

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 309 OF 2015
IN
ARBITRATION PETITION NO. 441 OF 2014

L & T Finance Limited ... Applicant

IN THE MATTER BETWEEN :

L & T Finance Limited ... Petitioner

Versus

Shri Shyam Minerals and Ors. ... Respondents

Ms.S.I. Joshi and i/b. S.I. Joshi and Company for the Applicant.
None for the Respondent.

CORAM : S.J. KATHAWALLA, J.
DATED : 10TH MARCH, 2015

P.C.

1. By the above Chamber Summons, the Applicant /original
Petitioner seeks the following reliefs :

“(a) the Court Receiver, High Court, Bombay be discharged
in respect of Suit equipments as more particularly
described in Exhibit-F to the Petition without passing of
accounts and on payment of costs, charges and expenses if
any, by the Petitioner ;

(b) that the Petitioner be permitted to sell the Suit

equipments as more particularly described in Exhibit-F to the Petition by private treaty by calling the bids to the highest bidders and sale proceeds be allowed to be adjusted towards the dues due from the Respondents”.

2. By an order 20th November, 2014, this Court appointed the Court Receiver, High Court, Bombay as the Receiver of the Suit equipments / vehicles more particularly described in Exhibit-F to the Petition. By the said order, the Receiver was directed to give an option after taking possession of the Suit equipments / vehicles to the Respondents to act as agents of the Receiver in respect of the said equipments / vehicles. It was also provided that in the event of the Respondents not communicating their willingness to the Receiver to act as agents within a period of two weeks from the date of receipt of the communication from the Receiver, it would be open to the Applicant / Petitioner to apply to the Court for further orders including sale of the said equipments / vehicles by private treaty.

3. Accordingly, the Receiver has taken possession of the Suit equipments / vehicles and have parked the same at Jain Campus Yard at Sakti Bypass Raipur Road, Salampuri, Vilaspur (Bilaspur). The Receiver has given an option to the Respondents to act as agents of the Receiver in respect of the Suit equipments / vehicles. However, the Respondents have

not come forward to use the Suit equipments / vehicles as agents of the Receiver. The Suit equipments / vehicles are therefore lying idle in the yard and its condition is deteriorating. In view thereof, the Applicant / Petitioner has taken out the above Chamber Summons seeking the aforestated reliefs.

4. As set out hereinabove, the Respondents despite being given an opportunity to use the Suit equipments / vehicles as agents of the Receiver have not come forward to use the same as agents. If the Suit equipments / vehicles are not sold and left unattended in the yard, they will have to be sold ultimately at scrap value. However if the said equipments / vehicles are sold at this stage it may fetch a better price and the sale proceeds can be adjusted by the Applicant / Petitioner towards receivables from the Respondents. In view thereof, the following order is passed :

i. The Court Receiver, High Court, Bombay who was appointed as Receiver in respect of the Suit equipments / vehicles more particularly described in Exhibit-F to the Petition is discharged without passing accounts but subject to payment of his cost, charges and expenses by the Petitioner.

ii. The Applicant / Petitioner is allowed to dispose of the Suit equipments / vehicles by private treaty after obtaining a valuation report

and 21 days after service of a copy of this order as well as the valuation report on the Respondents.

iii. The Applicant / Petitioner shall adjust the sale proceeds towards the balance due from the Respondents.

iv. The Chamber Summons is accordingly disposed of.

(S.J. KATHAWALLA, J.)