

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO. 720 OF 2016

Anil Tilakraj Mehra

.....Petitioner

V/s.

Tata Capital Financial Services Ltd.

.....Respondent

* * * * *

Mr. Rakesh Mishra i/by. B.G. Lega, Advocate for the petitioner.

Mr. Nikhil Mehta i/by. KMC Legla Venture, Advocate for respondent

CORAM :- SMT. R.P. SONDURBALDOTA, J.

DATED :- 8TH SEPTEMBER, 2016.

P.C. :-

1). This petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 challenges the Award dated 6th January, 2016 directing the petitioner inter alia to pay to the respondent a sum of Rs.3,59,543/- together with interest thereon at the rate of 18% p.a. from 23rd July, 2015 till payment and/or realisation. The Award further declares that, the hypothecation of the asset being APOLLO PLANT ATP60 bearing NA Engine No.321106120001 and chassis No.32110612001 in favour of the respondent is valid and

subsisting and the respondent is entitled to recover the amount by selling the asset in public auction or by private treaty.

2). The petitioner alleges in the petition that, the Award is an ex-parte Award and that notice of the arbitral proceedings was not served upon him. The Award notes that, the notice had been served upon the petitioner by Registered Post A.D. There is nothing on record to disbelieve this noting. In any case, the very averments in the petition indicate that the petitioner was well aware of the arbitral proceedings. He had infact filed appeal under Section 37 of the Arbitration and Conciliation Act being Arbitral Appeal No.49 of 2015 in this Court to challenge the interim order dated 12th August, 2015 passed by the learned Arbitrator. The petitioner also claims to have, on 26th August, 2015, given an offer for settlement of the dispute to the respondent. He had offered to settle the claim at Rs.3,06,660/-. The complaint of the petitioner is that, the respondent did not accept that offer.

3). The petitioner does not dispute his liability under the loan agreement with the respondent. He was not only served with the notice of arbitral proceedings but had also initially participated in the same. In the circumstances, there is no case made out under Section 34 of the Arbitration Act to challenge the impugned Award. Hence, the petition is dismissed.

(SMT. R.P. SONDURBALDOTA, J)