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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.491 OF 2018

Epimoney Private Limited (formerly known as Urmila Investment & Securities Pvt.Ltd.) ..Petitioner

Vs.

Manidhari Oils Private Limited & Ors. ..Respondents

Ms.Juhi Bhogle with Mr.Ranjan Solanki i/b. O. M. Gujar Law Chambers for Petitioner.
None for Respondents.

CORAM : G.S. KULKARNI, J.

DATE : 9th JANUARY, 2019

P.C.:

Heard learned Counsel for the petitioner. The respondents are served. Affidavit of service to that effect is placed on record. The respondents though served, have chosen not to appear.

2. This is a petition under Section 9 of the Arbitration and Conciliation Act, 1996 (for short, "ACA") whereby the petitioner is seeking interim reliefs pending the arbitration proceedings.

3. It is the petitioner's case that the petitioner had extended financial assistance of Rs.30 Lakhs to the respondents. The respondents had defaulted in making payment under the loan agreement dated 11

September 2017. An amount of Rs.27,41,983/- was due and payable by the respondents to the petitioner on the date of filing of this petition. As also interest at the rate of 2.08% per month is also due and payable.

4. There are certain properties which are already mortgaged to the petitioner by the respondents the details of which are set out in Exhibit-D. The petitioner called upon the respondents to make payment by issuing a notice dated 31 March 2018, however, the respondents did not respond to the said notice and no payment was made to the petitioner. The respondents have failed and neglected to make payment under the loan agreement. On this background, the petitioner has approached this Court seeking interim reliefs as prayed for.

5. By an order dated 22 June 2018 passed by this Court, ad-interim reliefs were granted in the following terms:-

> "2. Despite notice, Respondent No.1 has not made the payments to the Petitioner. Infact, they have not even responded to the said notice. In view thereof, the Petitioner has prayed that to secure the amounts due and payable to them by the Respondents, who are the owners of the properties set out in Exhibit D to the Petition, be restrained from selling, alienating, encumbering, parting with possession and/or creating any third party rights in respect of the suit property. In view thereof, the following order is passed :
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> (i) Until further orders, the Respondents are restrained by an order and injunction of this Court from in any manner selling, alienating, encumbering, parting with possession and/or creating third party rights in respect of the property described in Exhibit D to the Petition."

6. The above relief as granted by this Court continues to operate till date. It needs to be noted that the petitioner by their notice dated 31 March 2018 had recalled the loan. In paragraph 8 of the said notice, the petitioner while recalling the loan, also recorded that it was open for the petitioner to appoint a sole arbitrator as per the arbitral clause as contained in agreement, for adjudication of the claims and disputes between the parties.

7. It appears that no further steps are taken to commence the arbitration proceedings as would be necessary as per the provisions of sub-section (2) of section 9 of the ACA, despite the fact that this Court had granted ad-interim reliefs to the petitioner, by an order dated 22 June 2018. Admittedly, a period of 90 days has lapsed after grant of such reliefs.

8. In the above circumstances, in my opinion, interest of justice would be served if the ad-interim reliefs granted earlier are continued for a further period of two months from today so as to enable the petitioner to commence the arbitration proceedings. Ordered accordingly.

9. It would be open for the petitioner to seek such further appropriate reliefs by making an application under Section 17 of the ACA before the arbitral tribunal. All contentions of the parties in that regard are expressly kept open.

10. The petition is disposed of in the above terms. No costs.

[G.S. KULKARNI, J.]