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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 14058 OF 2018

Volvo Financial Services

...Petitioner.

vs

Bhagel Transport Company

...Respondent.

.....

Mr Sanjiv Sawant a/w Murli Kale & B. Singh I/b Om Gujar Associates
for the Petitioner.

Mr Moinuddin Ahmed Khan for the Respondent.

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**CORAM : B.P.COLABAWALLA, J.
DECEMBER 18, 2018.**

P.C. :

This Writ Petition seeks to challenge the order passed by the learned Principal District Judge, Thane dated 5th December, 2018 below Exh.5 and Exh.8 in Miscellaneous Application No. 440 of 2018. Miscellaneous Application No. 440 of 2018 was an application filed under Section 34 of the Arbitration and Conciliation Act, 1996 seeking to set aside the award passed by the Arbitral Tribunal on 26th October, 2018. In this Miscellaneous Application, the Respondent herein filed Exh.5 application, *inter alia* praying that pending the hearing and final disposal of the Miscellaneous Application, the award passed by the Arbitral Tribunal be stayed. Exh.8 was an application filed by the Respondent herein *inter alia* praying for a direction

against the Petitioner herein to release the vehicles mentioned in the said prayer to the Respondent. Both these applications were allowed by the Principal District Judge, Thane and that is why this Writ Petition is filed challenging the order dated 5th December, 2018.

2 It appears that now the entire dispute has been settled between the parties by entering into consent terms dated 18th December, 2018. These consent terms have been duly signed by the authorized signatory of the Petitioner as well as the partner and authorized signatory of the Respondent and their respective advocates. These consent terms *inter alia* provide that the dues of the Petitioner shall be paid in the manner as set out in the consent terms and that in case of a single default, the vehicles mentioned in paragraph 5 of the consent terms shall be forthwith handed over by the Respondent herein to the Petitioner. Paragraph 6 of the consent terms also provide that the order of this Court on these consent terms will be enforceable as a decree in the event of a single default of E.M.I. by the Respondent. These consent terms are taken on record and marked "X" for identification. The undertakings given in the consent terms by the respective parties are accepted. The entire dispute between the parties including one raised in this Writ Petition are disposed of in terms of the consent terms. There shall be no order

as to costs.

3 It is needless to clarify that the award will now stand substituted by these consent terms. Learned advocate appearing on behalf of the Petitioner states that in view of filing of these consent terms, the vehicles bearing registration Nos.MH-04-HY-5305, MH-04-HY-5205, MH-04-HY-5405 and MH-04-HY-5805 and which have been seized by the Petitioner, will be released to the Respondent by 20th December, 2018. The statement made on behalf of the Petitioner is accepted as an undertaking to this Court. It is further needless to clarify that in the event there is any default committed as contemplated under the consent terms, and after selling the vehicles mentioned therein, if there is any shortfall, the Petitioner shall be entitled to recover the said shortfall by executing these consent terms as a decree of this Court.

4 All parties are directed to act on an authenticated copy of this order.

(B.P.COLABAWALLA, J.)