Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 566 OF 2016

Tata Capital Financial Services Ltd ...Petitioner
Versus
Oberoi Monotech Ltd & Ors ...Respondents

Mr Shavez Mukri, *with Gayatri Mohapatra, i/b Indialaw, for the Petitioner.*
Mr Akhlak Abbas H Khan, *for the Respondents.*

CORAM: G.S. PATEL, J
DATED: 11th April 2017

PC:-

1. The 1st Respondent is an automobile dealership. It is the principal borrower. Respondents Nos. 2 and 3 are guarantors. The Petitioner sanctioned a Channel Finance Inventory Funding facility of Rs. 2.5 crores and Short Term Working Capital Loan of Rs 50 Lakhs on 5th July 2013. A Channel Finance Agreement was executed on 19th July 2013 and a Working Capital Demand Loan Agreement was also executed separately on the same day. Guarantees were also executed on that day. In addition, the 1st Respondent hypothecated and create a first and exclusive charge on all its assets by a Deed of Hypothecation also dated 19th July 2013.

2. On 17th July 2013, a couple of days earlier, Respondents Nos. 2 and 3 by an Affidavit provided details of immovable properties. On 7th January 2015 the Petitioner enhanced and modified the facility. The case of the Petitioner is that although the loan was disbursed and the Respondents enjoyed the facilities, they have been delinquent in maintaining their account. The Petitioners have invoked arbitration by their letter dated 15th February 2016.

3. It is necessary to make an interim order pending the arbitration under Section 9 of the Arbitration & Conciliation Act 1996. Irreparable prejudice will be caused to the Petitioners if the injunction is refused. There is also a *prima facie* case made out and balance of convenience favours the Petitioners.

4. There will be an interim injunction in terms of prayer clause (b) in respect of the properties set out in Exhibit "O" to the Petition. In addition, the Respondents will make a disclosure in terms of prayer clause (c) of all their assets, movable and immovables, encumbered and unencumbered, including all investments, bank accounts and other holdings.

5. The learned Advocate for the Respondent states that the Dehradun property is mortgaged to the Punjab National Bank and the 1st Respondent is the owner of only 50% of it. That statement is noted.

6. The Arbitration Petition is disposed of in these terms with no order as to costs.

7. All rights and contentions are specifically kept open.

(G. S. PATEL, J.)