

(2017) 12 BOM CK 0085
In the Bombay High Court
Case No : 11 of 2017

La Calypso Hotel (P) Ltd.

APPELLANT

Vs

Atlantis Entertainments

RESPONDENT

Date of Decision : 08-12-2017

Acts Referred:

[Arbitration and Conciliation Act, 1996](#), [Section 9](#) of the Act, [Section 17](#) - Interim measures, etc., by Court - Interim measures ordered by arbitral Tribunal

Citation : (2017) 12 BOM CK 0085

Hon'ble Judges : N.M. Jamdar

Bench : SINGLE BENCH

Advocate : A. D. Bhobe, Parag Rao, Agnetha C. Lobo

Judgement

1. This Appeal is admitted by Order dated 8 September 2017.
2. When the Miscellaneous Application No. 820 of 2017 in this Appeal had come up on the board for orders, by the consent of the learned Counsel for the parties the Appeal itself is taken up for consideration.
3. The Appeal challenges the order passed by the learned Principal District and Sessions Judge, North Goa in the application filed under Section 9 of the Arbitration and Conciliation Act, 1996. It appears that certain disputes have arisen between the parties regarding management of a hotel. The Respondent, vide application under section 9 of the Arbitration & Conciliation Act, prayed for a relief to restrain the Appellant from acting in breach of the terms of the said agreement, from interfering with the management, operation and running of the business and causing nuisance and from issuing threats, etc. The Appellant contested the application.
4. By Order dated 14 July 2017, the learned District Judge directed the Appellant to take all necessary measures, action, steps to complete formalities regarding renewal and to sign particular documents. This order was by way of an interim

order pending application under Section 9 of the Act.

5. When the Civil Application had come up on board earlier, the learned Counsel for the Respondent submitted that what is directed by the learned District Judge is only an ad-interim measure and the main application under section 9 can be disposed of on its own merits and the order dated 14 July 2017 can be set aside. Learned Counsel for the Appellant contended that the application filed under Section 9 of the Act itself is not maintainable in view of Section 17 of the Act. If the impugned order is perused, the learned District Judge has not definitely opined on this issue.

6. Since the impugned order is being set aside on the statement of the learned Counsel for the Respondent, the arguments advanced by the Appellant in this Appeal as well as the reply of the Respondent can be left open to be considered by the learned District Judge or the Arbitrator, as the case may be. In view of this position, even the subject matter of the Miscellaneous Civil Application no. 820 of 2017 also can be considered by the learned District Judge.

7. In these circumstances, the Appeal Under Arbitration no. 11 of 2017 is disposed of by quashing and setting aside the Judgment and Order dated 14 July 2017 passed by the learned District Judge, in the circumstances mentioned above.

8. All contentions of the parties are kept open to be considered in the application under section 9 including the ones referred above. It is informed that the learned District Judge has listed the application under section 9 for consideration on 11 December 2017. The learned District Judge will no doubt decide the matter expeditiously.