was raised for the first time in the arbitration proceedings. Clause 8(i) is towards payment of the entire series consisting of 350 episodes; it was only by way of a facility that clauses 8(ii) and (iii) were introduced for making payments in part. However, the petitioner was liable to make payment of the entire series consisting of 350 episodes. Clause 13.3 of the agreement shows that there was no automatic termination of the contract, and the petitioner was liable to make payments for all episodes.

12) According to the learned counsel for the respondent, the learned Arbitrator has correctly interpreted the terms and recorded findings in paragraphs 65 to 73 of the Award. The claim of the respondent is for the entire value as per the agreement for the episode nos. 61 to 350, i.e. the balance amount as calculated for the entire 350 episodes. The respondent's pleadings pertain to the terms and conditions of

the agreement and not to any loss suffered by the respondent. Hence, the learned Arbitrator's interpretation is in terms of the contract.

13) Learned counsel for the respondent relied upon the legal principles settled by the Hon'ble Apex Court in ***UHL Power Company Ltd Vs. State of Himachal Pradesh***[4] and ***ECGC Ltd Vs. Baco Metallic Industries***[5]***.*** He submits that it is a well-established legal principle that the findings of the arbitral tribunal on the interpretation of relevant clauses of the agreement cannot be reopened in a petition under Section 34, as it would amount to acting as a court of appeal. It is held by the Hon'ble Apex Court that when there are two plausible interpretations of the terms and conditions of the contract, no fault can be found if the arbitrator proceeded to accept one interpretation over the other. Hence, merely because another view is possible, it cannot be settled to set aside the award under Section 34 of the Arbitration Act. Learned counsel for the respondent, therefore, submits that no ground is made out by the petitioner for setting aside the

4 (2022) 4 SCC 116
5 2025 SCC Online Bom 3959

award under Section 34. The view taken by the learned Arbitrator is a plausible one, based on the terms and conditions of the contract.

CONSIDERATION OF THE SUBMISSIONS AND CONCLUSIONS:

14) I have examined the case of the parties and perused the findings recorded by the learned Arbitrator. It is the respondent's case that, under the agreement, the entire license fee for all the episodes was due and payable and formed the essence of the contract. According to the respondent, it was only as a concession that the respondent agreed to accept the consideration in parts and deliver the episodes accordingly. The respondent further contended that it was always ready and willing to discharge its obligation under the contract. It is further alleged that the petitioner had taken delivery of only 60 episodes.

15) It is the respondent's case that the exclusive rights were granted to the petitioner under the agreement, and hence, the respondent was unable to license the serial to any

third party. The petitioner's case is that the respondent had not demonstrated any actual loss or injury, and that damages were claimed only for the license fees for episodes that were never delivered. The petitioner contends that, in view of the automatic termination of the agreement on default of payment, the rights reverted to the respondent, and it was free to license them to any third party.

16) The learned Arbitrator recorded all the rival contentions, including automatic termination of the contract in view of default in payment and its effect. He has exhaustively discussed all the terms and conditions of the agreement and the respective interpretations of the parties. It is held that the terms and conditions and, in particular, clauses 1, 8, 9 and 21 of the agreement show the clear and unambiguous intention of the parties that the license fee was payable for the entire 350 episodes on execution of the agreement. Learned Arbitrator held that the petitioner had requested a facility for which the license fee was agreed to be paid in equated instalments. It is further held that the respondent's obligation to deliver the episodes was conditional on the

petitioner making payment of the equated installments of the license fee by the 10th day of the subsequent month.

17) The learned Arbitrator observed that the petitioner's contention that it was obligated to pay only for what it received would render large portions of the agreement between the parties otiose and meaningless. Thus, the learned Arbitrator recorded that the petitioner's interpretations were nothing but an abuse of the goodwill gesture offered by the respondent to provide a facility for the payment of the license fee under the agreement.

18) I have perused the terms and conditions of the agreement. The payment terms are in clause no. 8. Clause 8(i) decides the entire consideration for Rs. 36,75,000/- for 350 episodes at a fixed fee at ₹10,500 per episode. Clause 8(ii) records that, as per the licensee's request, that is the petitioner's request, the licensor, that is the respondent, has given the licensee(petitioner) the facility to pay the license fee in parts. Clause 8(iii) records the agreement and confirmation of the licensee(petitioner) that the entire license fee is due and payable against the agreement, which is the

essence of the agreement.

19) Accordingly, the parties agreed that payments shall be made in equated instalments for 30 episodes in each month. Clause 8(viii) records that any default in any instalment would amount to automatic termination of the agreement, and the license in the agreement will revert to the licensor. The terms and conditions for termination are provided in clause no. 13. In clause no. 13.3, the parties agreed that the termination of the agreement shall not affect any of the obligations of the parties under the agreement. The subsequent clauses in the termination paragraph provide for the return of the material received by the licensee to the licensor. Thus, by reading the agreement as a whole, the interpretation made by the learned arbitrator is possible, as well as a plausible view that the respondent was entitled to the license fees for all 350 episodes, which was the essence of the contract.

20) The decision of the Apex Court in ***Murlidhar Chiranjilal*** deals with a claim for damages arising from the wrongful cancellation of a contract. A complete reading of the Award

indicates that the learned Arbitrator minutely considered the rival interpretations regarding the terms of the contract, and after carefully considering the meaning and the effect of each term of the contract, concluded that the petitioner was liable to pay the full license fee for the entire series. The learned Arbitrator correctly held that the petitioner's argument that the claim for the full license fee is in the form of a penalty or damages is absurd and in conflict with the plain language and terms of the agreement. Hence, the legal principles settled in the said decision regarding the grant of damages, relied upon by the learned counsel for the petitioner, would not be relevant in the present case.

21) The decision of the Apex Court in ***Bachhaj Nahar*** concerns a judgment of the High Court in a second appeal. It is held that the jurisdiction to grant relief in a civil suit depends on the pleadings, prayers, court fee paid, and the evidence. The controversy in the present petition concerns the interpretation of the terms and conditions of the contract and the enforcement of the contract to recover the contract amount. Some submissions in the statement of claim

regarding loss suffered by the respondent will not make it a claim for damages. Hence, the legal principles settled in the decision of ***Bachhaj Nahar,*** relied upon by the learned counsel for the petitioner, are not relevant to the controversy involved in the present case.

22) The arguments raised on behalf of the petitioner, relying on clause 8(viii) of the agreement to hold that the rights reverted to the respondent upon automatic termination of the contract, would amount to reading it in isolation, ignoring the other terms and conditions of the contract. The learned Arbitrator has therefore correctly read the agreement as a whole, interpreted all the terms of the contract, and concluded that the petitioner is liable to pay the license fees for the entire series. Thus, the conclusion arrived at by the learned Arbitrator is a possible and plausible interpretation. Only to give a different meaning to the contract, the terms and conditions of the contract cannot be reinterpreted. In view of the well-settled legal principles, such a ground is not permissible to interfere with the arbitral award under section 34 of the Arbitration Act.

23) Learned counsel for the respondent has therefore rightly relied on the legal principles settled by the Apex Court in ***UHL Power Company Ltd***., which squarely apply to the present case. The Apex Court held that the learned single judge erred in reappreciating the findings returned by the arbitral tribunal and taking an entirely different view in respect of the interpretation of the relevant clauses of the implementation agreement governing the parties, in as much as it was not open to do so in a petition under Section 34, by virtually acting as a court of appeal.

24) In the decision of this Court in ***Union of India Vs Recon, Mumbai***, relied upon by the learned counsel for the petitioner, this Court held that there cannot be a reappreciation of evidence and the award cannot be set aside only on the ground that, on merits, another view is possible. This Court summarised the scope of interference and held that a lack of reasons is a patent illegality, and, in interpreting the contract, if the arbitral view is one that is not even possible or if the arbitrator wanders beyond the contract, that would amount to an illegality. This Court further held that perversity would

include patent illegality if the finding is based on no evidence at all, or an award that ignores vital evidence, or a finding based on documents taken behind the back of the parties. In the present case, the learned Arbitrator has considered the entire evidence and has also granted the parties an opportunity to bring on record all relevant evidence, as is evident from the narration in the initial paragraphs of the award. Thus, the view taken by the learned Arbitrator is based on considering the entire evidence on record and interpreting the terms of the contract by reading the agreement as a whole. Thus, none of the grounds raised by the petitioner is within the limited scope of interference under Section 34.

25) Learned counsel for the respondent has rightly relied upon the recent decision of this Court in ***ECGC Ltd.*** This Court holds that it is now trite law that the Section 34 Court must not lightly interfere with arbitral awards, and that the scope of review is set out in multiple decisions of the Apex Court. To summarise the scope of interference under Section 34, this court reproduced the relevant paragraphs of the

Apex Court's decisions in paragraphs 22 and 23 as under;

"**22.** It is now trite law that the Section 34 Court must not lightly interfere with arbitral awards. The scope of review by the Section 34 Court is also well covered in multiple judgments of the Supreme Court including *Dyna Technologies*, *Associate Builders*,*Ssyangyong–Konkan Railway* and *OPG Power*. Even implied reasons, if discernible, may be inferred to support a just and fair outcome arrived at in arbitral awards. To avoid prolixity, I am not reproducing copiously from these judgments. Suffice it to say (to extract from just one of the foregoing), in *Dyna Technologies*, the Supreme Court held thus:

"*24. There is no dispute that Section 34 of the Arbitration Act limits a challenge to an award only on the grounds provided therein or as interpreted by various courts. We need to be cognizant of the fact that arbitral awards should not be interfered with in a casual and cavalier manner, unless the court comes to a conclusion that the perversity of the award goes to the root of the matter without there being a possibility of alternative interpretation which may sustain the arbitral award. Section 34 is different in its approach and cannot be equated with a normal appellate jurisdiction. The mandate under Section 34 is to respect the finality of the arbitral award and the party autonomy to get their dispute adjudicated by an alternative forum as provided under the law. If the courts were to interfere with the arbitral award in the usual course on factual aspects, then the commercial wisdom behind opting for alternate dispute resolution would stand frustrated.*

25. Moreover, umpteen number of judgments of this Court have categorically held that the courts should not interfere with an award merely because an alternative view on facts and interpretation of contract exists. The courts need to be cautious and should defer to the view taken by the Arbitral Tribunal even if the reasoning provided in the award is implied unless such award portrays perversity unpardonable under Section 34 of the Arbitration Act."

[Emphasis Supplied]

23. In *OPG Power*, the Supreme Court explained the scope of interference with interpretation and construction of a contract accorded in an arbitral award in the following words:—

> *"72. An arbitral tribunal must decide in accordance with the terms of the contract. In a case where an arbitral tribunal passes an award against the terms of the contract, the award would be patently illegal. However, an arbitral tribunal has jurisdiction to interpret a contract having regard to terms and conditions of the contract, conduct of the parties including correspondences exchanged, circumstances of the case and pleadings of the parties. If the conclusion of the arbitrator is based on a possible view of the matter, the Court should not interfere. But where, on a full reading of the contract, the view of the arbitral tribunal on the terms of a contract is not a possible view, the award would be considered perverse and as such amenable to interference."*
>
> *[Emphasis Supplied]* "

26) In the present case, all the arguments raised on behalf of the petitioner would not only amount to a reappreciation of the evidence but also an interpretation of the terms and conditions of the contract to take a different view. As discussed in the aforesaid paragraphs, the learned Arbitrator has considered the agreement as a whole and concluded that the petitioner was liable to pay the license fees for all episodes at the time of the agreement. However, only as a facility was payment by equated instalments permitted, in view of the petitioner's request. The reading of the relevant clauses and, in particular, clause no. 8 supports such an interpretation. Another aspect of reverting the rights to the respondent on automatic termination is correctly concluded by the learned Arbitrator, by referring to the termination clause no. 13 read with clause no. 8 of the agreement.

27) Hence, in my view, by applying the standards as set out in the various decisions as discussed above, the arbitral award cannot be interfered with under Section 34 of the Arbitration Act. The petition is therefore dismissed.

(GAURI GODSE, J.)