

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

ARBITRATION PETITION NO. 1761 OF 2015

L and T Finance Ltd. ... Petitioner
V/s.
Auto Mech India (Borrower) and another ... Respondents

Mr. Sandesh Godse i/b Vivek Patil & Associates for the petitioner.
None for respondent.

**CORAM : K. K. TATED, J.
DATED : 24/02/2016**

P.C.:

Heard learned counsel for the petitioner.

2) Though the respondents are duly served, none appeared on behalf of them when the matter was called out. Advocate for petitioner filed affidavit of service dated 30/09/2015. Same is on record.

3) By this petition under section 9 of Arbitration and Conciliation Act, 1996, petitioner is seeking injunction against the respondents from creating any third party right, title and interest in respect of the property described in Exhibit F i.e. (i) A-118, Indrabhuvan, Tilak Nagar, Dombivli – East, Thane – 421 201. (ii) Plot No. W-106, MIDC By Lane, Sonar Pada, Dombivli (East), Manpada, District Thane, Maharashtra – 421 204. (iii) A-5 Asmita Co-operative Housing Society Ltd, R M No. 87, Milap Nagar, MIDC, Dombivli, Taluka _ Kalyan, District Thane. By

this petition, petitioner also seeking direction against the respondents to disclose their properties.

4) It is the case of petitioner that by loan agreement dated 24/10/2013, they had provided loan of Rs. 20,00,000/- to the respondent no. 1 with interest at the rate of 18% per annum. He submits that said amount was disbursed in favour of respondent no. 1 immediately.

5) Learned counsel for the petitioner submits that respondent no. 1 also executed Demand Promisory Note dated 24/10/2013 for sum of Rs. 20,00,000/- with interest at the rate of 14.50% per annum. He submits that even respondent no. 2 executed Deed of Guarantee dated 24/10/2013 for repayment of the said loan.

6) Learned counsel for the petitioner submits that as respondent no. 1 failed and neglected to repay the loan amount as per terms and conditions of loan agreement dated 24/10/2013, petitioner through their Advocate, by legal notice dated 08/07/2014 called upon respondents to pay sum of Rs. 21,38,280/-. He further submits that though the said legal notice was duly served on respondents, they failed and neglected to repay the loan amount. Hence, the petitioner constrained to file present petition under section 9 of the said Act.

7) Learned counsel for the petitioner submits that in the interest of

justice, this Hon'ble Court be pleased to restrain Respondents by an order of injunction from creating any third party right, title and interest in respect of the said proper as described in Exhibit F i.e. (i) A-118, Indrabhuvan, Tilak Nagar, Dombivli – East, Thane – 421 201. (ii) Plot No. W-106, MIDC By Lane, Sonar Pada, Dombivli (East), Manpada, District Thane, Maharashtra – 421 204. (iii) A-5 Asmita Co-operative Housing Society Ltd, R M No. 87, Milap Nagar, MIDC, Dombivli, Taluka - Kalyan, District Thane, till the hearing and final disposal of Petition. Learned counsel for the petitioner submits that if respondents disposed of the property as described in Exhibit F, then it will be very difficult for them to recover the outstanding amount. Hence, in the interest of justice, this Hon'ble Court, by an order of injunction, restrain the respondents from creating any third party right, title and interest in respect of the property as described in Exhibit F. He submits that if the order of disclosure is not passed, it will be very difficult for the petitioner to recover their dues.

8) I heard learned counsel for the petitioner. During the course of arguments, learned counsel for Petitioner made statement that at present they are pressing present petition in terms of prayer clause (c) & (d) only.

9) There is no dispute that as per loan agreement dated

24/10/2013, petitioner advanced sum of Rs. 20,00,000/- by way of loan to the respondent no. 1 with interest and disbursed that amount in favour of respondent. In terms of that respondent executed Demand Promisory Note, not only that respondent no. 2 also executed Deed of Guarantee dated 24/10/2013. On the date of filing of petition, respondent was due and payable a sum of Rs. 21,38,280/-. If the suit property as described in Exhibit F are disposed of by the respondent, it will be very difficult for petitioner to recovery their dues.

10) Considering these facts, I am of the opinion that petitioner has made out case for allowing this petition in following terms.

(i) Pending the hearing and final disposal of Arbitration Proceedings or at any time after making Arbitral Award but before it is enforced in accordance with section 36 of the Arbitration and Conciliation Act, 1996, Respondents are restrained by an order of injunction from dealing with, parting with possession, creating any third party rights, alienating and/or encumbering with the properties described in Exhibit F to the petition i.e. (i) A-118, Indrabhuvan, Tilak Nagar, Dombivli – East, Thane – 421 201. (ii) Plot No. W-106, MIDC By Lane, Sonar Pada, Dombivli (East), Manpada, District Thane, Maharashtra – 421 204. (iii) A-5 Asmita Co-operative Housing Society Ltd, R M No. 87, Milap Nagar, MIDC, Dombivli, Taluka - Kalyan, District Thane.

- (ii) Respondents are directed to disclose their immovable and movable properties with full description along with encumbrances, if any, to the petition within 8 weeks from the date of service of this order on them.
- (iii) Petition stands disposed of accordingly.

(K.K.TATED, J.)