

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 387 OF 2015**

L & T Finance Limited	... Petitioner
V/s.	
Panchsheel Corporation and others	... Respondents

Ms. Shakuntala Joshi a/w Nikita Pawar & Jalpa Pithadia
i/b Joshi & Co. for Petitioner
None for respondents.

**CORAM : K. K. TATED, J.
DATED : 18/02/2016**

P.C.:

Heard learned counsel for the petitioner. None for the respondents, though duly served.

2) Learned counsel for the petitioner submits that as per order dated 16/09/2015 passed by this court, petitioner issued a fresh notice to respondent nos. 1 & 2 to remain present before this court. She submits that to that effect affidavit of service is already filed. The statement is accepted.

3) This is a petition under section 9 of the Arbitration and Conciliation Act, 1996 for appointment of Court Receiver and injunction in respect of the suit property as described in Exhibit 'G' on page 76 i.e. machinery being LL15T L3 CNC LATHE Serial No. L0-00267.

4) It is the case of petitioner that as per loan agreement dated 20/01/2012, they advanced sum of Rs. 16,00,000/- to the respondent no. 1 with 13.90% same was is repayable as per terms and conditions as stated in the said loan agreement. She submits that on the same day, respondents executed the deed of hypothecation in respect of the said property as described in Exhibit 'G'. She submits that as respondents failed and neglected to pay the monthly installments as per the loan agreement, petitioner through their Advocate sent legal notice dated 20/08/2014 calling upon the respondents to clear the outstanding amount. She submits that on the date of filing of petition, sum of Rs. 6,17,285/- with interest was due and payable by the respondents. She submits that respondent no. 3 as per order dated 02/09/2015 passed by this court paid the sum of Rs. 3,64,685/-. She submits that as per the particulars of the claim, petitioner have to recover the sum of Rs. 2,52,600/- along with interest and other costs as per loan agreement. She submits that they have the apprehension that respondent may create third party right, title and interest in respect of hypothecated property. She submits that as on today, the said property is in possession of the respondents and they are using the same in their business. Hence, in the interest of justice, this Hon'ble Court be pleased to appoint Court Receiver, High Court, Bombay with all powers as per

Order XL Rule 1 of Code of Civil Procedure, 1908, including to take forcible possession, if necessary with the help of police.

5) Considering the submissions made by learned counsel for the applicant and though respondents are duly served, none appeared on behalf of them and as on date of filing of petition, the sum of Rs. 2,52,600/- with interest, costs and other charges as per loan agreement is due and payable by the respondent, as the respondents are in possession of the suit property and using the same for their business purpose, I am satisfied that the petitioner has made out case for allowing this petition on following terms.

(i) Pending the hearing and final disposal of Arbitration Proceedings or at any time after making of the Arbitral Award before it is enforced in accordance with Section 36 of the Arbitration and Conciliation Act, 1996, the Court Receiver, High Court, Bombay is appointed as a Court Receiver under Order XL Rule 1 of Code of Civil Procedure, 1908 in respect of the equipment, more particularly described in Exhibit 'G' to the petition with a direction to take possession from the respondents or anybody whosoever found in possession of the said equipment, if necessary, with the help of concerned police station.

(ii) The Court Receiver is permitted, if necessary, to dismantle the said property and take possession of the same.

(iii) If the respondents are ready and willing to act as an agent of the Court Receiver within 4 weeks from the date of communication in writing, the Court Receiver is directed to appoint the respondents as Court Receiver's agent on terms and conditions considering the loan agreement between the parties with direction to deposit the security amount also.

(iv) In case respondents declined to act as an agent of the Court Receiver within stipulated time as dated herein above, the Court Receiver is directed to hand over the possession of the suit property to the petitioner, for safe custody.

(v) Till taking of the possession of the suit property as described in Exhibit 'G' to the petition, by the Court Receiver as stated herein above, respondents are restrained by an order of injunction from creating any third party right, title and interest of the same.

(vi) Petition stands disposed of accordingly.

(K.K.TATED, J.)