

JSN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 847 OF 2014
IN
ARBITRATION PETITION NO. 1348 OF 2013

Citicorp Finance (India) Ltd	... Petitioner
<i>Versus</i>	
Shravankumar Joshi & Anr	... Respondents

Mr Vivek Patil, *with Sandesh Godse, Sharayu Pednekar i/b Mr Vivek Patil and Associates for the Original Petitioner.*

Mr SK Jain, *for the Respondent No.3.*

Mrs Kavita Ambekar, *IInd Assistant to Court Receiver and Mrs Gulekar, Section Officer present.*

Ms Sheetal K, *Representative of Original Petitioner present.*

CORAM: G.S. PATEL, J
DATED: 25th January 2017

PC:-

1. Mr. Jain appears for the 3rd Respondent. This Chamber Summons deals with the hypothecated trucks that were sent after an accident to the 3rd Respondent's motor garage and dealership. The truck arrived at Mr. Jain's client's workshop in an extremely damaged condition. Mr. Jain's client was able to restore the vehicle and make it roadworthy. It claims to have spent an amount of Rs. 11,29,336/- on this. There is a statement annexed to the Affidavit in Reply dated 8th October 2014. There is also a pending claim for

interest. Mr Jain has taken instructions since yesterday and has rounded off his total claim to Rs. 12,00,000/- and left any question of further interest to the discretion of the Court. Mr Jain is careful in pointing out that this vehicle has remained unattended for a long time — at least three years. If it is to be sold even now by the Court Receiver a certain amount will have to be spent to make sure that it is in condition where it can be used. That amount will be over and above the Rs. 12,00,000/- already incurred.

2. The present application by way of Chamber Summons is by the original Petitioner seeking *inter alia* forcible possession of this vehicle, the appointment of a Court Receiver and sale through Receiver. I am not inclined to grant those reliefs in this form. That would result in the negation of Mr. Jain's client's claims altogether. I am inclined to appoint the Court Receiver of this vehicle which has registration No. GJ-8-Z-5418 (there is a typographical error in the prayer) and which is presently located at the workshop at NH 14, Village Netra, Near Sumerpur, Pali, Rajasthan. The Receiver will then issue an advertisement in the local newspapers inviting offers. The truck may be sold either by the public auction or private treaty. Both sides will be entitled not only to bid but to bring buyers. The Court Receiver will, before making any disbursement, place a report before this Court. It is made clear that on the assumption that the vehicle fetches more than Rs. 15,00,000/-, the claim made by the 3rd Respondent will first be satisfied in the amount today fixed and finalised at Rs.12,00,000/-. At the time of the report the 3rd Respondent will produce a statement with supporting document showing the additional amount that has been spent to make the interest will also be considered at that stage.

3. The present Chamber Summons is disposed of in these terms.

4. The Petitioner will bear the costs and charges of the advertisement and sale expenses.

5. The Court Receiver will endeavour to complete the exercise as early as possible and in any event will place a report by 10th March 2017.

(G. S. PATEL, J.)