

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

**ARBITRATION PETITION (L) NO. 344 OF 2020
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ARBITRATION PETITION (L) NO. 350 OF 2020
WITH
ARBITRATION PETITION (L) NO. 369 OF 2020**

EMI Infrastructure Private Ltd & Ors. ...Petitioners

Vs.

Tata Motors Finance Solutions Ltd. ...Respondents

Mr. Sandhya Pillai with Mr. Mayank Sharma and Mr. Sumedh Sonawane, Advocates for Petitioners.

Mr. Ramesh Dubepatil i/b Shraddha Dubepatil, Advocate for Respondents.

Mr. Sanjeev Saxena, Authorised representative for Respondents.

CORAM : G.S. KULKARNI, J.

DATE : 18 MARCH 2020

P. C.

1. These are petitions filed under Section 37 of the Arbitration and Conciliation Act, 1996 (for short “the Act”), whereby the petitioners who are respondents before the learned sole arbitrator are before the Court challenging orders dated 1 November 2019 passed by the learned sole arbitrator under Section 17 of the Act. By the impugned orders which are similar, the learned arbitrator has directed the petitioner to hand over possession of the vehicles in question. This being a measure for recovery of the loan amounts as advanced to the

petitioner by the respondents, the repayment of which they have defaulted.

2. I heard these petitions for some time yesterday and on the discussion which had then taken place, learned counsel for the parties are before the Court, stating that parties have agreed that in the peculiar facts of the case, the parties are agreeable for appointment of a substitute arbitral tribunal. The parties accordingly intend to inform the learned sole arbitrator who has passed the impugned orders to terminate the existing arbitral proceedings.

3. In these circumstances, the parties have also suggested that it will be appropriate that the Court appoints a substitute arbitrator to adjudicate the disputes and differences between the parties which have arisen under the loan agreements in question.

4. In view of the consensus between the parties these petitions are required to be disposed of by the following order:-

ORDER

i) Mr. Akshay Patil, Advocate of this Court is appointed as substitute sole arbitrator to adjudicate the disputes and differences between the parties as arising under the loan Agreement.

ii) The learned prospective Sole 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) The fees payable to the arbitral tribunal shall be governed by the provisions prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018;
- iv) At the first instance, the parties shall appear before the prospective arbitrator within 10 days from today or on a date which may be mutually fixed by the prospective sole arbitrator;
- v) The parties are permitted to move such appropriate application before the arbitral tribunal under Section 17 of the Act praying for interim reliefs.
- vi) In the event in any of the above petitions in pursuance of the impugned order, possession of the vehicle has been taken over by the respondent, the same will not be distributed at this stage and if the petitioner has any grievance, in that regard the petitioner is at liberty to move an application under Section 17 of the Act before the arbitral tribunal, praying for such appropriate reliefs. All contentions of the parties in that merit are expressly kept open.
- vii) Subject to the above, by consent of the parties the impugned orders are set aside with liberty to the parties to move further appropriate applications before the arbitral tribunal.
- viii) All contentions of the parties in that regard are kept open.
- ix) Office to forward a copy of this order to the learned Arbitrator at the following address:-

Mr. Akshay Patil (Advocate)
6A, Sindhu House,
3/5 Nanabhai Lane,
Fort, Mumbai-400001,
E-mail: ap.akshay@gmail.com
Tel.: 22821172
Mobile: 9892252175
- x) The petitions are disposed of in the above terms. No costs.

[G.S. KULKARNI, J.]