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

ARBITRATION PETITION NO.169 OF 2015

Tata Capital Financial Services Ltd.	...Petitioner
V/s.	
M/s.Rivolta Auto Industries Pvt. Ltd. & Ors.	...Respondents

Mr.Sankalp Anantwar for the Petitioner.
None for the Respondents.

CORAM : R.D. DHANUKA, J.
DATE : 8TH JULY, 2015.

P.C. :-

1. By this petition filed under section 9 of the Arbitration & Conciliation Act, 1996 (for short "the Arbitration Act"), the petitioner seeks injunction in respect of the property described in Exhibit "I" and also seeks an order and direction against the respondents to furnish security to the extent of Rs.43,90,546/- and seeks further reliefs. The affidavit of service is already filed. None appeared for the respondents, though served.

2. Learned counsel for the petitioner tenders a compilation of the documents. In support of his submission that the property described in Exhibit "I" to the petition belongs to respondent no.2, who was one of the co-guarantor in respect of the facility granted in favour of respondent no.1.

3. On 6th December, 2012, respondent no.1 has executed a term loan agreement with the petitioner in respect of finance facilities for aggregate sum of Rs.1,45,00,000/-. Respondent nos.2 and 3 executed a deed of guarantee in favour of the petitioner.

4. It is the case of the petitioner that since the respondents committed default in making repayment of the loan, the petitioner issued a notice of demand on 2nd August, 2014 through its advocate and called upon the respondents to pay a sum of Rs.43,90,546/- with further interest thereon. The respondents have neither paid any amount nor responded to the said notice.

5. In paragraph 11 of the petition, the petitioner has averred that the respondents are heavily indebted and avoided payments to the petitioner and other creditors, the respondents are in process of disposing of their assets. According to the petitioner the property described in Exhibit "I" to the petition belongs to the respondents. In support of this submission, learned counsel seeks reliance on the documents annexed to the compilation of documents tendered today in Court . Learned counsel submits that to the knowledge of the petitioner, the property described in Exhibit "I" to the petition are encumbered property. The statement is accepted.

6. A perusal of the record prima-facie indicates that the respondents have committed defaults in making payments to the

petitioner. There are no other securities available in the hands of the petitioner. In my view, the petitioner is having good chances of succeeding in the arbitral proceedings. The petitioner has thus made out a case for grant of injunction in terms of prayer clause (c).

7. I, therefore, pass the following order :-

a). Arbitration petition is made absolute in terms of prayer clause (c).

b). Though by an order dated 1st April, 2015, this Court had directed the respondents to disclose their assets both encumbered and un-encumbered and though the said order has been communicated to the respondents, the respondents have not complied with the said order. The respondents are accordingly directed to comply with the said order dated 1st April, 2015 within two weeks from the date of communication of this order without fail and furnish a copy thereof upon the petitioner's advocate simultaneously.

c). The petitioner shall be at liberty to seek further interim measures upon the respondents complying with the said order dated 1st April, 2015 passed by this Court and also the order of this Court passed today.

8. The arbitration petition is accordingly disposed of in the aforesaid terms. No order as to costs.

(R.D. DHANUKA, J.)