

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**CHAMBER SUMMONS NO.102 OF 2015**

**IN**

**ARBITRATION PETITION NO.390 OF 2013**

Tata Capital Financial Service Ltd. ... Applicant/Petitioner

versus

M/s. Green Concretex Global Ltd. and Ors. ... Respondents

Mr. Rahul Totala with Mr. Sankalp Anantwar, Mr. Srinivas Atreya i/by M/s. India Law, for Applicant.

Mr. Ketan Trivedi, 1<sup>st</sup> Asstt. to Court Receiver, present.

**CORAM: S.J. KATHAWALLA, J.**

**DATED: 4<sup>th</sup> MARCH, 2015**

PC.

1. By a detailed order dated 30-01-2014, this Court (Coram : N.M.Jamdar, J.) allowed the above Arbitration Petition No.390 of 2013 and *interalia* passed the following order :

*“8. Accordingly, the petition is allowed in terms of prayer clause (a),(b) and (d) and except the portion in prayer clause (a) as regards the powers to the Court Receiver to sell the said property by private treaty. It is also directed that the Court Receiver will give an offer to the Respondents to act as an agent upon payment of royalty it may be fixed*

*by the Court Receiver depending upon the nature and quantum of the claim. In case the Respondents refuse to act as an agent the Court Receiver shall file a report accordingly. The prayer clause (b) shall operate in respect of the properties disclosed by Respondents in the affidavit filed by the Respondents pursuant to the orders passed by the Court.*

2. The Court Receiver has taken symbolic possession of the mortgaged property which is a six storied building. The entire building is vacant. The Court Receiver gave an option to the Respondents to act as Agents of the Court Receiver upon payment of royalty. The Respondents initially agreed to act as Agents of the Court Receiver upon payment of royalty. After the royalty was fixed at Rs.55 Lakhs per month, the Respondents have not come forward to execute the agency agreement. In view thereof, the Court Receiver took physical possession of the building which is vacant.

3. The Applicant/Petitioner has now taken out the present Chamber Summons for the following relief:

(a) The Court Receiver be permitted to sell the property taken in possession pursuant to order dated 30-01-2014 by private treaty or any other mode as the Court may deem fit;

4. The Arbitration proceedings between the parties have already commenced and the Award is yet to be passed, I am therefore not inclined to direct sale of the mortgaged property at this stage. I have instead suggested to the Advocate of the Petitioner that the Court Receiver may after obtaining the valuation report of the mortgaged property, allow a third party to use and occupy the mortgaged property as agent of the Court Receiver on payment of security and royalty fixed by the Court Receiver. The suggestion is acceptable to the Petitioner and their Advocates. In view thereof, the following order is passed :

(i) The Court Receiver shall forthwith obtain a valuation report in respect of the mortgaged property described at page 90 of the Petition.

(ii) The Court Receiver shall upon receipt of the valuation report forthwith invite offers from third parties for use and occupation of the said mortgaged premises as agents of the Court Receiver on usual terms and conditions including payment of royalty and security.

(iii) The modalities pertaining to invitation of offers, the term of the agency agreement etc. shall be decided by the Court Receiver in consultation with the Petitioner.

(iv) A copy of this order shall be served on the Respondents by Registered Post A.D.

(v) Chamber Summons is accordingly disposed off with liberty to the parties to apply for further directions/orders.

( S.J.KATHAWALLA, J. )