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

ARBITRATION PETITION NO.303 OF 2019

Raghvendra Yadav

..Petitioner

Vs.

Mahindra and Mahindra Financial Services Ltd. & Anr. ..Respondents

WITH

ARBITRATION PETITION NO.81 OF 2019

Raghvendra Yadav

..Petitioner

Vs.

Mahindra and Mahindra Financial Services Ltd. ..Respondent

Mr.Ramprakash Pandey for Petitioner.

Ms.Priya Crasto for Respondent.

CORAM : G.S. KULKARNI, J.

DATE : 3rd JULY, 2019

P.C.:

These are two proceedings. Arbitration Petition No.81 of 2019 has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 (for short, “the Act”) whereby the petitioner has prayed for interim reliefs pending the arbitral proceedings.

2. The petitioner has also filed Arbitration Petition No.303 of 2019 under Section 14 of the Act praying that the disputes and differences as arising under the Loan/HPA Agreement bearing No.4569344 dated 28

December 2016 be referred for adjudication by appointing an arbitral tribunal.

3. Learned Counsel for the petitioner has drawn my attention to the correspondence as placed on record in support of the Section 9 petition. He would submit that there were certain defaults in paying the loan amount, however, the respondent by a communication dated 2 June 2018 (Exhibit "C" page 23 of the paper-book) had informed the petitioner that custody of the vehicle has been taken and the petitioner was called upon to clear the amount of Rs.2,25,000/- within seven days from the receipt of the notice towards "full and final discharge" in respect of the vehicle. However, learned Counsel for the respondent would contend that this amount was in respect of four installments. It is submitted that in fact an amount of Rs.5,96,874/- is due and payable on the date of re-call of the loan i.e. 25 June 2018.

4. Learned Counsel for the petitioner has however contended that his client is ready and willing to deposit an amount of Rs.2,25,000/- and on deposit of the said amount, the matter can be referred for arbitration. Learned Counsel for the respondent is not averse to the said suggestion as made on behalf of the petitioner.

5. Having heard learned Counsel for the parties and having perused the documents placed on record, it is in the interest of justice that the petitioner deposits with the respondent without prejudice to the rights and contentions of the parties, an amount of Rs.2,50,000/- within two weeks from today. As regards the claim being asserted and made on behalf of the respondent, the parties are agreeable that the section 14 petition be accordingly allowed by appointing an arbitral tribunal.

6. In the above circumstances, both these proceedings can be disposed of by following order:-

Order in Arbitration Petition No.81 of 2019

- (i) The petitioner is directed to deposit Rs.2,50,000/- with the respondent within two weeks without prejudice to the rights and contentions of the parties;
- (ii) The said deposit shall be taken into consideration and shall be subject to the final adjudication in the arbitral proceedings;
- (iii) Within one week from the deposit of the said amount, the respondent shall hand over the vehicle in question to the petitioner in running condition. Ordered accordingly.

Order in Arbitration Petition No.303 of 2019

- (i) Mr.Raj Patel, Advocate of this Court, is appointed as a prospective

sole Arbitrator to adjudicate the disputes and differences between the parties under the Loan/HPA Agreement bearing No.4569344 dated 28 December 2016;

(ii) The learned sole prospective arbitrator, fifteen days before entering the arbitration reference, shall forward a statement of disclosure as per the requirement of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Prothonotary & Senior Master of this Court, to be placed on record of this petition with a copy to be forwarded to both the parties;

(iii) At the first instance, the parties shall appear before the prospective arbitrator within 15 days from today on a date which may be mutually fixed by the prospective sole arbitrator;

(iv) All contentions of the parties are expressly kept open;

(v) The fees payable to the arbitral tribunal shall be in accordance with the Bombay High Court (Fee Payable to the Arbitrators) Rules, 2018;

(vi) The above petitions under Sections 9 and 14 are disposed of in the above terms. No costs.

(vii) Parties to act on an authenticated copy of this order;

(viii) Office to forward a copy of this order to the learned Arbitrator on the following address:

“15/A, Alli Chambers, 1st floor, Homi Mody 2nd Cross
Lane, Fort, Mumbai – 400 001.
Contact No. 9819775727
E-mail: rajm_patel@yahoo.com”.

[G.S. KULKARNI, J.]