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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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O.M.P.(I) (COMM.) 169/2024

CULVER MAX ENTERTAINMENT PRIVATE LIMITED

FORMERLY KNOWN AS SONY PICTURES NETWORKS INDIA

PRIVATE LIMITED

..... Petitioner

Through: Mr. Gaurav Pachnanda, Sr. Adv. with
Ms. Ruby Singh Ahuja, Mr. Vishal
Gehrana, Mr. Ishan Gaur, Ms.
Simranjeet, Ms. Megha Dugar & Ms.
Threcy Joboy Lawrence, Advs. (M:
8130837794)

versus

MX MEDIA AND ENTERTAINMENT PTE. LTD.

& ORS.

..... Respondents

Through: Mr. Rajiv Nayyar, Senior Advocate;
Mr. Jayant Mehta, Senior Advocate
with Mr. Govind Singh Grewal, Advs.
(M: 9810129320)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **27.05.2024**

1. This hearing has been done through hybrid mode.

I.As. 30475-76/2024 (for exemption)

2. Allowed, subject to all just exceptions. Applications are disposed of.

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3. The present petition has been filed on behalf of the Petitioner-Culver
Max Entertainment Pvt. Ltd. (formerly known as, Sony Pictures Networks



India Pvt. Ltd.) under Section 9 of the Arbitration and Conciliation Act, 1996. The Petitioner *inter alia* seeks interim measures of protection, for the preservation of the outstanding amount owed to it by the Respondents.

4. This petition arises out of a distribution agreement dated 29th December, 2021 (*hereinafter*, 'agreement') entered into between Sony Pictures Networks India Private Limited (now known as Culver Max Entertainment Private Limited) (Sony) and MX Media & Entertainment Pte. Ltd (MX).

5. As per the agreement, the copyrighted content of the Petitioner was to be distributed on the MX player platform for a fee to be paid by the Respondent. The case of the Petitioner is that the content has been made available on a continuing basis and various invoices have been raised. However, payments in terms of the said invoices have not been fully made and there is a shortfall of more than Rs. 31 Crores which is due and payable on behalf of the Respondent No. 1.

6. It is further stated in the petition that one of the creditors of Respondent No. 1 had filed an application before the High Court of the Republic of Singapore seeking winding up of the Respondent No. 1 company. This application was allowed and an order was passed for winding up of the Respondent No. 1 company. On 9th May, 2024 the High Court of the Republic of Singapore has stayed its order of winding up of Respondent No. 1 till 20th June, 2024 so as to allow Respondent No. 1 to explore sale of its business.

7. Mr. Gaurav Pachnanda, Id. Sr. Counsel submits that the Respondent No. 3 is a company incorporated in the British Virgin Islands of which the Respondent No. 1 and 2 are both wholly owned subsidiaries. Respondent no.1 is a Singapore based company and Respondent no.2 is an



Indian company. Hence, Respondent Nos. 1, 2 and 3 one single economic entity. The Respondents have together approached the Courts in Singapore seeking setting aside of its order directing liquidation of the Respondent No. 1 company, which was directed owing to a liquidator's report in Singapore. The submission on behalf of the Petitioner is that if the assets of the Respondents are completely dissipated, there would be no method in which the Petitioner can recover its dues.

8. On behalf of the Respondents, Mr. Nayyar and Mr. Mehta, Id. Sr. Counsels on instructions, appearing for all the three Respondents, submit that there is no doubt that the liquidation proceedings are currently underway in Singapore. However, it is submitted there is a clear possibility of the Respondent No.1 entering into a transaction of sale of its assets and businesses to a third party entity, the details of which cannot be disclosed at this stage as there are confidentiality terms. It is further submitted that in view of the fact that a binding agreement is likely to be executed within the next two weeks, an adjournment is sought, so that the said agreement can go through and Respondents can in the meantime put their stand on record by the next date of hearing.

9. Heard. The distribution agreement dated 29th December, 2021 consists of an arbitration clause which has fixed the arbitration venue and seat at New Delhi. The said clause is set out below:

“9.3 THE ARBITRATION SHALL BE CONDUCTED IN ACCORDANCE WITH THE ARBITRATION AND CONCILIATION ACT, 1996. THE LANGUAGE OF ARBITRATION PROCEEDINGS SHALL BE ENGLISH. THE VENUE OF ARBITRATION SHALL BE NEW DELHI. THE COSTS OF ARBITRATION



PROCEEDINGS SHALL BE BORNE EQUALLY BY THE PARTIES DURING THE ARBITRAL PROCEEDINGS. HOWEVER, THE COURT OR THE ARBITRAL TRIBUNAL (AS THE CASE MAYBE) SHALL HAVE THE DISCRETION TO DETERMINE AS PART OF THE AWARD OR THE FINAL ORDER TERMINATING THE ARBITRAL PROCEEDINGS AS TO WHICH PARTY WILL PAY THE COSTS OF ARBITRATION AND THE PROPORTION OF SUCH COSTS TO BE PAID BY SUCH PARTY. THE PARTIES HERETO SHALL SUBMIT TO THE ARBITRATOR'S AWARD AND THE SAME SHALL BE BINDING ON THE PARTIES."

10. As stated by ld. Sr. Counsels for the Respondents, considering that there is a distinct possibility of a transaction being executed by the Respondent No. 1 and a third party, according to which, the assets of the Respondents are to be taken over by a third party entity, it is directed that if any sale of assets of Respondent No.1 company takes place, it shall be ensured that a minimum amount of Rs. 31.25 Crores is retained by the Respondent No.1/2 companies in their bank accounts, till further orders of this Court.

11. It is also submitted on behalf of the Respondents that there is a reconciliation of the statement of account which may be required as the amount due as per the Respondents is slightly lesser than what is claimed to be due in the Petition. If so, let the reconciled statement of account be placed on record along with a reply. If required, after the transaction between Respondent No. 1 and the stated third party goes through in the next two weeks, officials of both parties are free to hold a reconciliation meeting.



12. Let reply be filed by 15th July, 2024. Rejoinder, thereto, be filed within four weeks.

13. The above arrangement is without prejudice to rights and contentions of both the parties. Once the sale transaction agreement is signed, as expected over the next two weeks, an official communication shall be written to the Petitioner through Counsels.

14. List on 28th August, 2024.

PRATHIBA M. SINGH, J.

MAY 27, 2024

dj/rks