

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO.1449 OF 2014

Tata Capital Financial Services Limited **..... Petitioner**

VERSUS

Unibios Laboratories Limited **..... Respondents**

Mr.Nikhil Mehta, i/b. KMC Legal Venture for the Petitioner.

CORAM : R.D. DHANUKA, J.

DATED : 17th JUNE, 2015

P.C.

By this petition filed under section 9 of the Arbitration and Conciliation Act, 1996 the petitioner seeks interim measures.

2. Since respondent no.2 has not been served, the petitioner seeks interim measures at this stage only against respondent no.1. Respondent no.1 has been served. Affidavit of service has been filed.

3. The petitioner has granted loan of Rs.35 lacs to the respondents under the the loan agreement executed by the respondents with the petitioner. The said amount was payable in installments.

4. It is the case of the petitioner that the respondents committed default in making repayment. The petitioner issued recall notice dated 11th September, 2014 demanding various amounts. The respondents have neither made repayment of any amount nor responded to the said notice.

5. According to the petitioner a sum of Rs.24,89,286/- as on 20th September, 2014 and further interest thereon from that date till payment is due and payable.

6. Mr.Mehta, learned counsel appearing for the petitioner states that there are no securities available to the petitioner to secure the claim of the petitioner against the respondents and submits that at this stage this court shall pass an order against respondent no.1 to disclose the assets of the respondent no.1 whether encumbered or unencumbered as on the date of the filing of the affidavit and seeks liberty to apply for further interim measures after such affidavit of disclosure is filed by the respondent no.1.

7. None appeared for the respondent no.1 though served. No affidavit in reply is filed. On perusal of the documents and the petition, I am of the prima facie view that the respondent no.1 has committed default in making repayment of the loan. There is no response to the notice of demand. I am thus inclined to consider the request of the learned counsel to issue a direction of the respondent no.1 to file affidavit of disclosure and to grant the petitioner a liberty to apply for interim measures after such affidavit of disclosure is filed.

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

(a) Respondent no.1 is directed to file affidavit of disclosure in which the respondent no.1 shall state about the status of the properties and assets of the respondent no.1 whether encumbered or unencumbered. Such affidavit of disclosure shall be filed within two weeks from the date of communication of this order.

(b) The petitioner is at liberty to apply for further interim

measures if need so arises after such affidavit of disclosure is filed by filing a fresh petition.

9. Arbitration petition is disposed of in the aforesaid terms. No order to costs.
10. Petitioner is directed to convey this order to the respondent no.1.

[R.D. DHANUKA, J.]