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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMM ARBITRATION PETITION NO. 1563 OF 2019**

Tata Capital Financial Services Ltd	...Petitioner
<i>Versus</i>	
Magic Motors & Ors	...Respondents

Mr Karl Tamboly, *with Kirtida Chandarana, Sonali Mehta & Manasi Kalvit, i/b Mahernosh Humranwala, for the Petitioner.*
Mr Mayank Bagla, *with Jainish Jain, for the Respondents.*

CORAM: G.S. PATEL, J.
DATED: 14th January 2020

PC:-

1. The present Petition is under Section 29-A of the Arbitration and Conciliation Act 1996.

2. Before I proceed further, I note that very recently on 5th December 2019 and 8th January 2020 at the hearings before the Arbitrator, the Advocate on record for the Respondents put in writing a series of statements that I do not think merit reproduction in this order. The Arbitrator has dealt with them and, in my view, entirely appropriately. On instructions, Mr Bagla states that the application before the Arbitrator stands unconditionally withdrawn

and no allegations of this nature will be made again. That statement is accepted. I am making it clear that in all these arbitrations, I expect counsel to conduct themselves before the arbitrators appointed by this Court in the same manner as they conduct themselves in this Court.

3. The Petition seeks an extension of time of the arbitral mandate. There was a Channel Finance Agreement dated 30th November 2016 and a Letter of Guarantee dated 6th December 2016. Disputes arose between the parties and ultimately the Petitioner appointed an Advocate of this Court as a sole Arbitrator. She accepted her appointment by her letter dated 14th June 2018. The Respondents challenged her appointment. She dismissed that application. The Respondents carried that matter to this Court in Arbitration Petition No. 107 of 2018 and independently filed a Section 16 Application before the Tribunal. The Section 16 Application was dismissed on 5th December 2018. Ultimately that Section 16 Application order was recalled and it was set down for fresh hearing.

4. In the meantime, on 2nd April 2019 this Court substituted the previous sole Arbitrator by appointing another Advocate of this Court with directions to endeavour to pass an Award within six months. Two meetings were held before the Arbitrator. Directions were issued. Pleadings have been completed. Issues have been framed.

5. The initial mandate of the arbitral mandate was to end on 11th June 2019. Both sides consented to an initial extension of six months. The cross-examination of the Petitioner's witness was on-going on the date when this Petition was filed. On that very day, there was another scheduled hearing and it seems that the cross-examination was closed on that date. The extended mandate ended on 10th December 2019. Hence, this Petition.

6. I have no hesitation in extending the time to complete the arbitration till 22nd December 2020. However, there is an application by the Respondents that they may be permitted to further cross-examine the Petitioner's second witness. The Respondents' cross-examination was closed since they failed to pay costs earlier ordered. These were in the amount of Rs. 20,000/-. I refuse to interfere with any such order of costs or to permit the Respondents even to make an application for further cross-examination without payment of those costs. This is an order of the Arbitral Tribunal and it will have to be respected.

7. The learned Advocate for the Respondents states on instructions that those costs will be paid on or before 27th January 2020. The statement is accepted as an undertaking to this Court. The arbitrator is requested to consider the application for resumption or re-opening of the cross-examination of the claimant's second witness upon proof of such costs being paid.

8. In fairness, Mr Tamboly states that after the payment of costs, the Petitioner will have no objection to the cross-examination

by the Respondents of the Petitioner's second witness being resumed and taken up. So noted.

9. This order will be communicated to the learned sole Arbitrator. It is clarified that the resumption of cross-examination by the Respondents of CW2 is dependent and conditional upon payment of costs as indicated.

10. This order is not to be construed as an interference with any other order or directions passed by the Arbitral Tribunal. I have not in fact addressed myself to any other order or directions.

11. The Petition is disposed of in these terms. There will be no order as to costs.

(G. S. PATEL, J)