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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

COMM ARBITRATION PETITION (L) NO.25744 OF 2026

VVAA Films Private Limited … Petitioner

Vs.

DUNE Collective LLP … Respondent

ATUL GANESH KULKARNI
Digitally signed by ATUL GANESH KULKARNI
Date: 2026.10.05 11:26:46 +0530

Mr. Rashmin Khandekar with Ms. Akshata Modi, Mr. Pratyush Ranjan, Mr. Yash Jain and Mr. Santosh Salekar i/by Halai & Co., for the Petitioner.

Mr. Chirag Mody, Senior Advocate with Mr. Parag Khandhar, and Mr. Tapan Radkar i/by DSK Legal for the Respondent.

CORAM : AMIT BORKAR, J.

RESERVED ON : OCTOBER 1, 2026.

PRONOUNCED ON : OCTOBER 5, 2026

JUDGMENT:

1. By the present Petition filed under Section 9 of the Arbitration and Conciliation Act, 1996, the Petitioner is seeking urgent interim protection before the arbitral proceedings commence. The disputes have arisen out of the Co-Production Agreement dated 3 April 2026 entered into between the Petitioner and the Respondent.

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2. According to the Petitioner, the following facts have led to the filing of the present Petition. Under the Co-Production Agreement dated 3 April 2026, the Petitioner agreed to invest an amount of Rs.15,00,00,000/- for production and publicity of the feature film tentatively titled "SNAP". The said amount was to be paid in three tranches. In return, the Petitioner was to have 40% ownership in the Intellectual Property Rights of the Film and 40% share in the net profits arising from the Film. As required under the Agreement, the Petitioner paid the first tranche of Rs. 5,00,00,000/-. According to the Petitioner the Respondent did not perform its corresponding obligations under the Agreement. The Respondent did not provide proper accounts, did not make the Escrow Account operational, did not fulfil the conditions required before release of the second tranche and did not ensure proper and transparent use of the money invested by the Petitioner. An audit arranged by the Petitioner has, according to the Petitioner, shown substantial discrepancies and irregularities in the manner in which the funds paid were used. The Respondent delayed opening and making the Escrow Account operational. The said account was an important safeguard for receiving all the revenues earned from exploitation of the Film. This included the Fixed Assignment Fee of Rs. 14 Crores payable by Zee Entertainment Enterprises Limited under the Assignment Agreement dated 23 December 2025. Instead of taking steps to correct the alleged defaults, the Respondent sent an email dated 29 June 2026 demanding immediate payment of amounts. The Respondent threatened to terminate the Co-Production Agreement unilaterally if the demand

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was not complied with within 36 hours. According to the Petitioner, such threatened termination is contrary to the express terms of the Agreement and is outside the dispute resolution mechanism agreed between the parties.

3. The Petitioner states that it has a reasonable apprehension that the Respondent may illegally terminate the Agreement, bring in third-party financiers and create third-party rights in the Film and its underlying intellectual property. According to the Petitioner, such acts would affect its valuable and proprietary rights and would make the arbitral proceedings ineffective. The disputes between the parties are covered by the arbitration agreement contained in Clause 14 of the Co-Production Agreement. The Petitioner is in the process of invoking arbitration in terms of the said clause. In these circumstances, the Petitioner has approached this Court under Section 9 of the Arbitration and Conciliation Act, 1996, seeking urgent interim protection. The Petitioner seeks an order restraining the Respondent from terminating the Agreement and from creating any third-party rights in the Film or in its intellectual property. The Petitioner seeks consequential mandatory directions for disclosure of accounts and for making the Escrow Account operational. According to the Petitioner, these measures are necessary to protect and preserve the subject matter of the arbitration until the disputes are considered and decided by the learned Arbitral Tribunal.

4. Mr. Khandekar, learned Advocate for the Petitioner, submits that the Respondent is the producer of the Hindi feature film "SNAP" ("Film") and the Petitioner is its co-producer. Under the Co-

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Production Agreement dated 3 April 2026 ("CPA"), the Petitioner agreed to provide funding up to INR 15,00,00,000 in three tranches. In return, the Petitioner acquired 40% ownership in the Intellectual Property Rights of the Film and 40% share in its net profits. The rights were to be jointly owned in the ratio of 60:40, worldwide and in perpetuity. The funding was to be made according to the Cash Flow Schedule in Annexure A. The first tranche was INR 5,00,00,000 and was subject to the Petitioner's satisfactory review of the Respondent's audited financials. The second tranche was INR 5,00,00,000 and was payable only when the Respondent confirmed in writing that 100% of the principal photography was completed, all payments to third parties, artists, HODs, contractors and material suppliers were completed, and the balance in the Dedicated Production Bank Account was less than the amount required for completing the Film. The third tranche of INR 5,00,00,000 was "payable for P&A only and directly to all vendors involved for P&A".

5. The learned Advocate submits that the Respondent had corresponding obligations under the Agreement. The Respondent was required to furnish audited accounts and audit reports, share monthly MIS, provide the Petitioner joint viewing and control rights over the Dedicated Production Bank Account and open a joint Escrow Account for all Revenues, including the Rs. 14 crore receivable from Zee. It was a condition precedent for release of the very first tranche that an email should be sent to Zee informing it about the arrangement and directing payment into the Escrow Account, "and Zee shall confirm their acceptance of the same". The

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learned Advocate submits that the Petitioner paid the entire first tranche of INR 5,00,00,000 and the second tranche never became payable. Even then, by email dated 29 June 2026 ("Demand Email"), the Respondent demanded INR 6.5 crores within 36 hours and stated that, if the amount was not paid, the CPA would stand "terminated with immediate effect". The Respondent called upon the Petitioner not to interfere in the Film. The Petitioner rejected the said demand on 4 July 2026. It was wrongly argued during oral submissions that there was delay on the part of the Petitioner in making payment of the first tranche. Even the condition required before release of the first tranche, namely sending the email intimation to Zee and obtaining Zee's confirmation, has not been fulfilled till date. The Respondent made an attempt to write to Zee in this regard only on 3 April 2026. There is still no confirmation from Zee. Even though the condition was not fulfilled, the Petitioner, in order to save the project, paid the entire first tranche of INR 5 crores. In any event, the Respondent accepted the Petitioner's performance in relation to the first tranche and never raised any grievance regarding the same.

6. The learned Advocate submits that the Petitioner's case, in short, is that it has performed its obligations. The Petitioner had paid INR 50,00,000 even before execution of the Agreement and thereafter paid the whole first tranche, although the condition precedent which was for the Petitioner's own protection had not been fulfilled. The second tranche never became payable. The Respondent has never given the composite confirmation required under item 2 of Annexure A. On the contrary, the Respondent has

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admitted in writing that payments to vendors are still outstanding. Therefore, there is no breach on the part of the Petitioner which could have been cured. The purported termination is a nullity. No notice under Clause 12.1 was issued and no thirty-day period for curing any alleged breach was given. There was no writing signed by both parties as required under Clause 15(a). The Petitioner is a 40% joint owner of the copyright. The Respondent is not the sole owner. This right vested upon execution of the Agreement and was not dependent upon any payment. It continues after termination until the Petitioner's funding is recovered. A co-owner cannot exploit the copyright alone. Unless the Respondent is restrained, it may bring in new entities and create third-party rights in the Film, contrary to Clauses 2.1, 4.3(i) and 4.4. This would make the arbitration proceedings ineffective. There is, therefore, no breach of the Agreement by the Petitioner.

7. It is submitted that the first tranche of INR 5 crores was paid in full and there is no continuing breach on the part of the Petitioner. On 3 April 2026, even before execution of the Agreement, the Petitioner had paid INR 50,00,000. A INR 50,00,000 was paid on 4 April 2026. By 9 May 2026, the Petitioner had paid an aggregate amount of INR 2,50,00,000. The remaining amount was thereafter paid and the entire first tranche stood completed. It is submitted that, in any event, no breach on the part of the Petitioner remains. The condition required before payment of the first tranche was never fulfilled. Item 1 of Annexure A required the first tranche to be paid only after the Petitioner's satisfactory review of the Respondent's audited financials. No such

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financials were ever furnished to the Petitioner and even till date they have not been furnished. Despite this, the Petitioner made the payment. On 15 May 2026, the Petitioner recorded that it was "making first tranche without waiting for the six items completed". Clause 5.4 was a condition precedent for payment of the first tranche and the obligation to comply with the said clause was upon the Respondent. The Respondent has never performed this obligation. The obligations of the Petitioner and the Respondent were reciprocal obligations under the Agreement.

8. The Respondent accepted every instalment paid by the Petitioner without any protest and without reserving any right to make a claim on account of delay. Under the third paragraph of Section 55 of the Contract Act, where a promisee accepts performance at a time different from the agreed time, it cannot subsequently claim compensation for the delay unless, at the time of accepting the performance, it gives notice that it intends to claim such compensation. No such notice was ever given by the Respondent. Therefore, according to the Petitioner, any grievance regarding the timing of payment stood waived. The first tranche was paid by 3 June 2026, almost one month before the purported termination. Whatever may have been the position earlier, nothing remained payable by the Petitioner on 29 June 2026. Therefore, the Respondent could not terminate the Agreement on the basis of a breach which no longer existed.

9. The learned Advocate submits that the Respondent never treated the alleged delay in payment of the first tranche as a breach. At no point did the Respondent issue a notice under Clause

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12.1. Even the termination email does not refer to the first tranche. The only demand made by the Respondent was for INR 6.5 crores towards future funding. It is submitted that the second tranche never became payable, and the Respondent has not shown that the mandatory conditions for its release were satisfied. Item 2(i) of Annexure A requires a composite written confirmation. The Respondent has admitted in writing that one of the required conditions was not fulfilled. On 5 April 2026, the very email which the Respondent relies upon as its "confirmation" records that "many invoices are still pending submission". On 28 April 2026, the Respondent stated that "some bills and invoices are still pending". On 8 May 2026, the Respondent referred to "the most critical and long-overdue payments", which together amounted to INR 7.5 crores. On 17 May 2026, the Respondent stated that "these payments have been pending since March". Again, on 12 June 2026, the Respondent sought the second tranche "to settle outstanding vendor payments".

10. The Respondent has never given the required confirmation. It has never disclosed the balance in the Dedicated Production Bank Account as required by item 2(ii) of Annexure A. There is no proper answer to this position. The Respondent has only stated that "the payments could only be made after the Petitioner made the disbursal of funds". According to the Petitioner, this statement shows that the required condition for release of the second tranche had not been fulfilled. It is submitted that the demand made by the Respondent on 29 June 2026 under the Demand Email was for an amount which had not become payable under the Agreement.

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The termination was based upon non-payment of an amount which was not due. According to the Petitioner, such termination has no legal basis and cannot be treated as a valid termination of the Agreement.

11. The learned Advocate submits that the breaches committed by the Respondent are either admitted or have not been properly answered. According to the Respondent's own item-wise status report dated 16 May 2026, the controlling rights had not been activated, the Escrow Agreement had not been signed, the Escrow Account had not been opened, Zee had not been intimated and the audit was incomplete. According to the Petitioner, none of these matters has been completed even till date. The Reply filed by the Respondent does not establish that these obligations have been fulfilled. No signed Escrow Agreement of either date has been produced and there is no joint Escrow Account. The Petitioner submits that, contrary to what the Respondent seeks to suggest, the email dated 3 April 2026 does not identify any Escrow Account and does not direct any payment into such account. There is no confirmation from Zee accepting the arrangement. According to the Petitioner, Clause 5.4 requires such confirmation.

12. The Respondent has taken different positions regarding these obligations. At one stage, it stated that "as soon as we get the new account information we'll immediately activate the update process with zee". At another stage, it stated that "once escrow account credentials generated... we will do the needful on most priority". However, it has taken the position that it was "under no obligation" to intimate Zee at all.

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13. As regards accounts, the learned Advocate submits that no MIS, cost statement or audit report has ever been furnished by the Respondent. The Reply does not dispute this position. The Respondent has admitted that the cost of the Film is INR 19,90,27,639. This is contrary to the declaration made by the Respondent in Recital E(i), where it was stated that the cost "shall not exceed INR 18.5 Crores", and to the warranty contained in Clause 4.6.

14. It is submitted that the termination is invalid in law because no notice to cure the alleged breach was ever issued. Clause 12.1 permits termination only for a stated cause and only where the breach is not remedied "within a maximum period of Thirty (30) days from the receipt of a written notice". No such notice was ever given. The Respondent claims that it had sent nine earlier emails. However, none of those emails refers to Clause 12.1, identifies any particular breach which was required to be remedied, calls upon the Petitioner to cure the alleged breach or gives the Petitioner thirty days to cure it.

15. According to the learned Advocate, the notice giving an opportunity to cure the breach is a condition precedent before the power of termination under Clause 12.1 can be exercised. Such a requirement cannot be created afterwards by treating ordinary correspondence between the parties as a cure notice. In support of this submission, reliance is placed upon the judgment of the Division Bench of this Court in *Maharashtra State Road Development Corporation Ltd v Plus BKSP Toll Ltd.*, 2021 SCC OnLine Bom 607.

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16. The learned Advocate submits that the Respondent has treated the CPA as continuing and binding upon the parties. The Respondent admits that on 30 July 2026 it had written to the Petitioner "reminding the Petitioner of its obligations under the said Agreement". The Respondent resolved on 17 September 2026 to invoke "the Dispute Resolution Mechanism under the aforementioned Co-Production Agreement". According to the Petitioner, the Respondent cannot at the same time claim that the Agreement has been terminated and demand performance of obligations under the same Agreement. It is submitted that the CPA is not a determinable contract and Section 14(d) is not attracted. A contract is "in its nature determinable" only where it can be terminated at the will of a party without the need to establish any cause. In the present case, the CPA can be terminated only for cause, after written notice and after giving thirty days' time to cure the breach. It is submitted that the CPA is not determinable and Section 41(e) does not prevent the Court from granting the relief sought. In support of this submission, reliance is placed upon *K.S. Manjunath v Moorasavirappa*, 2025 SCC OnLine SC 2378 and *Narendra Hirawat and Co v Sholay Media Entertainment Pvt Ltd.*

17. The learned Advocate submits that, in fact, it is the Respondent which has committed breaches of its reciprocal obligations under the Agreement. The Respondent has attempted to terminate the Agreement on the ground that amounts were not paid, even though according to the terms of the Agreement such amounts had not become payable. The Respondent demanded

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sums without first performing its obligation under Annexure A, Clause 2(ii). According to the Petitioner, such a demand was contrary to the Agreement. Reliance is placed upon *Shanti Builders v Ciba Industrial*, 2012 (4) Mh LJ. It is submitted that, by email dated 12 May 2026, the Respondent had withdrawn all its grievances against the Petitioner. The Respondent, therefore, cannot now rely upon grievances which it had withdrawn.

18. The learned Advocate submits that the Petitioner and the Respondent are co-owners of the Film. The Respondent cannot exploit the Film. Clauses 2.1, 7.1 and 7.3 provide that the Intellectual Property Rights in the Film are jointly held by the parties in the ratio of 60:40, worldwide and in perpetuity. The Respondent is not the sole or exclusive owner of the Film or its copyright. It is a co-owner along with the Petitioner. According to the Petitioner, its interest in the Film vested upon execution of the Agreement. The said interest is not dependent upon payment of the second or third tranche. The Petitioner submits that this interest continues even after termination of the Agreement, subject to the terms relating to recoupment. Clause 12, dealing with the consequences of termination, provides that "the Co-Producer shall retain their proportionate IP rights... unless and until their Funding amount invested till the date of termination is recouped". Clause 6.1 provides that the Petitioner's funding is to be given priority in the recoupment waterfall. According to the learned Advocate, the Respondent has not given any answer to this provision relating to the Petitioner's vested rights.

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19. It is submitted that the settled position is that a joint owner of copyright cannot exploit the copyright without the consent of the other co-owner. Exploitation of jointly owned copyright has to be undertaken jointly and one co-owner cannot grant a licence or create an interest in favour of a third party without the concurrence of the other co-owner. Reliance is placed upon *Angath Arts Private Limited v Century Communications Ltd.*, 2008 SCC OnLine Bom 475.

20. The learned Advocate submits that the defences raised by the Respondent cannot be accepted for several reasons. The Respondent has not answered the fact that no cure notice was ever given. Even during oral arguments, the Respondent has accepted that the Petitioner has part-ownership in the Film. Therefore, the Respondent cannot exploit the Film without the Petitioner's consent. According to the Petitioner, this position is supported by the Copyright Act as well as Clauses 2.1, 4.3 and 12.1(a) of the Agreement. The Respondent is wrong in saying that the Agreement is determinable. According to the Petitioner, the Agreement can be terminated only for cause. Whether such cause exists can be examined by this Court. If the alleged cause is found not to exist, the termination cannot be sustained. The learned Advocate submits that the conduct of the Respondent shows lack of good faith. After accepting the benefit of the Agreement and receiving the monies paid by the Petitioner, the Respondent has attempted to change the terms of the contract and terminate the Agreement on grounds which, according to the Petitioner, are outside and contrary to the express terms of the Agreement. It is submitted

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that, in paragraphs 9 and 10 of the Reply, the Respondent has even attempted to distance from the Agreement by contending that the Agreement was signed under coercion. According to the Petitioner, this stand has been taken despite the Respondent being aware of the terms of the Agreement and despite having no proper answer to the Petitioner's case.

21. Mr. Chirag Mody, learned Advocate for the Respondent, submits that the Petitioner has failed to perform its main obligation under the Agreement. According to the Respondent, the 40% IPR and profit share in the Film was given to the Petitioner "in lieu" of the Petitioner providing the full amount of Rs. 15,00,00,000/-. The Petitioner had agreed that time would be of the essence in relation to its obligations. The Petitioner recognised this position and had paid Rs. 50,00,000/- even before the Agreement was executed. Therefore, according to the Respondent, the Petitioner cannot now contend that payment of the first tranche was subject to any condition. In any case, the reasons given by the Petitioner for withholding payment, namely that the Petitioner was not added as a joint account holder and was allegedly not copied on emails or communications with vendors, are not conditions contained in the Agreement. As regards the Escrow Account, the Respondent submits that it had completed its part and had sent the signed agreement on 12 April 2026. It was the Petitioner who did not take the matter further. Therefore, according to the Respondent, the reasons given by the Petitioner for not making payments were either not supported by the Agreement or arose because of the Petitioner's own failure to act.

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22. The Respondent submits that it had called upon the Petitioner to correct its alleged breach and comply with its obligation to release the funds under the Agreement. This is shown by the emails dated 5 April 2026, 8 April 2026, 16 April 2026, 20 April 2026, 1 May 2026, 7 May 2026, 17 May 2026, 12 June 2026 and 25 June 2026. According to the Respondent, despite these repeated requests, the Petitioner did not cure the breach. The Respondent terminated the Agreement. It is submitted that the Petitioner cannot now seek an order restraining the Respondent from acting upon the termination, particularly when the Petitioner has not shown that it is ready and willing to perform its own obligations under the Agreement.

23. The Respondent submits that the Petitioner's 40% share in the Film has not yet become final or absolute. According to the Respondent, the 40% share was given to the Petitioner in return for providing the full amount of Rs. 15,00,00,000/-. Therefore, the said share is neither unconditional nor independent of the Petitioner's funding obligation. After termination of the Agreement, Clause 12.2(a) provides that the Petitioner can retain only such proportion of the share as corresponds to the amount of funding received by the Respondent. Since the Petitioner paid only a part of the agreed funding, it cannot claim 40% of the Film as the basis for seeking an injunction. According to the Respondent, at the highest, the Petitioner's share would be 13.33%. The Agreement is a commercial contract and its main purpose was to ensure that the required funds were released for making the Film. The Agreement must be understood and given effect in the manner in which the

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parties intended the commercial arrangement to operate.

24. The learned Advocate submits that the Agreement is a determinable contract and, for this reason, no injunction can be granted in favour of the Petitioner. According to the Respondent, the Agreement provides for termination and Clause 12 gives the Respondent an express right to terminate it. A contract which is determinable in its nature cannot be enforced under Section 14(d) of the Specific Relief Act, 1963. Further, under Section 41(e) of the said Act, an injunction cannot be granted to prevent breach of a contract which cannot be enforced. Therefore, according to the Respondent, the Petitioner cannot obtain an injunction restraining the Respondent from acting upon the termination of the Agreement. In support of this submission, reliance is placed upon the judgments in *Indian Oil Corporation Ltd. v. Amritsar Gas Service*, (1991) 1 SCC 533, *C Gopal Reddy & Co. v. NHAI*, 2023 SCC OnLine Del 2393, *Inter Ads Exhibition Pvt. Ltd. v. Busworld International Cooperative*, 2020 SCC OnLine Del 351 and *M/s. Ksheerabd Construction Pvt. Ltd. v. NHAI*, OMP (I) (COMM) 128/2023.

25. The learned Advocate submits that the balance of convenience is in favour of the Respondent. According to the Respondent, the Agreement provides what is to happen to the Petitioner's interest after termination. The Petitioner would be entitled to retain a proportionate share in the Intellectual Property Rights of the Film corresponding to the amount of funding received by the Respondent. Therefore, it is submitted that the Petitioner would not suffer prejudice merely because the

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Agreement is terminated. On the other hand, the Respondent would face serious consequences if the Film is delayed. According to the Respondent, it would be in cross-default of its obligations towards Zee. The delay in release of the Film would expose the Respondent to interest at the rate of 12% per annum on the Rs. 7 crores received from Zee. It may result in termination of the arrangement with Zee and refund of the fixed fee received from it.

26. The learned Advocate submits that the delay in funding has caused serious difficulties to the Respondent. Various vendors and other persons involved in the Film have stopped or slowed down their work because their outstanding payments have not been made. According to the Respondent, because of the Petitioner's failure to release the funds, the Film is in difficulty and its completion is in jeopardy.

REASONS AND FINDINGS:

27. The first question which is required to be considered is what was agreed between the parties. The Co-Production Agreement does not appear to be only an Agreement under which the Applicant was required to pay Rs.15 Crores to the Respondent. Clause 2.1 records that the parties were “joining hands together and acting in co-operation with each other for producing the Film”, and the Co-Producer was to fund an amount upto Rs.15 Crores towards the Production Budget and P&A. In return for this, the Agreement gives 60:40 rights in the Intellectual Property Rights, with 60% to the Producer and 40% to the Co-Producer. It provides that no investor or financier can be brought in a manner

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which reduces or dilutes the economic interest of the Co-Producer without its prior written consent. Therefore, the submission of the Respondent that the Applicant was only a financier and that the 40% interest would come only after payment of the entire Rs.15 Crores cannot be accepted. The Agreement describes the Applicant as a “Co-Producer”. Clause 7.1 separately provides that 40% of the Intellectual Property Rights and 40% of the Net Profits in and to the Film shall be shared with the Co-Producer. Clause 7.3 provides that, except derivative rights, the Intellectual Property Rights in the Film shall be jointly owned by the parties in the ratio of 60:40, worldwide and in perpetuity.

28. It is true that the Respondent can point out that the Applicant had agreed to fund upto Rs.15 Crores and that time was made of essence. The Respondent is justified in relying upon Clause 3.1, which records the commitment of the Co-Producer to invest the Funding amount towards the Production Budget and P&A. Clause 5.1 provides that the Funding amount is to be paid according to the Cash Flow Requirement. But the Agreement has stated the manner in which this funding was to be released. Annexure A is titled “Cash Flow Schedule”. It does not say that the entire Rs.15 Crores was to be paid unconditionally on the date of the Agreement. The first Rs.5 Crores is connected with verification and satisfactory review of the audited financials. The second Rs.5 Crores is subject to the conditions mentioned therein, including written confirmation regarding completion of principal photography, completion of the stated third-party payments and the balance available in the Dedicated Production Bank Account.

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The third Rs.5 Crores is stated to be for P&A only and directly to the vendors involved in P&A. Therefore, the Respondent cannot rely upon Clause 2.1 alone and leave Annexure A out of consideration. Clause 5.1 says that the Funding is payable according to the Cash Flow Requirement. Therefore, Annexure A has to be read along with the main Agreement as part of the same arrangement. There may be some difficulty in understanding the exact wording of the conditions in Annexure A, particularly in relation to the second tranche. But the conditions which are written there cannot be ignored.

29. The record shows that the Respondent accepted that the first tranche of Rs.5 Crores was received. In the email dated 29th June 2026, the Respondent stated that the first tranche of Rs.5 Crores had been received, though it was paid in ten instalments between 3rd April 2026 and 3rd June 2026. In the same email, the Respondent thereafter demanded another Rs.6.5 Crores, consisting of Rs.5 Crores towards the second tranche and Rs.1.5 Crores towards the balance funding requirement. Therefore, whatever may have been the original grievance of the Respondent regarding the time of payment of the first tranche, the fact remains that the full Rs.5 Crores was received by the Respondent. The Respondent did not terminate the Agreement at that time on the ground that the first tranche was paid late. The parties continued to act under the Agreement. The Respondent thereafter demanded funding. In these circumstances, at this interim stage, the first tranche cannot now be treated as an admitted continuing default which gave a right to immediately terminate the Agreement.

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30. The Respondent submits that the Applicant did not comply with its main obligation and because of this the production of the Film was put into difficulty. This submission cannot be completely ignored. A party which seeks an equitable interim order must show that its own conduct does not come in the way of such relief. The Supreme Court in *Gujarat Bottling Co. Ltd.*, observed in paragraph 47: "His conduct should be fair and honest."

31. Therefore, the conduct of the Applicant has to be considered. It cannot be said that the Applicant performed every obligation exactly within the time stated in the Agreement. The first tranche was not paid in one payment within the period mentioned in Annexure A. This circumstance has to be kept in mind while considering the relief sought by the Applicant. But at the same time, it cannot be ignored that the Respondent accepted the complete first tranche. The Respondent did not terminate the Agreement at that time. The dispute regarding the second tranche is not a simple case where the Applicant refused to pay an amount which was due. The case of the Applicant is that the conditions for payment of the second tranche had not come into existence. This question has to be considered from the documents of the Respondent.

32. The email dated 5th April 2026 sent by the Respondent records that although principal photography had been completed on 31st March 2026, "many invoices are still pending submission and will be updated once received." Again, the email dated 28 April 2026 refers to the master sheet of expenses and states that "some bills and invoices are still pending" and that the same would

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be updated once received. These are not statements made by any outside person. These are communications of the Respondent regarding the expenditure of the Film. Therefore, prima facie, the Respondent's own documents show that even after completion of principal photography, some bills and invoices were still pending.

33. This becomes more important because the Respondent's email dated 29 June 2026 states that another Rs.5 Crores was required towards the second tranche and Rs.1.5 Crores towards the balance funding requirement. The stated purpose was to clear the outstanding payments and to continue the production and post-production work. This creates some difficulty in the case of the Respondent. If the condition for the second tranche required completion of all the specified third-party payments, and the Respondent's own correspondence showed that such payments were still pending, then, without material, it cannot be said that the Applicant was clearly and unquestionably in breach merely because it did not release the second tranche. At least prima facie, this is a disputed issue which requires consideration of Annexure A and evidence regarding the actual position of the production account and the payments which were made.

34. The email dated 12 May 2026 is relevant. The Advocate for the Respondent stated that for the present the matters raised in the earlier email were not being pursued and that the focus was on completion of the Film. The same email records that the joint account was operational, that only the additional maker-checker/enterer-approver facility was pending and that once the escrow account was formally opened and made

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operational, the escrow details would be shared and updated with the parties. The same email sought release of Rs.2.5 Crores instead of Rs.1.5 Crores towards the first tranche so that vendor commitments and critical deliverables could continue according to the schedule.

35. This document is relevant for one more reason. The Respondent relies upon the allegation that the Applicant did not cooperate in relation to the bank account and escrow arrangement. However, the email dated 12 May 2026 records that the joint account was operational. This does not mean that the whole case of the Applicant has to be accepted. But it does show that the allegation of the Respondent that the Applicant completely failed to cooperate cannot be accepted without looking at the other surrounding material. Clause 4.1 requires the Producer to provide production related monthly MIS. Clause 4.2 requires maintenance of cost statements and audited accounts and gives the Co-Producer a right to verify the audited reports and bank accounts in the circumstances mentioned there. Clause 4.3 provides that the exploitation rights shall jointly vest in the parties and that no sale, licence, assignment or other exploitation shall be done without prior mutual written approval. Clause 4.4 prevents either party from creating any lien, charge, mortgage, pledge or otherwise hypothecating rights in the Film, its negatives or underlying works without the prior written consent of the other party. These clauses show that the parties did not intend that after receiving the Applicant's money, the Producer would have complete and unilateral control over the Film. There are rights as well as

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controls on both sides. The Dedicated Production Bank Account was to have joint viewing and controlling rights of the Producer and the Co-Producer. The money in that account was to be used only for production and P&A of the Film according to the approved budget.

36. There is a particular arrangement regarding the transaction with Zee Entertainment. Clause 5.4 requires, as a condition precedent for release of the first tranche under Annexure A, that the Producer intimate Zee Entertainment Enterprises Limited about the arrangement and that the next payment under the Zee Agreement be made into the Escrow Account, with confirmation of acceptance by Zee. Clause 6.2 provides for a joint and separate Escrow Account for revenues from the Film, including the Fixed Assignment Fee from Zee. The Zee Agreement is recorded as providing a Fixed Assignment Fee of Rs.14 Crores and the Agreement requires that this amount be paid directly into the Escrow Account to be jointly operated by the parties. The Respondent submits that it had complied with its obligations regarding escrow and had sent the signed documents to the Applicant. It is submitted that whatever delay remained was because of the Applicant. This issue may require evidence before the Arbitral Tribunal. But from the material available, there is no sufficient material to hold that the Respondent had complied with the escrow arrangement in the manner contemplated by Clauses 5.4 and 6.2. In fact, the later communications show that the escrow arrangement was still being discussed and was still in the process of being made operational.

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37. The Respondent's own email dated 29th June 2026 is important in this regard. It states that although there was no obligation to do so, the Respondent was willing to issue an intimation to Zee regarding the change of the designated bank account. This statement is difficult to reconcile with Clause 5.4, which deals with intimation to Zee and provides for confirmation by Zee as part of the agreed arrangement. At this stage, the Court is not deciding whether every requirement of Clause 5.4 was waived, changed or modified by the subsequent conduct of the parties. But the correspondence is sufficient to show that there was at least a live dispute regarding the escrow obligations. Therefore, the Respondent cannot put the entire responsibility for the funding dispute upon the Applicant without considering the reciprocal obligations of the Respondent.

38. The Applicant has relied upon Clause 4.6. Under this clause, the Producer represented and warranted the declarations contained in Recital E and agreed that if the declaration was found to be false or if the Producer failed to complete the Film according to the agreed schedule in circumstances attributable to the Producer, the Co-Producer would have the remedies stated there, including a thirty-day remedy period. Clause 4.9 requires completion of the Film within the agreed production schedule and budget. Clause 4.10 makes a material deviation from the agreed schedule without the prior written consent of the Co-Producer a material breach. Therefore, the Agreement cannot be read as if there was only one important promise, namely payment by the Applicant. The Producer had substantial obligations relating to the

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Film, production schedule, budget, accounts, MIS, exploitation and protection of the economic interest of the Applicant. The Agreement is reciprocal in nature.

39. I now come to the most important issue, namely, the termination dated 29 June 2026. Clause 12.1 does not appear to give the Producer a general right to terminate the Agreement according to its own wish. It gives the Producer a right to terminate on happening of specified defaults. If the Co-Producer fails to perform its services or breaches its representations, warranties and obligations and does not remedy such failure or breach, the clause provides a maximum period of thirty days from receipt of written notice from the Producer for remedy. Clause 12.2 gives a similar termination mechanism to the Co-Producer in specified cases, after prior written notice of thirty days for remedy. Thus, the Agreement requires two things. First, there must be a default. Secondly, an opportunity of thirty days has to be given to remedy that default. This second requirement cannot be treated as only an empty formality.

40. The Respondent submits that several emails were exchanged from April onwards and that the Applicant was asked to release amounts. According to the Respondent, these communications were sufficient notice and the Applicant failed to cure the default. I have considered this submission. Even if, for the present, it is assumed that those emails were written communications relating to a default, the termination email dated 29 June 2026 did not give the Applicant thirty days to remedy the alleged breach. It demanded payment of Rs.6.5 Crores within thirty-six hours and

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stated that the Agreement would stand terminated with immediate effect if the amount was not received within that period. This is a substantial difference from the period of thirty days. It is not merely a small technical difference. The Respondent demanded compliance within thirty-six hours, whereas the Agreement contemplated thirty days after written notice for remedy of the alleged default.

41. In *Maharashtra State Road Development Corporation Limited*, the Court was considering a termination clause which required ninety days' notice. The Court held in paragraph 72:

> "I am in agreement with Mr. Chagla that termination of a contract has serious consequences. Therefore, termination under clause 32.4.1 requires strict compliance. Failure to give notice of 90 days would clearly render the termination under clause 32.4.1 of the Concession Agreement illegal and invalid."

42. The same principle, at least prima facie, applies here. The period which the parties agreed cannot be reduced from thirty days to thirty-six hours because the Respondent considered the alleged default to be serious.

43. The Respondent relies upon *Indian Oil Corporation Ltd.* and submits that a contract which is revokable or determinable cannot be restored by the Court. Paragraph 12 of that judgment records:

> "Sub-section (1) of Section 14 of the Specific Relief Act specifies the contracts which cannot be enforced, one of which is 'a contract which is in its nature determinable'."

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44. The Respondent relies upon paragraph 14 of the same judgment and submits that where an Agreement can be terminated according to a notice provision, restoration cannot be granted.

45. There is no dispute about the principle stated in *Indian Oil Corporation*. But the question is whether the present Agreement is of that type. In *Indian Oil Corporation*, the distributorship agreement could be terminated by either party under Clause 28 by giving thirty days' notice. Therefore, the right to terminate was substantially different from the present clause, where termination depends upon a specified default and failure to remedy the same within the agreed cure period.

46. The Respondent next relies upon *Inter Ads Exhibition Pvt. Ltd.*. In paragraph 28, the Delhi High Court observed:

> "The contract between the parties is clearly determinable in nature. Article 7.3 of JVA-I enables either one of the parties to terminate the agreement, if the other party is in default or is in breach of any material obligation under the JVA and has failed to correct the default within 30 days of the receipt of the notice."

47. The Respondent relies upon paragraph 29, where the Court observed that once a determinable contract has been terminated, it cannot be revived or restored by the Court.

48. Again, this principle has to be applied only after considering whether the present Agreement is in its nature determinable. Merely because an Agreement contains a termination clause does not answer this question. This position has subsequently been considered by the Supreme Court in *K.S. Manjunath*. The Supreme

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Court considered different types of termination clauses and held that contracts which are terminable for cause, with notice and an opportunity to cure, are not determinable in their nature. The Supreme Court held that a contract does not become determinable merely because one party can terminate it when the other party commits a breach.

49. The present Agreement appears to fall within this distinction. Clause 12.1 does not permit the Producer to terminate merely because it wants to bring the Agreement to an end. It requires a default by the Co-Producer and thereafter gives a maximum period of thirty days for remedy. Clause 12.2 similarly gives the Co-Producer a right to terminate only on specified events and after thirty days' prior written notice for remedy. Therefore, this is not a case where either party could say that it does not want to continue and thereby end the Agreement. There is a contingency. There is a cure period. There is a procedure which has to be followed. Therefore, the Respondent cannot succeed only by showing that the Agreement contains a termination clause. It has to first show that the particular default relied upon was existing, that such default was covered by Clause 12.1 and that the opportunity to cure was properly given.

50. On the material available, I am unable to hold that these requirements were fulfilled. The termination communication dated 29th June 2026 demanded Rs.6.5 Crores within thirty-six hours and stated that the Agreement would stand terminated immediately. This is not according to the thirty-day cure period provided in Clause 12.1. The earlier correspondence, even if

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considered together, does not show that the Applicant was given the thirty-day opportunity to cure the particular breach on which the immediate termination was based.

51. The Respondent has argued that the Applicant was asked to provide funds to the project and cannot now rely upon the thirty-day clause. This submission cannot be accepted at this stage. A cure period cannot be shortened merely because earlier requests or reminders were sent. If the parties agreed that termination for breach would take place only after notice and opportunity to remedy within thirty days, the agreed termination procedure has to be followed.

52. The Respondent has argued that the Applicant has not shown readiness and willingness because it has not paid the second and third tranches. This is relevant while considering equitable relief. But the issue is not only that some money was not paid. The question is whether, under Annexure A, the second tranche had become payable. As seen, the Respondent's own documents refer to pending invoices and outstanding payments. Therefore, the Applicant has at least shown a bona fide dispute as to whether the second tranche had become due at that stage.

53. There is one more aspect of the matter. The Agreement provides that the entire Funding amount of Rs.15 Crores is to be used strictly and exclusively towards production and P&A of the Film. Clause 4.5 regulates utilisation of the investment. Clause 4.2 requires cost statements and audited accounts. The Dedicated Production Bank Account was to be jointly viewed and controlled.

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These provisions show that the Applicant had agreed to provide money along with financial transparency and control regarding its utilisation.

54. The Respondent submits that production of the Film is in danger because payments to artists, technicians, vendors, and service providers have not been made. The email dated 29 June 2026 says that the additional amount was required to clear outstanding payments and to ensure that production and post-production continued without interruption. This circumstance operates from both sides. It shows that the Film is a continuing commercial asset and that interruption or unilateral dealing with its rights may cause prejudice to both parties. At the same time, it shows why the Court should protect the Film and its revenues during the period required for commencement of the arbitral process. If either party is allowed to deal with the Film in a manner which changes the position irreversibly, the final arbitration may become less effective.

55. The Applicant has relied upon Clauses 4.3 and 4.4. Clause 4.3 provides that exploitation rights jointly vest with the parties and that no sale, licence, assignment or other exploitation shall be undertaken without prior mutual written approval. Clause 4.4 prevents either party from creating a lien, charge, mortgage, pledge or otherwise hypothecating rights in the Film, negatives or underlying works without prior written consent of the other party. These clauses are important for the present purpose because the immediate concern is not only loss of money. The Film is the subject matter of the Agreement. If third-party rights are created in

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the Film, or if exploitation rights are assigned or the Film is licensed to another person during the dispute, the arbitration may become more difficult and the Applicant's claimed 40% interest may not be capable of being restored in a simple manner.

56. The Respondent submits that Clause 12.2(a), or the consequences of termination, protects a proportionate interest of the Applicant according to the amount of funding received. The Respondent says that there is no prejudice to the Applicant because it would receive proportionate rights according to the amount paid. I am unable to accept that this provision removes the requirement of interim protection. First, the Applicant disputes that there has been a valid termination. Secondly, Clause 12 provides for consequences of a valid termination. It cannot be assumed at this stage that the termination was valid and then the consequence clause can be used to deny protection against the same disputed termination. Thirdly, Clause 7.1 and Clause 7.3 give a 40% interest to the Co-Producer in the Intellectual Property Rights of the Film, whereas Clause 12 deals with the consequences after termination. The exact effect of these provisions on the final entitlement of the Applicant is a matter which can be decided in arbitration.

57. The Respondent relies upon the principle that a determinable commercial contract should not be enforced. It relies upon paragraphs 39 to 41 of *Inter Ads*. Paragraph 39 records that:

> "Courts under Section 9 of the Act cannot interfere to grant injunction against the operation of termination or enforce the agreement."

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58. Paragraph 40 thereafter refers to Section 14(d) and Section 41(e) of the Specific Relief Act.

59. There is no dispute that if the contract is in fact determinable in law, the Court cannot use Section 9 to indirectly do something which the Specific Relief Act prohibits directly. But this principle cannot be applied without first examining the nature of the contract and the validity of the purported termination. The decision of the Supreme Court in *K.S. Manjunath* makes this distinction relevant. A contract which can be terminated only on a specified breach and after an agreed opportunity to cure does not, merely for that reason, become a contract which is "in its nature determinable". I do not find the judgment in *Inter Ads* sufficient to reach a different conclusion on the present facts. Even the reasoning in paragraph 28 of *Inter Ads* proceeded on the basis that the termination clause there permitted termination upon default after thirty days. In the present case, the Respondent did not give thirty days after the alleged default before terminating the Agreement. Therefore, the action of the Respondent cannot be treated as termination strictly made according to its own clause.

60. The judgment in *Indian Oil Corporation* does not assist the Respondent on the present facts. In that case, the contract could be terminated under the Agreement by giving the stipulated notice. Here, the right of the Respondent is connected with a specified breach and a cure period. Therefore, the question here is not merely whether there is a termination clause. The question is whether the conditions which were required before termination were fulfilled.

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61. The Respondent has referred to *Bharat Catering Corporation* and other judgments where the Courts declined to restore terminated commercial contracts. Those decisions proceed on the basis of contracts which were treated as terminated according to their framework. They do not mean that every communication described as termination has to be accepted without examining whether the party terminating the Agreement followed the procedure which the parties had agreed.

62. The Respondent relies upon the commercial difficulty which may arise if the Film is not completed. The Court is conscious of this aspect. But this concern cannot give one party a larger right than what was agreed. The proper course is to preserve the Film, its rights and revenues and, at the same time, prevent either party from taking unilateral steps which may defeat the rights of the other during the pendency of arbitration. The conduct of both parties has been considered. The Applicant cannot say that it was completely compliant because the first tranche was not paid in the manner and time stated in Annexure A. The Respondent accepted the complete first tranche, continued with the Agreement and thereafter demanded amounts. Its own correspondence refers to pending invoices and outstanding payments. At the same time, termination was attempted within thirty-six hours instead of the thirty-day cure period contemplated under Clause 12.1. On the material available, the Applicant has shown a prima facie case that the purported termination dated 29th June 2026 was not made according to the termination procedure agreed between the parties.

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63. The Applicant has shown a prima facie basis for its claim that it has an interest in the Intellectual Property Rights of the Film. Clause 7.1 records 40% Intellectual Property Rights and 40% Net Profits in favour of the Co-Producer. Clause 7.3 provides for joint ownership in the ratio of 60:40, worldwide and in perpetuity, excluding derivative rights. This does not mean that the Court is declaring that the Applicant is entitled to all the reliefs claimed. The exact effect of the payment defaults, the conditions in Annexure A, the validity of the termination, the consequences under Clause 12 and the final share to which either party may be entitled are matters which can be decided in arbitration. But the existence of these disputes cannot be a reason to permit the Respondent, during the pendency of the dispute, to unilaterally create third-party rights in the Film or in its jointly held rights.

64. The balance of convenience is required to be considered. If protection is refused and the Respondent creates third-party rights, assignments, licences, charges or other interests in the Film, such transactions may make effective relief in arbitration difficult or may substantially change the position. On the other hand, restraining the Respondent from unilaterally creating such rights does not prevent the Respondent from producing, completing or taking necessary steps for preservation of the Film, subject to the rights of the Applicant and the interim directions of the Court.

65. The same reasoning applies to the revenues of the Film. The Agreement provides for an Escrow Account and for the Fixed Assignment Fee of Rs.14 Crores under the Zee Agreement to be paid into that account. The parties had agreed upon a recoupment

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waterfall under which the Co-Producer's funding of Rs.15 Crores appears at the first stage. Therefore, preservation of the Film revenues according to the arrangement does not mean that the Court is making a new commercial agreement between the parties. It is only intended to keep the subject matter of the dispute available until the rights of the parties are decided.

66. The Applicant has sought audited statements, vouchers, and bank statements relating to utilisation of its Rs.5 Crores. There is sufficient basis for such protection because Clause 4.2 provides for cost statements, audited accounts and verification rights and Clause 5.2 provides for joint viewing and controlling rights over the Dedicated Production Bank Account. The production correspondence shows that expenditure sheets were being maintained and updated from time to time. The email dated 28 April 2026 refers to a master sheet containing paid and unpaid items and states that some invoices were still pending. Therefore, as an interim measure, it is reasonable to require proper disclosure regarding utilisation of the Applicant's funding so that the position is not changed before the arbitration.

67. I have considered the principle relied upon by the Respondent that the Court should not grant indirectly what it cannot grant directly. That principle continues to apply. Therefore, merely under Section 9, the Court should not rewrite the Agreement, decide the rights of the parties under Clause 12 or permanently compel the Respondent to perform every future obligation under the Co-Production Agreement. Therefore, the prayer seeking a unrestricted direction for complete specific

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performance of the Agreement cannot be granted in the form in which it is sought. Such a direction may result in deciding disputed rights before the Arbitral Tribunal considers the evidence. At this stage, the relief under Section 9 has to remain limited to protection and preservation of the subject matter and to prevent the rights claimed by either party from becoming ineffective. However, protection against the purported termination stands on a different footing. The termination is the immediate step which has changed the position between the parties. On the material available, there appears to be a prima facie failure to follow the thirty-day cure mechanism under Clause 12.1. The Applicant has made out a prima facie case for protection against the Respondent acting upon the purported immediate termination dated 29th June 2026, pending adjudication of the dispute in arbitration.

68. The Respondent has argued that the Applicant's only remedy is damages. I am unable to accept this submission. The Film is not merely a claim for money. It consists of Intellectual Property Rights, exploitation rights, distribution rights and continuing arrangements. The Agreement provides for joint ownership and restrictions on unilateral exploitation. If third-party rights are created during the pendency of arbitration, later compensation may not restore the commercial position which existed when the dispute arose.

69. I find that the Applicant approached the Court with reasonable expedition after the termination dispute arose. Therefore, the Respondent's contention regarding delay does not, at present, outweigh the need to protect the Film and the rights

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claimed by the Applicant.

70. In my considered view, therefore, the proper interim protection is to maintain the position relating to the Film, restrain unilateral creation of third-party rights in the jointly held Film rights, preserve the Film's revenues and require transparency regarding utilisation of the amounts received from the Applicant. However, a blanket direction amounting to complete specific performance of every provision of the Co-Production Agreement would go beyond what is required for preservation and cannot be granted at this stage. The reliefs have to be moulded in such a manner that neither party gets an irreversible advantage merely because the arbitration is yet to commence. The Film should remain capable of being completed and exploited, but such exploitation should not be used for defeating the Intellectual Property Rights claimed by the Applicant. At the same time, the Respondent should not be prevented from taking ordinary production and post-production steps which are necessary for preservation and completion of the Film, subject to the joint rights of the parties and the protections directed herein.

71. On the material placed before the Court, the Applicant has established the necessary prima facie case. The balance of convenience is in favour of preserving the existing and proprietary position. There is a real possibility of irreparable prejudice if third-party rights or exploitation arrangements are permitted to be created unilaterally during the pendency of the arbitration. The interim protection must, therefore, follow to that limited extent.

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72. In view of the foregoing discussion, and upon overall assessment of the material record, the following order is passed:

i) The Petition under Section 9 of the Arbitration and Conciliation Act, 1996 is partly allowed in terms of the following directions;

ii) The Respondent is restrained, pending the commencement of the arbitral proceedings and subject to orders of the Arbitral Tribunal, from creating any third-party rights in respect of the Petitioner's rights and interest under the Co-Production Agreement dated 3rd April 2026 in relation to the feature film “SNAP”;

iii) The Respondent shall not sell, assign, transfer, license, encumber or otherwise create any third-party interest in the Petitioner's claimed 40% interest in the intellectual property rights of the Film, except in accordance with the Co-Production Agreement and with the Petitioner's concurrence;

iv) The Respondent shall, within a period of four weeks from the date of this order, furnish to the Petitioner complete details and supporting documents relating to the utilisation of the amounts received from the Petitioner, including the relevant bank statements, invoices, vouchers and other material records;

v) The Respondent shall furnish the Petitioner the accounts and financial records relating to the production of the Film which are required to be furnished under the Co-Production Agreement;

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vi) The reliefs seeking an order directing the Respondent to perform the Co-Production Agreement dated 3rd April 2026 and to restrain the Respondent from acting upon or giving effect to the termination communicated by email dated 29th June 2026 are not granted at this stage, having regard to the nature of the termination provisions and the limitations applicable to interim relief under Section 9 of the Act;

vii) The questions on merits shall remain open for determination by the learned Arbitral Tribunal;

viii) The Respondent shall not by relying upon the termination dated 29th June 2026, deal with or create third-party rights in respect of the Petitioner's existing rights in the Film contrary to the terms of the Co-Production Agreement, until the disputes are adjudicated by the learned Arbitral Tribunal;

ix) The Petitioner shall take steps for commencement of the arbitral proceedings within 30 days;

x) All observations made in this order are prima facie and only for deciding the present Petition under Section 9 of the Arbitration and Conciliation Act, 1996. The learned Arbitral Tribunal shall decide the disputes on the basis of the pleadings and evidence before it, without being influenced by the observations made herein;

xi) The Petition is disposed of in the above terms.

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xii) There shall be no order as to costs.

(AMIT BORKAR, J.)

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