

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

COMMERCIAL ARBITRATION PETITION NO.258 OF 2017

Tata Capital Financial Services Limited	Petitioner
Vs.	
Arpita Agro Products Pvt. Ltd. and ors.	Respondents

Mr. Nilesh Gala i/by M/s Law Square for the Petitioner.
Mr. Nikhil Mishra for the Respondents.

CORAM : K.R.SHRIRAM, J.
DATE : 13th OCTOBER, 2017

P.C.:

1. On 11th October, 2017 counsel appearing for Respondents after taking instructions had made a statement that only Rs.5,00,000/- and odd was outstanding and not Rs.1,43,00,000/- as stated by counsel for the Petitioner. The statement was accordingly recorded in the order that was passed.

2. Yesterday morning at 11.00 a.m., Respondents' counsel mentioned the matter and informed the court that the statement that he made that only Rs.5,00,000/- and odd was outstanding against repayment of the entire loan amount is not correct. Counsel stated

that Rs.5,00,000/- and odd is only the defaulted EMI. Since on 11th October, 2017 the matter was stood over to today for considering the ad-interim application of the Petitioner, Shri Gala appearing for Petitioner presses for ad-interim in terms of prayer clauses (b) and (c) of Petition.

3. Admittedly Petitioner has the title documents in its possession. Therefore, the question of Respondents disposing the property or transferring the property to any third party does not arise. At the same time, Respondents have defaulted on EMIs and still owe a large sum to Petitioner. Balance of convenience is also in favour of Petitioner. Petitioner suffering prejudice is more if some relief is not granted. Therefore, the Respondents should be restrained and are hereby restrained from alienating or parting with possession or inducting anyone else or creating any interest or tenancy or license, in favour of anyone in respect of the mortgaged property.

4. Petition accordingly disposed.

5. The Petitioner to commence Arbitration Proceedings within

three months failing which the order passed today will stand vacated without further reference to this court.

(K.R. SHRIRAM, J.)