

INTERIM AWARD

IN ARBITRATION

IN DISPUTE

BETWEEN

SHRI RAM CHANDRA MISSION - THE COMPLAINANT

AND

MR.NAVNEET SAXENA - THE RESPONDENT

IN THE MATTER OF DISPUTED

DOMAIN NAME _____ - www.srcmshahiahanpur.org.in

BEFORE MR.S.CJNAMDAR, B.COM. F.cS.

SOLE ARBITRATOR

DELIVERED ON THIS 14th DAY OF JUNE TWO THOUSAND SEVEN.

I] SUMMARISED INFORMATION ABOUT THE DISPUTE: -

01. Name and address

of the Complainant:-

Slua Ramchandca Mission
Ashinad' -
68 11. Intkapraslha,, Stanley Road
U.LAIIAH \D 21100;
L'TTAR PRADKSH

02. Name of the Authorised

Representatives of e'omplaiuant:.

Mr,,Uma Shaakar Bajpai
MrAnun:jii Singh
.Amarjil & .Associates
Suite 4.4. I« Atcado
18. Pusa Road
NEW DELHI. 110005.
iiSIUiiHi'tilmvunl com
.,,r n,,t,m ,m,,i ,,;.....*,,,*..

03. Name and address or

The Respondent: -

Mr.Navneet Saxcna
R-23. Sector - II
NOIDA.201301. .
navnretfaibahuiirnemortal.org

04. Name of the Authorised

Representatives of Respondent:.

Advocate Samccr Jagtap
Jithanzrayarl mdg.
BmYMleb Jayabu'
Tlwkurdwar. Mumhai - 4(j) 00.1
advofatex:nn.-.-r-^re.lilTmail com

05. Name and address of the

Registrant: -

As above

06. Date on which dispute was

Referred to me for

.Arbitration

26.04.2007.

(Documents received on 18.05.2007)

07. Date on which notice of

.Vj-bitration was sent: -

19.05.2007.

BACKGROUND OF THE DISPUTE: -

- 1) Sri Km Chandra Mission (The Complainant) is a society registered under Societies Registration Act. vide registration No.46.1945-46 dated 21.07.1945.
- 2) It is a spiritual organisation engaged in the service of humanity by imparting training in meditation.
- 3) Since the Complainant is holder of trademarks, and also the words Sri Rain Chandra Mission in its name, it has disputed registration of domain www.srilakshminarayana.org.in (The disputed domain name) in the name of the Mr.Navneet Saxena. (The Respondent).
- 4) Upon Complainant's filing complaint under the Domain Disputes Resolution Policy. National Internet Exchange of India (NIXI) has referred the dispute for arbitration to me.

II] PROCEDURE FOLLOWED IN ARBITRATION PROCEEDINGS: -

01. National Internet Exchange of India, a regulatory authority, in respect of domain names allotment, dispute resolution etc.. (NIXI). vide its communication dated 26th April 2007 appointed me as Sole Arbitrator in the dispute.
02. After my sending statement of acceptance and furnishing Statement of Impartiality and Independence. I received a copy of complaint on 18.05.2007.
03. On 1st May 2007 I issued Notice of Arbitration to the Respondent under copies to the Complainant and NIXI. by registered post and email asking the Respondent to submit his say on the Complaint.
04. The Respondent, instead of submitting his say on the Complaint, filed Application under Section 151 of Code of Civil Procedure (CPC) (The Application) challenging, inter-alia, the jurisdiction of this arbitration tribunal, by reserving his rights, to file Written Statement (WS) at a later stage.
05. I asked the Complainant to submit his say, if any, on the Application of the Respondent, in a period of 8 days. To expedite the matter I also sent reminder on 11th May 2007.

06. Upon request of the Complainant to extend the period till 30th June 2007. in view of some difficulties at their end. I extended the period till 1st June 2007 on the basis of principles of natural justice.

07. Accordingly the Complainant filed his say on the Application of the Respondent on 1st June 2007. The Complainant also requested for personal hearing.

08. Since the Respondent raised important and basic objections in his application, it became necessary to deal with them first; before proceeding to *in* dispute resolution.

III] SUMMARY OF THE COMPLAINT: -

(A) The Complainant has raised the following objections:- in his Complaint . -

- a) The domain, name in question is identical or confusingly similar to the Complainant's, name and trademarks..
- b) The Respondent has no rights or legitimate interests., in respect of disputed domain, name.
- c) The domain name has been registered in bad faith.
- d) The words in the disputed domain, name 'srem' is acronym of the name of the Complainant.
- e) The Complainant has several registered trademarks in India as also abroad in its name.
- f) The Complainant- also owns and controls several domain names worldwide which contain, the words 'shriramchandiamission' and '-.reni'.
- g) Due to registered trade marks and several domain, names registered in the name of the Complainant it has become world famous organization in the field of meditation and teaching of Sahaj Marg. Pranahuti on the lines of Shri Ram Chandra alias Babuji, the founder President of the society.

- h) The Respondent has adopted and registered domain, name, which is deceptively similar to the name of the Complainant, thereby wrongfully, illegally and dishonestly creating confusion among the disciples of Shti Ram Chandra alias Babuji.
- i) The Complainant has produced details of various legal cases and suits filed by the Respondent against the Complainant, before various courts and authorities, which have been decided, by and large, in favour, of the Complainant. .
- j) In Support of its claims the Complainant has produced before me various documents along with the Complaint..

IV] SUMMARY OF APPLICATION VIS 151 OF CPC: -

In response to the Complaint the Respondent has, instead of filing his own written statement, preferred to file Application under section 151 of Code of Civil Procedure. The main contents, inter-alia, of the said Application are as follows: -

- a. The Complainant has been misrepresenting, misleading the authorities, courts, Tribunal and has been depicting himself as the Society Shri Ram Chandra Mission with its headquarters at Babuji Memorial Ashram, Mauapakkam, Chennai. The Complainant therefore has no locus *standi* to file the present proceedings before the Board of Internet Exchange of India.
- b. Present Complaint is beyond the jurisdiction of the Board of National Internet Exchange of India or NIKL
- c. The proceedings before the arbitration tribunal are in violation of Section 11 of the Arbitration and Conciliation Act, 1996 since the Respondent has never consented to these arbitration proceedings. Similarly there exists no agreement between the parties for appointment of arbitrator in case of any dispute.
- d. The Society Shri Ram Chandra Mission has been registered by the founder president Mahatma Shri Ram Chandra Ji Maharaj alias Babuji Maharaj, of Shahjapur vide registration No.71/19 and No.46 of 1945-46 dated 21.7.1945. The Complainant is running a parallel society at Cherulai as its headquarters and has also changed its constitution and bye laws.

- e. According to the constitution,, late Fowlder President Shta Ram Chandra MaJiaiaj nominated his son Mr. Umesh Chandra Saxena as the Successor President in accordance with Rule 3 & 4 of the constirution of the society vide letter dated NS.04.1982. After the aniendniiiiit in societies Registration Act. Shri Umesh Chandra Saxena and subsequently Mr. Navneet Kwnar Saxena have been duly elected as President;; of the society,
- f Mr-P-Rajagopalachari has been representing as President of the Society; (allegedly parallel society) on the basis of fake, bogus and fabricated documem datsd 23.03.1974.
- g. Tlie Respondent has ferrard to several suits, legal proceedings and legal matters before various courts, authorities and tribunals with the main contention that Mr_P. Rajagopalachari, is misrepresenting, himscir to be the President of the society contrary to the nomination by Shci Ram Chandraji Maharaj.
- h. 'Hie Respondent has also submitted that he shall reply to all the proceedings in the detailed written statement and reserved the right to file the same.
- I. Tlie Responded has mov<td the present application to slay arbiuation proceedings in view of the disputes between the Complaimlllt and Respondent. relelTed in the application.
- J. Tlie Respondent has produced several documents., in support of his contentious.

VJADDITIONAL EVIDENCE /CLAIMS BY COMPLAINANT VIDE ITS
SAV ON THE APPLICATION OK THE RESPONDENT:

In reply to the Respondent's Application u/s 151 ofCPC the Complainant, vide his submission daldt li' June 2007 has raised following additional points: -

ft. Since there arc no provisions of law, policy or the rules, whereby the arbitration proceedings can be stayed by tlie Tribunal, the application Tiled by tlie Respondent deserves to be dismissed.

- h. The Respondent has raised frivolous pleas as are contrary to the orders which have been passed by the Courts of Competent Jurisdiction. The Respondent is not entitled to re-agitate the issues as have already been determined by the Courts, of Competent Jurisdiction in the present proceedings.
- c. The Complainant has referred to several averments of the Complaint, in support of and as a matter of re-iteration of its say about various such legal proceedings etc. and also judgements, and orders passed in favour, of the Complainant .
- d. In support of its contentions the Complainant, has filed afresh Annexures 7, to / 2 which are orders passed by the Registrar of Societies. Registrar of Firms and Hon. High Court of Allahabad.
- e. In view of above the Complainant has requested to dismiss the application of the Respondent. .

VI] ISSUES & FINDINGS: -

Upon perusal of the Complain. Application of the Respondent US 1?1 of epC and fresh say of the Complainant, to the said application following issues emerge for my immediate consideration: -

SK.. NO.	i s s u e	F I M H M ;
01	Whether conducting of these arbitral proceedings would be ultra vires?	NO
02	Whether consent of the Respondent express agreement between the parties was necessary to refer this dispute to this arbitration tribunal-?	NO
03	Whether this arbitral proceeding should be stayed, in view of various pending litigations between the parties to these arbitral proceedings, before various authorities?	NO

VII REASONS FOR FINDINGS AND INTERIM AWARD: -

a) JURISDICTION OF NIXI AND THIS ARBITRATION TRIBUNAL: -

The Respondent has challenged authority of this Arbitration Tribunal to conduct these arbitration proceedings. Being primary objection it is necessary to first deal with this issue.

I have gone through the contents of the Application as 151 of CPC filed by the Respondent. I have also gone through the say of the Complainant on the said application.

The subject matter of the present dispute before arbitration tribunal is registration of disputed, domain, name in the name of the Respondent and its validity. The dispute pertains to .in domain name and hence squarely falls under .in Domain Dispute Resolution Policy (INDRP) of NIXI. The Respondent has also challenged validity of INDRP and powers of NIXI / Board of National Internet Exchange of India to enforce INDRP.

It is a known fact that the Government, of India decided to revamp the administration of the .IN registry in late 2004. Accordingly IN Registry; assumed responsibility, of the registry from the previous authorities - viz National Centre for Software Technology (NCST) and Centre for Development of Advanced Computing (C-DAC). This change was announced via an evecnlive order thrmiph a Pnzette notification issued by the Department of Information 'IVrlllWlm——'ITi Government of India according to the 77V mmmi: This announcement also mentioned the role of the National, Informatics Centre (NIC) as the registrar, for gov.in domains, FRNET as the registrar for res.in and acjn domains, and the Ministry of Defence as the registrar for mil.in domains.

The .IN Registry has been created by NIXI, the National Internet Exchange of India. NIXI is a Not-for-Profit Company under Section 25 of the Indian Companies Act, 1956. with the objective of facilitating improved Internet services in the country. IN Registry does not carry out registrations itself. Instead, it accredits registrars through an open process of selection on the basis of transparent eligibility criteria.

Under NIXI, the .IN Registry functions as an autonomous body with primary responsibility, for maintaining the .IN ccTLD and ensuring its operational stability, reliability, and security. It implements various elements of the new policy set out by Department of Information Technology, Ministry of Communications and Information Technology, Government of India.

It is thus abundantly clear that MXI has requisite legal authority to prescribe and administer rules and procedures for granting or regulating M domain names. Arbitration Tribunal established by NIXI thus derives necessary legal authority to undertake arbitration proceedings to decide .in disputes in accordance with INDRP.

b) JUDICIAL CONFIRMATION OF POWERS OF NIXI: -

The legal position as enumerated in point (a) above has also been confirmed in Citicorp Vis Todi Investors in 1A Nn.4842 2006 vs CS (OS) No.462 2005 decided on 12.10.2006 by Hon. High Court at Delhi. Hon. High Court was pleased, to reject the application restraining the arbitration proceedings in the instant case.

Hon. High Court observed as under:-

The established law is that under Section 9 of the CPC jurisdiction of civil courts, can only be ousted by an express or implied bar. Admittedly there is no express bar pleaded in the instant case. The Scheme of the Policy iXDRPI and the rules framed there under in any case show that there is no explicit ouster of jurisdiction of civil courts. *Apn.h.;f.f.ll i v i ^ W*

c) CONSENT OF RESPONDENT / AGREEMENT BETWEEN PARTIES TO ARBITRATION PROCEEDINGS AND APPOINTMENT OF ARBITRATOR: -

Another objection raised by the Respondent is that it never consented to submission of the dispute to Arbitration nor they have consented to appointment of a particular, arbitrator.

When any applicant / Registrant registers any .in domain name, he expressly accepts to submit the said registration to arbitration by panel arbitrators of NIXI.. Clause No.4 of INDRP specifically provides as under: -

'The Registrar is required to submit, mandatory Arbitration proceedings in the .in domain name to the Arbitration Tribunal. To the effect of clause 4 of the Policy and Rules hereunder.' Therefore *» contention of the Respondent that he never agreed to submission of dispute to arbitration is not acceptable.

di In view of above findings I am of the view that there is no necessity to stay arbitration proceedings in the said dispute.

VIII] INTERIM AWARD: -

I therefore make following interim award: -

- a. Application *ills* 151 of CPC submitted by the Respondent stands dismissed. Complaint is allowed.
- b. Arbitration proceedings in accordance with INDRP shall continue for dispute resolution. Upon giving sufficient opportunities to both the parties, final award shall be made.
- c. At present there is no need for any personal hearing as requested by the Comptroller,
- d. The Respondent is ordered to submit his written statement (WS), if any, in response to the Complaint latest by 26th June 2007.

Place: • PLUe.

Dated: - 14th June 2007.

—SD—

(S.CJNAJVIDAR)

ARBITRATOR

SECOND INTERIM AWARD

IN ARBITRATION

IN DISPUTE

BETWEEN

SHRI RAM CHANDRA MISSION - THE COMPLAINANT

AND

MR.NAVNEET SAXENA - THE RESPONDENT

IN THE MATTER OF DISPUTED

DOMAIN NAME_____ - www.srcmshahjahanpm-.org.in

BEFORE MR.S.CJNAMDAR, ReOM. LL.B., F.C.S.

SOLE AKBITRA TOR

DELIVERED ON THIS fith DAY OF JULY TWO THOUSAND SEVEN.

I] SUMMARISED INFORMATION ABOUT THE DISPUTE: -

01. Name and address

of the Complainant:

Sim Ramchandra Mission

'Ashin'ttd'.

68111. Indcaprastha. Stanley Road

ALLAHABAD. 211002

UTI AR PRADESH

02. Name of the Authorised

Representatives of complainant:

Mi.Uma Shankar Bajpai

MrAmarjit Singh

Arnaajil & Associates

Suite 4.4. Law Arcade

18. Pusa Road

NEW DELHI . 110005 .

gll Jpr— !.l!UtajWS. 'Nc jiheKayj 11

03. Name and address of

The Respondent: . -

Mr.Navneet Saxena

R-23, Sector - 11

NOIDA 201301.,

navneel@babu^

04. Name of the Authorised

Representatives of Respondent:

Advocate Sanker Jagtap

Jethanarayan Bldg..

Babasaheb Jayakar Marg.

Thakurdwar. Mumbai - 400 004

i.ki Y99J1 t-jjggf l • r io J -j.m l.lilfcQJj.l

05. Name and address of the

Registrant: . -

As above

BACKGROUND: -

- 1) Son Ram Chandra Mission (The Complainant), is a society registered under Societies Registration Act, vide registration NoA6/1945-46 dated 21.07.1945.
- 2) It is a spiritual organization engaged in the service of humanity through imparting training in meditation.
- 3) Since the Complainant is holder of trademarks^ and also the words Sim Ram Chandra Mission in its name, he has disputed registration of domain name -w. •.IL.an.4i!:J;Ij;!ump.JJ.r..Org,iJJ(The disputed domain name) in the name of Mr. Navneet Saxena. (The Respondent).
- 4) Upon Complainant's filing complaint under /V Domain Disputes Resolution Policy, National Internet Exchange of India (NIXI) referred the dispute for arbitration to me.
- 5) After issuing Notice of Arbitration to the Respondent, under copies to the Complainant and NIXI, the Respondent preferred to file application under section 151 of CPC. instead of filing his written statement Accordingly the Complainant, was asked to file his say on the said application.
- 6) After receiving say of the Complainant and upon due consideration of the Application in the light of facts and legal position, first interim award was passed whereby the first application was dismissed and the Respondent was again, asked to file his written statement
- 7) Instead of filing written statement, the Respondent chose to file another application under section 151 of CPC purportedly addressed to NIXI and copy to me as Annexure to a separate application filed with me. praying to stay further proceedings till the issues of the Jurisdiction of the . NIXI and appointment or Arbitral Tribunal etc. are finally decided . The Complainant was asked to file his say on the said application.
- 8) As directed, the say of the Complainant was received on 4th July 2007

IT] SUMMARY OF THE SECOND APPLICATION OF THE RESPONDENT: -

In response to the Interim, Award, the Respondent has, instead of filing his written statement, preferred to file second Application under section 151 of Code of Civil Procedure. The main contention of the application is that the Respondent was moving application through their Attornies / Counsels / Advocates and that

further *ym&W* of this arbitration be stayed till final issues in respect of the Jurisdiction of NIXI, Arbitral Tribunal, the appointment of the Arbitrator and other issues stated in the application moved before NIXI, are finally decided.

III] SUMMARY OF ISSUES / POINTS OF THE SIX POINT APPLICATION OF THE RESPONDENT UNDER SECTION 11 OF THE ARBITRATION AND CONCILIATION ACT, 1996

a) MAINTAINABILITY OF THE COMPLAINT: -

Mr. Navneet Kumar Saxena is the elected as well as nominated president of the society Sri Run Chandra Mission, Situhjahanpur. Mr. Jitendra Shukla Ujjaini is not a recognized nor authorized to file the present complaint. If according to the Complaint, the domain name is allegedly obtained fraudulently in the United States and not in India, there is no jurisdiction to this arbitration. The Complainant has fraudulently obtained trade marks based on which he has claimed the domain name. The complaint has been filed through Mr. Amarjit Singh who is one of the panel arbitrators of NIXI. The clause 4 of Uniform Domain Dispute Policy is highly discriminatory. INDRP adopted by NIXI has no statutory force and hence not enforceable. The provisions of Arbitration and Conciliation Act, 1996 become applicable to the present dispute as the rules / procedures framed under INDRP cannot be enforced.

b) APPOINTMENT OF ARBITRATOR: -

Since INDRP rules and procedures there-under have no legal force, appointment of Mr. S.C. Chandel as sole arbitrator is not enforceable against the Respondent. NIXI has no jurisdiction to appoint arbitrator under INDRP. Present Arbitrator has no territorial jurisdiction to decide about the dispute. Clause 5 of INDRP provides that the provisions of the Arbitration and Conciliation Act, 1996 shall apply.

c) IMPARTIALITY AND INDEPENDENCE OF THE ARBITRATOR; -

Mr. Amarjit Singh - Counsel Representative for the Complainant is in the panel of the arbitrators appointed by NIXI and hence there is every likelihood and reasonable apprehension that the Arbitrator would not be able to act independently and impartially. The Arbitrator has without even referring to the Civil Appeal No. 6672/M of 2013 pending before Hon. Supreme Court has passed interim award. By passing interim award by allowing the complaint, the Arbitrator has virtually granted entire relief at the Interim stage without waiting for written statement. The Arbitrator has misunderstood the facts and the law laid down in CITI Corp and Amalgamated Bank v. Todi Investors and Amalgamated Bank.

On the basis of these points / issues the Respondent has prayed that entire proceedings as well as the Complaint may be quashed, dropped and set aside and proceedings before sole Arbitrator Mr.S.C.Tnamdar be stayed in the interest of justice.

IV] 'SUMMARISED SAY OF THE COMPLAINANT ON THE SECOND APPLICATION FILED BY THE RESPONDENT: -

(A) PRELIMINARY OBJECTIONS: -

Since the Arbitrator has passed an order / interim award by dismissing Respondent's identical application dated 16th May 2007, this second application which is more a repetition is an abuse of the process of law and hence it is not maintainable, the Respondent has failed / neglected to show any sufficient cause for obtaining / having registration of the disputed domain name in his name and hence averments in the second application are scandalous, vexatious and frivolous, even after being given repeated opportunities by the Arbitrator, the Respondent has failed to file written statement. Every Arbitrator on the panel of NIXI is an experienced person of repute having unquestionable professional record of independence and impartiality. Similarly there is no bar under the INDRP Rules & Procedures for the panelist to act as a counsel. Hence submissions made by the Respondent doubting impartiality and independence of the Arbitrator are scandalous.

(B) REPLY ON MERIT;

NIXI has appointed the sole Arbitrator in accordance with the Rules of Procedures. The Respondent, in terms of conditions of Domain Registrant Agreement, has consented and submitted to the jurisdiction of the Arbitrator and arbitration proceedings while obtaining registration of disputed domain name. On the basis of principles of natural justice the Arbitrator extended from time to time, the time granted to the Respondent to file the Written Statement. Despite which the Respondent has not filed Written Statement. Even at the time of dismissal of first application submitted by the Respondent u/s 151 of CPC, the Arbitrator had granted time till 26th June 2007 to file written statement. Instead of filing written statement the Respondent has filed yet another application u/s 151 of CPC on 24th June 2007 and hence the Respondent has no *locus standi* to make the allegation of denial of an opportunity. The claims of the Respondent are contrary to the legal position especially in view of the judgements / order-passed by various courts and mentioned under Annexures M to O. P to R, Z, J, K and L especially

Annexures P, Q and R whereby the Respondent has been restrained from representing himself to be the President of the Mission. This amounts to willful disobedience to the orders passed by the concerned courts. The claims are also contrary to the judgements filed under Annexures Z, Z1 and Z2. The disputed domain name has been registered by the Respondent in bad faith and is deceptively similar to the Complainant's trade marks. Appointment of Arbitrator is well within the jurisdiction of NIXI and cannot be challenged. The complaint has been filed by *M/s* Amarjit & Associates as the legal counsel and not by *Mr.* Amrajit Singh who is a panel arbitrator. The said firm has the right to file the complaint with NIXI and to represent the Complainant. Moreover *Mr.* Amarjit Singh has not been appointed as Arbitrator in the present dispute. The judgment passed by Hon. High Court, at Delhi in *Citi Corpn. v. Todi Investors*, does not support the version of the Respondent in any manner.

In the circumstances the Complainant has prayed that the Second application filed by the Respondent for the same relief be dismissed with cost. Further appropriate orders in the complaint, be passed as the Respondent has failed to file the written statement even after repeated opportunities being provided to him.

V] FINDINGS: -

Upon perusal of the second application filed by the Respondent under Section 51 of CPC and the say of the Complainant thereon I have made following findings: -

- a) The contents and prayers of the second application of the Respondent are more of repetitive nature.
- b) The objections raised by the Respondent in respect of jurisdiction of NDST, legality of present arbitral proceedings, enforceability of INDRP Rules & Procedures framed by NIXI were extensively dealt with in the first Interim Award and do not merit my comments again.
- c) The Respondent has failed / neglected to file his written statement even after granting extensions in time on several occasions, including one granted at the time of dismissal of the first application.
- d) It is amusing that the Respondent has chosen to apply to NIXI itself, with the intention to challenge its authority, legality of appointment of sole arbitrator and to refer this dispute to arbitration.

- e) The Respondent has alleged that the Complainant has obtained trade marks fraudulently. However he has not produced any document or other evidence in support of the same.
- f) While registering the disputed domain, name the Respondent has submitted to arbitration under INDRP and the same can not be challenged subsequently.
- g) NIXI is regulator, authority duly constituted by Government of India and possesses requisite authority to regulate registration and dispute resolution in respect of .in domain, namely wherever the Applicant /Registrant may be. As such the question of territorial jurisdiction of NIXI or this arbitration tribunal is irrelevant.
- h) The Civil Appeal No.6619'2000 pending before Hon. Supreme Court is basically civil in nature where the Complainant and Respondents have been contesting issues other than .in domain, namely. Present dispute pertains to .in domain name registration in the name of the Respondent. Therefore present arbitral proceedings are legal and do not offend other civil matters whichever court they may be in.
- i) In my first interim award this Arbitral Tribunal has just dismissed the first application under 151 of CPC filed by the Respondent. This Arbitration Tribunal has not granted any relief to either of the parties. It is, therefore totally incorrect on the part of the Respondent to say that this Arbitration Tribunal has granted entire relief at interim stage only.
- j) The Respondent has made suggestions and raised doubts about impartiality and independence of this Sole Arbitrator, without any grounds /justification / evidence having been filed in support of the same. In fact the Arbitration Tribunal has granted several opportunities, to the Respondent to submit written statement and come forward to defend his case. It is on the part of the Respondent that he has not availed any of these opportunities. In view of the averments are scandalous and I view this very seriously.
- k) There is no bar under the INDRP. Rules & Procedures prohibiting the panel arbitrator to represent in any .in dispute before another arbitrator.

- 1) For the reasons best known to the Respondent instead of filing written statement, the Respondent has chosen to file another application under the provisions of Section 151 of CPC, thus time with MXI. The Rules and Procedures are very clear and after handing over the disputed a panel Arbitrator. NIXI has no authority to either take it back or to assume quasi-judicial position. Obviously NIXI can not decide on the second application filed by the Respondent

- m) According to INDRP. Rules & Procedures, the Arbitrator has only two authorities - either to order for transfer of disputed domain, name or to cancel it There is no authority vested in it to suspend the proceedings.

- it) The Respondent has been trying to deliberately divert file focus of these arbitral proceedings to those issues, which are irrelevant or beyond the scope of NIXI's this Arbitration Tribunal or these arbitral proceedings.

- o) The Respondent appears to be interested in delaying the matter by repeatedly making applications containing identical/similar objections. It is to be remembered by both the parties that NIXI has set 60 day's period to pass award in its domain disputes.

VTj SECOND INTERIM AWARD: -

On the basis of above findings I make following second interim award: -

- a. Second Application n/v 151 of CPC filed by the Respondent stands dismissed.
- b. Arbitration proceedings in accordance with INURE. Rules and Procedures framed up by NIXI shall continue for resolution of dispute pertaining to the disputed domain name.
- c. The Respondent is ordered to submit his written statement (WS), if any, in response to the Complaint latest by 20.00 hrs on 14th July 2007. In case he fails to do so or chooses to file any other type of application, no further extension of time shall be granted and the dispute shall be decided forthwith

Place: - ?me.

Dated : - 6th July 2007

_.SD—
(S.C.JNAMDAB.)
ARBITRATOR

भारतीय गैर न्यायिक

पचास
रुपये

₹.50



FIFTY
RUPEES

Rs.50

INDIA NON-JUDICIAL

14611 MAHARASHTRA

Y 965064

Sr. No. 2308
Price Rs. 90x2=900
Issued to
Address 5121 2nd Street
Through 208/A 2nd Street
Rajni
Mrs. S. H. Limaye
Pune-2.
Licence No. HVL/1193



13 JUL 2007

इय ज्योषागार अधिका
कोषागार, पुणे कसि

FINAL AWARD

IN ARBITRATION

IN DISPUTE

BETWEEN

SHRI RAM CHANDRA MISSION - THE COMPLAINANT

AND

MR.NAVNEET SAXENA - THE RESPONDENT

IN THE MATTER OF DISPUTED

DOMAIN NAME - www.srcmshahjahanpur.org.in.

भारतीय गैर न्यायिक



MAHARASHTRA

Y 965058

Sr. No. 8308 19 JUL 2007
 Price Rs. 50 x 2 = 900
 Issued to श्री राम चंद्र मिशन
 Address 68/11 आ. इन्द्रप्रस्था
208/11 आ. इन्द्रप्रस्था
 Through अजय सिंह
 Mrs. R. H. Limaye
 Pune-2.
 Licence No. MVL-4/193



19 JUL 2007

अजय सिंह

II SUMMARIZED INFORMATION ABOUT THE DISPUTE: -

01. Name and address

of the Complainant:-

Shri Ramchandra Mission

'Ashirvad',

68/11, Indraprastha, Stanley Road

ALLAHABAD, 211002

UTTAR PRADESH

02. Name of the Authorised

Representatives of complainant: -

Mr.Uma Shankar Bajpai

Mr.Amarjit Singh

Amarjit & Associates

Suite 4.4, Law Arcade

03. Name and address of

The Respondent: -

Mr.Navneet Saxena

R-23. Sector - 11

NOIDA.. 201301..

navneet a hahniim^mnrinl orp

04. Name of the Authorised

Representatives of Respondent:

Advocate Sameer Jagtap

Jethanarayan Bldg..

Babasalieb Jayakar Marg.

Tliakurdwar.. Mumbai -400 004

nrt\ocatcsameerrv reriiffmnil com

05. Name and address of the

Registrant

MrJNavneet Saxena

R-23. Sector - 11

NOIDA.. 201301..

n.j\nm t» hahniim^mnnl onj

BACKGROUND: -

- 1) Shri Ram Chandra Mission (The **Complainant**) is a society registered under Societies Registration Act, vide registration No,46/1_945-46 dated 21.07.1945.
- 2) It is a spiritual organization engaged in die service of humanity' through imparting training in meditation.
- 3) Since the Complainant is holder of trademarks and also the words **Shri Ram Chandra Mission and SRCM** as part of its trademarks" he has disputed registration of domain name **wwwsrrihahianpnr nro.ill** (The **disputed domain** name) in the name of Mr.. Navneet Saxena. (The **Respondent**)
- 4) Upon Complainant's filing the complaint under *JN* Domain Disputes Resolution Policy, National Internet Exchange of India (NIXI) referred the dispute for arbitration to me.
- 5) After issuing Notice of Arbitration to the Respondent, the Respondent preferred to file application under section 151 of CPC. under copies to the Complainant and NIXI. instead of filing his written statement...-
- 6) The Complainant was asked to file his say on the said application, which was duly filed by him within prescribed time. The Complainant adduced fresh documentary evidence in support of his say.
- 7) After receiving say of the Complainant and upon due consideration of the Respondent's Application in the light of facts and legal position, first interim award was passed on 14th June 2007, whereby the first application of the Respondent was dismissed and the Respondent was again asked to file his written statement.
- 8) hinstead of filmg written statement, the Respondent chose to file another application dated 24th June 2007. under section 151 of Cpe, purportedly-addressed to NIXI and copy to me as Annexure to a separate application filed with me, praying to stay further proceedings till the issues of the Jurisdiction of the NIXI and appointment of Arbitral Tribunal etc. raised in his application, are finally decided. The Respondent also adduced additional documentary

- 10) The Respondent again vide his application dated 2nd June 2007 prayed for stay on arbitral proceedings.
- 11) As directed, the Complainant filed his say on the second application of the Respondent on 4th July 2007.
- 12) On 6th July 2007 I passed Second Interim Award whereby the second application of the Respondent was dismissed and the Respondent was ordered to file his written statement in any case latest by 14th July 2007.
- 13) The Respondent filed application dated 13th July 2007 stating that he was moving Hon. Allahabad High Court challenging the order dated 26.04.2007 of NTXI appointing the sole arbitrator by making NIXI and this arbitration tribunal as parties and prayed that the arbitration be stayed for a week

II] SUMMARY OF THE COMPLAINT: -

- (A) The Complainant raised, *inter-alia*, following important objections in his Complaint: -
- a) The domain name in question is identical or confusingly similar to the Complainant's name and trademarks.
 - b) The Respondent has no rights or legitimate interests in respect of disputed domain name.
 - c) The domain name has been registered in bad faith.
 - d) The words in the disputed domain name '*STem*' is acronym of the name of the Complainant..
 - e) The Complainant has several registered trademarks in India as also abroad in its name.
 - t) The Complainant also owns and controls several domain names worldwide which contain the words 'shmmmchandramission' and 'srem'.

- h) The Respondent has adopted and registered domain name, which is deceptively similar to the name of the Complainant, thereby wrongfully, illegally and dishonestly creating confusion among the disciples of Shri Ram Chandra alias Babuji Maharaj.
- i) Various legal cases and suits filed by the Respondent against the Complainant, before various courts and authorities have been decided by and large in favour of the Complainant..
- .1) In support, of its claims the Complainant produced before me various documents along with the Complaint..

III] SUMMARY OF APPLICATION U/S 151 OF CPC: -

In response to the Complaint the Respondent, instead of filing his say or written statement, preferred to file Application under section 151 of Code of Civil Procedure. The main contents, inter-alia. of the said Application were as follows:

- a. The Complainant has been misrepresenting / misleading the authorities, courts. Tribunal and has been depicting himself as the Society Shri Ram Chandra Mission with its headquarters at Babuji Memorial Ashiam. Manapakkam. Chennai. The Complainant therefore has no *locus standi* to file the present proceedings before the Board of Internet Exchange of India.
- b. Present Complaint is beyond the jurisdiction of the Board of National Internet Exchange of India or NLXL
- c. The proceedings before this arbitration tribunal are in violation of Section 11 of the Arbitration and Conciliation Act. 1996 since the Respondent has never consented to these arbitration proceedings. Similarly there exists no agreement between the parties for appointment of arbitrator in case of any dispute.
- d. The Society Shri Ram Chandra Mission has been registered by the founder

- e. According to the constitution, late Founder President Shri Ram Chandra Maharaj nominated his son Mr. Umesh Chandra Saxena as the Successor President in accordance with Rule 3 & 4 of the constitution of the society vide letter dated 16.04.1982. After the amendment in Societies Registration Act, Shri Umesh Chandra Saxena and subsequently Mr., Nayneet Kumar Saxena have been duly elected as Presidents of the society.
- f. Mr.P.Rajagopalachari has been representing as President of the Complainant Society (allegedly parallel society) on the basis of fake, bogus and fabricated document dated 23.03.1974.
- g. The Respondent has referred to suits, legal proceedings and legal matters before various courts, authorities and tribunals with the main contention that Mr,P. Rajagopalachari is misrepresenting himself to be the President of the society contrary to the nomination by Shri Ram Chandraji Maharaj.
- h. The Respondent has also submitted that he shall reply to all the proceedings in the detailed written statement and reserved the right to file the same.
- % The Respondent has moved the present application to stay arbitration proceedings in view of the disputes between the Complainant and Respondent, referred in the application.
- j. The Respondent produced documents in support of his contentions.

IV] ADDITIONAL EVIDENCE / CLAIMS BY COMPLAINANT VIDE ITS
SAY ON THE APPLICATION OF THE RESPONDENT: -

In reply to the Respondent's Application u/s 151 of CPC, the Complainant, vide his submission dated 12th June 2007 raised following additional points: -

- a. Since there are no provisions of law, policy or the rules, whereby the arbitration proceedings can be stayed by the Tribunal, the application tiled by the Respondent deserves to be dismissed.
- b. The Respondent has raised frivolous pleas which are contrary to the orders

- c. The Complainant referred to several annexures of the Complaint in support of and as a matter of re-iteration of its say about various suits, legal proceedings etc. and also judgements and orders passed in favour of the Complainant..
- d. In support of its contentions the Complainant filed afresh Annexures Z to Z 2 which are orders passed by the Registrar, of Societies, Registrar of Firms and Hon. High Court of Allahabad.
- e. In view of above the Complainant requested to dismiss the application of the Respondent.

VJ] SUMMARY OF THE ISSUES / POINTS OF THE SECOND APPLICATION
OF THE RESPONDENT *UIS 151* OF CPC: -

a) **MAINTAINABILITY OF THE COMPLAINT: -**

Mr,Navncct Kumar Saxena is the elected as well as nominated president of the society Shri Ram Chandra Mission, Shahjahanpur.. Mr. Uma Shaakar Bajpai has not been recognized nor authorized to file the present complaint.. If according to the Complaint, the domain name is allegedly obtained fraudulently in the United States and not in India, there is no jurisdiction to this arbitration. The Complainant has fraudulently obtained trade marks based on which he has claimed the domain name. The complaint has been filed through MrAmarjit Singh who is one of the panel arbitrators of NIXI.. The clause 4 of Uniform Domain Dispute policy is highly discriminatory. INDRP adopted by NIXI has no statutory force and hence not enforceable. The provisions of Arbitration and Conciliation Act. 1996 become applicable to the present dispute and rules / procedures framed under INDRP can not be enforced.

b) **APPOINTMENT OF ARBITRATOR: -**

Since .INDRP; rules and procedures thereunder have no legal force, appointment of Mr.S.C.Inamdar as sole arbitrator is not enforceable against the Respondent. NIXI has no jurisdiction to appoint arbitrator under .INDRP. Present Arbitrator has no territorial jurisdiction to decide about the dispute. Clausl- 5 of INDRP provides that the provisions of the Arbitration and Conciliation Act, 1996 shall apply.

reasonable apprehension that the Arbitrator would not be able to act independently and impartially. The Arbitrator has without even referring to the Civil Appeal *No.6619/2000* pending before Hon. Supreme Court has passed interim award. By passing interim award by allowing the complaint, the Arbitrator has virtually granted entire relief at the Interim stage without waiting for written statement.. The Arbitrator has misunderstood the facts and the law laid down in *Cin Corp. and Am Wis Todi Investors and Am.*

On the basis of these points / issues the Respondent prayed that entire proceedings as well as the Complaint may be quashed, dropped and set aside and proceedings before sole Arbitrator MnS.C.Inamdar be stayed in the interest of justice.

VI] SUMMARISED SAY OF THE COMPLAINANT ON THE SECOND APPLICATION FILED BY THE RESPONDENT: -

(A) PRELIMINARY OBJECTIONS: -

Since the Arbitrator has passed an order / interim award by dismissing Respondent's identical application dated 16* May 2007, this second application which is more a repetition in nature, is abuse of the process of law and hence it is not maintainable. The Respondent has failed / neglected to show any sufficient cause for obtaining / having registration of the disputed domain name in his name and hence averments in the second application are scandalous, vexatious and frivolous. Even after being given repeated opportunities by the Arbitrator, the Respondent has failed to file written statement.. Every Arbitrator on the panel of NIXI is an experienced person of repute having unquestionable professional record of independence and impartiality. Similarly there is no bar under the INDRP Rules & Procedures for the panelist to act as a counsel.. Hence submissions made by the Respondent doubting impartiality and independence of the Arbitrator are scandalous.

(B) REPLY ON MERIT: -

NIXI has appointed the sole Arbitrator in accordance with the INDRP Rules of Procedures. The Respondent, in terms and conditions of Domain Registrant Agreement, has consented and submitted to the jurisdiction of the Arbitrator, and arbitration proceedings while obtaining registration of disputed domain name. On the basis of principles of natural justice the Arbitrator extended.

written statement the Respondent has filed yet another application *uls* 151 of CPC on 24* June 2007 and hence the Respondent has no *locus standi* to make the allegation of denial of an opportunity. The claims of the Respondent are contrary to the legal position especially in view of the judgements / orders passed by various courts and mentioned under Annexures M to O, P to R, Z, J, 11 KandKI, especially Annexures P, Q and R whereby the Respondent has been restrained from representing himself to be the President of the Mission. This tantamounts to willful disobedience to the orders passed by the concerned courts. The claims are also contrary to the judgements filed under Annexures Z, ZT and Z2. The disputed domain name has been registered by the Respondent in bad faith and is deceptively similar to the Complainant's trade marks. Appointment of Arbitrator is well within the jurisdiction of NIXI and can not be challenged. The complaint is filed by *Mis* Amarjit & Associates as the legal counsel and not by Mr. Amarjit Singh who is a panel arbitrator.. The said firm has full right to file the complaint with NIXI and to represent the Complainant.. Moreover Mr. Amarjit Singh has not been appointed as Arbitrator in the present dispute. The judgment passed by Hon. High Court at Delhi in Citi Corpn. Vis Todi Investors, does not support the version of the Respondent in any manner..

Under the circumstances the Complainant prayed that the Second application filed by the Respondent for the same relief be dismissed with cost.. Further appropriate orders in the complaint be passed as the Respondent has failed to file the written statement even after repeated opportunities being provided to him.

VII] FINDINGS: -

a. The Complainant Shri Ram Chandra Mission, Shahjahanpur is a society registered under the Uttar Pradesh Societies Registration Act, 1860 with its registered office at Shahjahanpur, Uttar Pradesh, India. According to the Complainant the society was registered by one Shri Ram Chandrajji alias Babuji Maharaj as founder President in 1945 under the registration No.46/1945-1946 dated 21.07.1945.

b. The Respondent as mentioned in the Complaint is Mr.Navneet Saxena, R-23, Sector II, NOIDA 201301. who is also registrant of domain name Ww ^mshnVijnt^npNT nm in' The said domain name is registered with

system of Sahaj Marg based on ancient system of Rajyoga. It is further stated that as per the renewal issued by Asstt. Registrar. Bareilly vide order dated 10.10.2005 MrJ.Rajagopalachan, is the President and **MrTJ.S.Bajpai** is the secretary.

- d. The Respondent has stated that the society was registered by one Shri Ram Chandraji Maharaj as founder President in 1945 vide registration No.7119 and No.46 of 1945-1946 dated 21.07.1945.
- e. Both the Complainant and Respondents have admitted that according to the constitution and bye-laws of the said registered society (THE SOCIETY), the President had to nominate his Successor President and there was no provision of election for the same. The parties are also in agreement that the founder President was Shri Ram Chandra alias Babuji Maharaj and left for heavenly abode by making nomination of his successor president. There has been dispute between two factions of disciples of Shri Ram Chandraji Maharaj about who legally succeeded the Founder President based on his nomination
- f. According to the Complainant the founder President made nomination of MrJ.Rajgopalachari who assumed the charge as President since 19.04.1983. Similarly working committee meetings held on 10.07.1983, 23.10.1983 and 27.12.1983 considered the claims of Mrilajagopalachari, Sharad Saxena and others and resolved that the nomination dated 23.03.1974 made by the founder president in favour of MrJRajgopalachari was genuine and recognized him as the President..
- g. According to the Respondent the Founder President had nominated his son Shri Umesh Chandra Saxena as his successor President vide nomination letter dated 16.04.1982. The said nomination letter was never challenged in any courts in India. Mr.Umesh Chandra Saxena had registered his will to act in accordance with the Rules 3(b) and 4(h) of the Society. After the amendment in Societies Registration Act, Mr.Umesh Chandra Saxena and Mr.Navneet Kumar Saxena have been duly elected in accordance with the amended provisions of Section 3A(4) and Section 4 of the said Act.
- h. According to the Complainant MrAXC.Saxena put up his claim as

r According to the Respondent MrpRajagopalachari has put up his claims vide alleged nomination letter dated 23.03..1974 which is fake, bogus and fabricated document..

J. The present complaint pertains to the dispute of registration of disputed domain name www.srfmshahiahannr.orP.in in the name of the Respondent. • I is beyond the scope of these arbitral proceedings to decide upon the issue of valid and legal succession to the post of the President as contested in various suits, cases etc. However while deciding as to who has valid title and interest in the disputed domain name, reference has to be made to these litigations and judgements given / decisions made therein.

Therefore information about these suits, cases etc. and judgements given / decisions made is summarized in tabular form below: -

SR. NO.	CASE / SUIT NO.	BEFORE (AUTHORITY)	SUBJECT MATTER	DECIDED ON	IN FAVOUR OF
01	FAF0439/1984	Hon. High Court at Allahabad	Ad-interim injunction and final decree passed in Suit No.200/1.983	25.02.1985	Complainant
02	SLP777311985	Hon. Supreme Court	Appeal against order in FAFO 439/1 984	27.09.1985	Complainant with the condition not to alienate the property or to shift the headquarters
03	CIVIL MISC.. APPLICATION W.U. O.S. 200/1983	Hon. High Court Allahabad	Permission to withdraw the O.S.	10.07.1997	Permission to withdraw the suit granted
04	APPEAL AGAINST TESTAMENTARY SUIT NO. 1/1994	- D o -	Dismissal of Testamentary suit	16.10.1995	Complainant
05	SPECIAL APPEAL (Nos. 82911995, 56111996. 58011997. 59411997)	- D o -	Appeal against order dated 16.10.1995 and other matters	<u>24.11.a998</u>	Complainant
06	SUIT N0.69711995	Small Cause Court. Allahabad	Declaration of MLU.C.Sa.vena as	31.05.1999	Complainant

			to act as President		
07	CIVIL APPEAL NO.219/99	Addl. Disl. Judge. Allahabad	Appeal against order dated 31.05.1999 In suit No.697/1995	11.01.2001	Complainant
08	SECOND APPEAL NO. 884/2001	Hon. High Court. Allahabad	Second appeal against judgement and decree dated 11.0 1.200 1 in Appeal No.219/1999	26.11.2-001	Complainant
09	** O.S. 360/2000	Civil Judge (Sr. Divin.) Allahabad	Rejection of plaint	27.11.2000	Complainant
10	CIVIL MISC. WRIT PETITION NO. 53330/2000	Hon. High Court Allahabad	Appeal against order in O.S.360/2000	19.11.2002	Complainant
11	SLP 6585/200.1	Hon. Supreme Court	Appeal againsl order in Civil Misc. Writ Petition No.53330/2000	25,07.2003	Complainant
12	APPLICA TION NO.2456C	Small Cause Court Allahabad	Order dated 27.11.2000 should be made operative	30.01,2004	Complainant
13	CIVIL REVISION NO.66/2004	Hon. High Court Allahabad	Appeal against order dated 30.01.2004	19.07.2005	Complainant
14	APPLICA TION	Court of District Magistrate. Shahjahanpur	To restrain group of Mr.Rajgopalachari from entering (he premises of the society	31.03.2006	Complainant
15	CIVIL MISC. WRIT PETITION NO.21420/2006	Hon. High Court at Allahabad	Appeal against order dated 31.03.2006	24.04.2006	Complainant
16	SPECIAL LEA VE TO APPEAL (CIVIL) 12163/1999	Hon. Supreme Court	Appeal from the judgement and order dated 24.11.1998 In S.A. 580/1997	17.11.2000	Leave granted. Appeal shall be heard on SLP. Status Pending
17	CIVIL STAY APPLICA TION NO. 174296/1994	Hon. High Court Allahabad	Slay on orders dated 19.06.2004 & 09.08.2004 passed by die Registrar of Societies, Lucknovv	05.10.2004	Complainant

19	--DO-	- D o -	Application taking the plaint off the file	fOil 07.08.1991	Complainant
20	APPLICA nON VIS 10 G	Commissioner of Income Tax. Bareilly	Renewal or exemption <i>us</i> 80G	29.07.2005	Exemption order <i>us</i> 80G cancelled which was granted to die society headed by shri Navneet Kumar Saxena
21	APPLICA nON FOR REVISION OF ORDER DATED 29.07.2005 OF CIT	CiT, Bareilly	Review of earlier order	21.08.2006	Earlier order confirmed. Application rejected
22	APPLICATION FOR REVISION OF ORDER DATED 21.08.2006 OF CIT	- do -	- do -	29.09.2006	Application rejected.

It is thus observed that the Respondent has miserably failed to make out any case before any of these courts, authorities except that matter before the Hon, Supreme Court is pending since last so many years.

k. Tire Compliant is dated 21.04.2007. Notice of Arbitration was sent on 05.05.2007. The Respondent filed his first application *us* 151 of CPC dated 16.05.2007. However email of the Respondent's counsel Adv. Sameer Jagtap regarding his application is dated 23.05.2007. Similarly ignoring dates of emails, die Respondent referred to dates of receipt of documents physically. Obviously the Respondent has tried to mislead this arbitral tribunal on this issue.

On many occasions mails sent to authorized representatives have bounced back for several reasons. It is surprising to note that authorized representatives dealing with cyber matters can not keep their mad boxes up to date and in a fully functional status.

The Respondent in his first application has not raised doubts about

panel of Arbitrators of NIXI. no other evidence or justification has been brought about by the Respondent in support of his doubts about impartiality and independence of this arbitral tribunal..

It is pertinent to note here that according to Rule 6(iii) of INDRP Rules of Procedure a party has to challenge an arbitrator's impartiality- or independence by filing a written request to the IN Registry within 7 calendar days of appointment of the Arbitrator in question. It is also stated in the said rule that IN Registry in its sole discretion shall decide whether such doubts are justified. The date of 24.06.2007 on application to NIXI clearly establishes an after thought of the Respondent in this regard. Similarly NIXI has not removed me from conducting these arbitral proceedings. Therefore these arbitral proceedings are well within four corners of Rules of Procedures, legal and valid.

- I. The Respondent was given opportunities several times to file written statement at each stage of these proceedings. In even application the Respondent has stated that he reserved his right to file written statement.. It is not **butaril** when he would exercise this right.. The Respondent has chosen not to file written statement till today. Instead the Respondent has wasted his time, money and energy in challenging the authority of NIXI, making baseless allegations about impartiality of this tribunal and filing applications. Therefore there is large scope to assume that the Respondent has in fact nothing to put in as his defense to the Complainant and says of the Complainant on two applications filed by the Respondent...
- m. All objections raised by the Respondent in his first and second applications were duly dealt with by my First Interim Award and Second Interim Award. For the sake of brevity I do not wish to repeat the justifications for those awards.
- n. Based on Para 9 of the first application of the Respondent *vs* 151 epC, assuming for the sake of assumption that the contents of the said first application, in itself is his written statement, the Respondent has miserably failed to address important issues like registrations of various trademarks in the name of the Complainant both at national and international levels, justification for adopting acronym of the Complainant's society and overall justifiability in adopting the disputed domain name. He has merely

- o. The Respondent has stated in his First application that the registered / disputed domain name is capable of being distinguished from the Complainant's domain names as listed in the complaint. However when one visits the website maintained by the Respondent, he sees the title as SHRI RAM CHANDRA MISSION. This is identical to the Complainant's name and trade marks. Since no other justification has been put forth by the Respondent the contention of the Complainant that srcm is acronym of its name, has to be accepted.
- p. The Complainant has produced various copies of registration certificates under Trade Marks Act, 1999, which inter-alia, contain trade marks with the words 'SRCM'. They bear registration Nos. 991214 and 991216. It is stated on these certificates that these trade marks are registered in the name of 'Shri Ram Chandra Mission, a society registered under the provisions of the Societies Registration Act, 1860. through its President Mr.P.Rajagopalachan ... '. SRCM has also been registered with United States Patent and Trademark Office at Sr. No. 2634183, 2626677 and 2540450. Apart from these, the Complainant also possesses various trade marks and service marks registered with Government of India and United States of America.
- q. The Complainant has also produced before me copies of the orders dated 19.06.2004 & 09.08.2004 passed by the Registrar of Societies, Funds and Chits, Lucknow. By these orders applications filed by Mr. Navneet Kumar Saxena for amendment in the registers and records has been rejected.
- r. IN 'Whois' search reveals registration date as 04th May 2005 and applicant / registrant name as Mr. Navneet Saxena. registrant organization as Shri Ram Chandra Mission, Shahjahanpur. As against this Trade Marks Nos. 991214 and 991216 have been registered on 19.02.2001 with SRCM as their mark under class 9 & 16 respectively. As such it is abundantly clear that acronym SRCM has been coined and registered by the Complainant well ahead of the Respondent.
- s. The Respondent had vide his application dated 13.07.2007 stated that he was challenging the order dated 26.04.2007 of NIXI appointing sole arbitrator by making NIXI and me as parties and that a week's time be granted to place the order of the Hon. High Court, at Allahabad. The

On the background of above findings the issues before me are as follows: -

SR, NO	ISSUE	FINDING
01	Whether the Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights?	Yes
02	Whether by using the domain name the Registrant has intentionally attempted to attract Internet users to the Registrant's website by creating likelihood of confusion with the Complainant's name or mark?	Yes
03	What award?	As follows

VI] FINAL AWARD: -

On the basis of above findings I make the following award:

- a. The Respondent shall immediately transfer disputed domain name to the Complainant.
- b. The Complainant shall pay all documented expenses for registration of disputed domain name to the Respondent, upon submission of proof to that effect,
- c. The parties shall bear their respective costs and expenses for these arbitral proceedings.

Place: - Pune.

Date: - 20th July 2007,

