

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO.38 OF 2015**

Shriram Transport Finance Co. Ltd. Petitioner
Vs.
Sunil Laxman Dhas & Anr. Respondents

Ms. Priya Rita i/by Disha Karambar & Asso. for the Petitioner.

Coram : G.S. KULKARNI, J.

Date : 21 August, 2017

P.C. :

1 Learned advocate for the petitioner undertakes to file Vakalatnama on behalf of the petitioner within one week from today.

2 Heard learned counsel for the petitioner. At the outset, it may be noted that the respondents have not appeared in this petition on several occasions. The respondents had made an appearance on 20 January 2017. The court after hearing the parties had passed the following order:

“1 On behalf of the Respondents a statement is made that the vehicle hypothecated to the Petitioner, said on Affidavit to still be in the possession of the Respondent, will not be sold, transferred or subjected to any third party rights or claims till the conclusion of the arbitral proceedings. This statement is accepted as undertaking to the Court.

2 On behalf of the Petitioners is submitted that an arbitration application has been previously filed. Both sides agreed that they will jointly select a sole arbitrator by the next date and obtain his or her statement of disclosure in advance so that the matter can be quickly taken to arbitration.”

3 Thereafter on 27 January 2017, the hearing of this petition was adjourned at the instance of the petitioner.

4 On the backdrop of the order dated 27 January 2017, today Ms. Priya Rita appears for the petitioner. Learned advocate for the petitioner submits that the arbitration proceedings are in progress before the learned sole arbitrator as also the respondents are appearing in the arbitration proceedings, though they have chosen not to appear in this petition.

5 There is no contest to this petition and for a substantial period, interim orders accepting a statement as made on behalf of the respondents on affidavit that the vehicle hypothecated to the petitioner still in possession of the respondents and that the same will not be sold, transferred or subjected to any third party rights or claims till the conclusion of the arbitral proceedings as made to the Court and accepted by the Court as an undertaking to the Court, continues to operate till date.

6 In the circumstances, it would be appropriate that this petition is allowed in terms of the said undertaking of the respondents and recorded in paragraph one of the order dated 20 January 2017 passed in this petition. Ordered accordingly.

7 All the contentions of the parties on merits of the matter are expressly kept open to be agitated in the arbitration proceedings.

8 The petition is accordingly disposed off in the above terms. No costs.

(G.S. KULKARNI, J.)