

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
ARBITRATION APPLICATION (L) NO.22 OF 2017**

Himmatsinghka Auto Enterprises & Ors	...Applicants
<i>Versus</i>	
Tata Motors Finance Ltd	...Respondents

Ms Preeti Walimbe, for the Applicants.

**CORAM: G.S. PATEL, J
DATED: 10th April 2017**

PC:-

1. An objection is taken ostensibly to the jurisdiction of the Arbitrator on the ground that he hold certain shares in various Tata companies. The learned Arbitrator himself had pointed out that he has a small retail shareholdings in various Tata companies. He disclosed this at the start. None objected. He also pointed out that these share holdings do not constitute a material holding in the Respondent or its affiliates.

2. The real difficulty seems to be that before the learned Arbitrator, despite several opportunities and notices, present Petitioner No. 2, Kanshika Himmatsinghka (Respondent No. 3 to the Arbitration proceedings) appeared at the very last minute and

sought to file a Written Statement. The learned Sole Arbitrator considered the conduct of the 3rd respondent before him (the present 2nd Petitioner) and rejected the application to file Written Statement and did not accept the application opposing jurisdiction. The Learned Arbitrator then fixed the matter on 22nd February 2017. I am informed that the time has been extended since then.

3. The application regarding lack of jurisdiction is addressed above. The only question that remains is about the filing of the written statement. While I do not for a moment believe that the learned Sole Arbitrator's order can be faulted in the slightest, equally I believe that a final opportunity could be given to the present 2nd Petitioner. This of course must be on terms; the 2nd Petitioner cannot be allowed to abuse proceedings either in Court or before the Arbitrator.

4. I will permit the 2nd Petitioner to file his Written Statement before the Arbitrator. He will thereafter not ask for an adjournment on any ground whatsoever. If he does not appear or proceed on the date fixed by the Arbitrator, his case will be closed. In addition, the learned Sole Arbitrator may impose costs on the 2nd Petitioner for his default in appearance or proceeding with the matter. The 2nd Petitioner through Ms Walimbe specifically agrees to these conditions.

5. The Arbitration Application is disposed of in these terms. For the present, there will be no order as to costs.

(G. S. PATEL, J.)