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IN THE HIGH COURT OF DELHI AT NEW DELHI

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O.M.P.(I) (COMM.) 414/2016

TATA CAPITAL FINANCIAL SERVICES LTD. Petitioner
Through: Mr. Joginder Sukhija and Ms. Karuna
Chhatwal, Advocates.

versus

BHAGWATI COMMUNICATION &. ANR. Respondents
Through:

CORAM: JUSTICE S. MURALIDHAR

ORDER

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24.10.2016

IA No. 13077 of 2016 (for exemption)

1. Allowed, subject to all just exceptions.

O.M.P.(I) (COMM.) 414/2016

2. This petition under Section 9 of the Arbitration and Conciliation Act, 1996 ('Act') seeks the appointment of a representative of the Petitioner as a Receiver to take possession of the Construction Equipment of the Respondent financed by the Petitioner under a Loan-cum-Hypothecation Guarantee Agreement ('Agreement').

3. The averments in the petition duly supported by affidavit and documents are that the Petitioner company had sanctioned a loan facility of Rs.1,44,93,064 to the Respondents for purchase of the Construction Equipment under the Agreement.

4. It is further contended that the Respondent had defaulted in repayment of the loan amount and the total overdue amount is Rs.1,09,77,688. The Petitioner terminated the loan facility in terms of the Agreement. Demand notice/ letter for appointment of arbitrator were sent on 23rd August 2016 and 28th September 2016. The letter was sent through registered AD post.

5. It is stated that Rs. 1,09,77,688 is due to the Petitioner. It is stated that out of the loan amount, the Respondent had purchased the following Construction Equipments and hypothecated them to the Petitioner:

Sl. No.	Contract No.	Engine/Chassis No.
1.	7000313415	82205818
2.	7000339202	BPLD160006
3.	7000339203	BPLD160007
4.	7000360870	87479567
5.	7000360872	87479583
6.	7000360882	87361705

6. This Court has heard learned counsel for the Petitioner.

7. In the circumstances, the Court hereby appoints Mr. Nitin Sharma, authorised representative of the Petitioner, as a Receiver to repossess the aforementioned Construction Equipments.

8. In the event, the Respondents make the payment of the entire outstanding

loan amount, the Receiver shall release the said Construction Equipments to the Respondents on *superdari*. The Respondents are restrained from parting with the possession of, or selling or creating any third party interests in such Construction Equipments released to them on *superdari*.

9. 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 Construction Equipments till further orders of this Court or any other court of competent jurisdiction or of the Arbitrator.

10. This order shall remain in force till either the Respondents make 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.

11. The Arbitrator is free to decide the disputes referred for arbitration uninfluenced by the present order.

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

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

S. MURALIDHAR, J

OCTOBER 24, 2016/dn