

Mr. Nikhil Mehta i/by M/s. KMC Legal Ventures, for Petitioner.
Mr. M.R.Mandawgade, OSD Court Receiver.

DATE: 16th JUNE, 2016

1. The above Petition was filed by the Petitioner under Section 9 of the Arbitration and Conciliation Act, 1996 seeking appointment of Court Receiver in respect of the hypothecated assets described in Exhibit A to the Petition. The Petitioner had granted loan to the Respondents under a Loan Agreement dated 30th May 2012 in the sum of Rs.18,72,000/-. The said loan was granted against security described in prayer clause (a). The Respondents were liable to repay the entire loan amount in equal installments. The Respondents have committed default in making the repayment of the loan amount. There was no response from the Respondents to the notice of demand nor repayment of the loan amount and the respondents are not even co-operating in the Arbitration proceedings.

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the following order :

“5. From perusal of the petition as well as annuexures thereto and after hearing the learned counsel for the petitioner, I am of the prima facie view that the respondents have committed default in making repayment of the loan amount to the petitioner and as on the date according to the petitioner a sum of Rs.14,63,535.88 with further interest thereon is payable to the petitioner. I am of the prima facie view that a case is made out for appointment of Court Receiver in respect of assets described in prayer clause (a) of the petition.

6. Court Receiver, High Court, Bombay is accordingly appointed as a Receiver in respect of the assets described in prayer clause (a) of the petition with a direction to appoint the respondents or any other party who is in possession of the assets as described in prayer clause (a) of the petition as agent of the Court Receiver on usual terms and conditions and after making payment of royalty and on furnishing of security. If the respondents refuse to accept the agency of the Court Receiver within a period of two weeks from the date of such offer, the Court

Receiver to submit a report to this Court. The petitioner in that event would be at liberty to apply for further interim reliefs. Till the Court Receiver takes possession of the assets, there shall be interim injunction in terms of prayer clause (c).

7. The Court Receiver to act on copy of this order authenticated by the Associate of this Court. If the respondents refuse to hand over possession to the Court Receiver for the purpose of implementation of this order, the Court Receiver is directed to take forcible possession of the assets”.

3. Accordingly, on 21-07-2015 the representative/s of the Court Receiver visited the site situated at Sahajapur, Sabji Mandi, Madhya Pradesh – 465 001 and took possession of the hypothecated assets and handed over the same to the Respondent No.1, who was ready and willing to act as agent of the Court Receiver. Thereafter, a meeting was fixed at the Office of the Court Receiver on 01-09-2015, 30-09-2015, 18-01-2015 and 18-01-2016 for the purpose of executing the agency agreement and for fixing royalty amount. However, the Advocate for the Respondents was absent despite issuing notice to them to remain present for the said meetings. The Court Receiver has therefore, filed the above Report interalia seeking directions to take back

the possession of the hypothecated assets from the Respondent No.1. In view of the above facts, the Court Receiver is directed to forthwith take possession of the hypothecated assets from Respondent No.1 if necessary by taking assistance from the Superintendent of Police of the concerned District and to submit his Report to this Court. The assets shall be taken possession of by the office of the Court Receiver without giving prior notice to the Respondents. The above Report is accordingly disposed off.

(S.J.KATHAWALLA, J.)