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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **O.M.P.(I) (COMM.) 185/2016**

RELIANCE CAPITAL LIMITED ..... Petitioner
Through: Mr. Rajat Katyal and Ms. Ankita Goyal, Advocates.

versus

JANAK CRANE PRIVATE LIMITED & ANR. ..... Respondents
Through: Ms. Gurkamal Hora Arora, Advocate with Mr. Naresh Gupta, Director.

CORAM: JUSTICE S. MURALIDHAR

O R D E R
% **05.10.2016**

1. This petition under Section 9 of the Arbitration and Conciliation Act, 1996 ('Act') seeks the appointment of a representative of the Petitioner company as a Receiver to take possession of the equipment/vehicle make DEMAG MOB CR 030 T/HC810 bearing registration no. MH06W5114, chasis no.W09203551GZM02011 and engine no. 00920 from the Respondents.

2. The averments in the petition duly supported by an affidavit and documents are that the Petitioner company had sanctioned loan facilities of Rs. 2,50,21,156 to the Respondents for purchase of the aforementioned vehicle under a Loan-cum-Hypothecation Agreement. The loan was to be repaid, along with interest, in 26 monthly instalments.

3. It is further averred that the Respondents defaulted in repayment of the loan amount. The total amount overdue as on 27th April, 2016 was Rs.1,44,92,458. The Petitioner, accordingly, terminated the loan facility and notices were sent on 18th April and 28th April, 2016. However, the Respondents did not pay the outstanding amount.

4. A letter dated 3rd October, 2016 issued by the Kotak Mahindra Bank Ltd. ('KMBL') sanctioning a loan of around Rs.4 crores in favour of the Respondents has been produced in the Court. Learned counsel for the Respondents states that the Respondents have received a letter from the Petitioner in regard to its request for foreclosure and that the Respondents' Director will be visiting the office of the Petitioner to discuss the conditions of the foreclosure.

5. It is stated that once the terms of foreclosure are settled, the sanctioned loan amount will be released directly to the Petitioner by KMBL on instructions of the Respondents.

6. Learned counsel for the Petitioner points out that since 16th May, 2016 several opportunities have been granted to the Respondents to settle the outstanding loan amount and till date nothing has been paid. He, accordingly, prays that no further indulgence should be granted to the Respondent and a conditional order be passed in the event the dues owed to the Petitioner are not settled to its satisfaction. He points out that the of the payments made thus far in the other accounts a sum of Rs.30 lakhs has been adjusted against the dues in the present case.

7. Having heard the submissions of learned counsels for the parties, the

Court directs that in the event the outstanding amount due to the Petitioner is not settled by the Respondents on or before 31st October, 2016, Mr. Javed Khan, Collection Manager of the Petitioner, shall stand appointed in terms of this order as a Receiver to repossess the aforementioned vehicle.

8. The SHO/in-charge of the police station concerned is directed to render necessary aid and assistance to the Receiver. After taking over possession, the Receiver shall preserve and maintain the said vehicle till further orders of this Court or any other Court of competent jurisdiction or of the Arbitrator.

9. This order shall remain in force till either the Respondents makes the payment of the loan amount or till it is modified by the learned Arbitrator during arbitration proceedings or till the termination of the arbitration proceedings.

10. The learned Arbitrator will decide the disputes referred for arbitration uninfluenced by the present order.

11. The Respondents are also at liberty to apply to the learned Arbitrator for modification of this order.

12. The petition is disposed of in the above terms. Order be given *dasti.*

S. MURALIDHAR, J

OCTOBER 05, 2016/dn