

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 477 OF 2021

IN

ARBITRATION PETITION NO.1783 OF 2015

Phoenix ARC Pvt. Ltd.

... Applicants

In The Matter Of

Tata Capital Financial Services Ltd.

... Petitioner

V/s.

M/s. Shreeji Autoworld Pvt. Ltd.
and Ors.

... Respondents

Mr. Vishal Kanade i/b R. L. Motwani for Applicant.

Ms. Nimisha Ghetla i/b Katariya and Associates for Petitioner.

Dr. Abhinav Chandrachud a/w Mr. Mittal Munoth i/b Kookada and
Associates for Respondent Nos. 1 to 4.

Mr. D. N. Kher, Court Receiver present.

CORAM : K.R.SHRIRAM, J.

DATED : 16th JUNE 2021.

P.C. :

1. Prayer (a) and (b) of the application reads as under :-

(a) That this Hon'ble Court be pleased to pass order of discharge of Court receiver which has been appointed vide order dated 26.08.2016, subject to payment of the official charges of the Court Receiver incurred by the office.

(b) That this Honourable court be pleased to direct the Court Receiver High Court to handover the physical possession of the mortgage property to the Authorised officer of the Applicant after which the Court Receiver to stand

discharged on payment of his official charges and the Applicant be allowed to sell the mortgage property by private treaty or Public auction under the SARFAESI Act and adjust the outstanding dues from the sale proceeds to the pending loan Account.

2. Mr. Kanade and Dr. Chandrachud, on instructions, agreed, without prejudice to their respective client's rights and contentions, for grant of prayer (a) and part of prayer (b) which is hereby granted. The part in prayer (b) which has been agreed and has been bracketed in red in the application filed in the Registry reads as under :-

(b) That this Honourable court be pleased to direct the Court Receiver High Court to handover the physical possession of the mortgage property to the Authorised officer of the Applicant after which the Court Receiver to stand discharged on payment of his official charges.

3. It is open to applicant to move the appropriate authority to sell the mortgaged property under the provisions of SARFAESI Act and adjust the outstanding dues from the sale proceeds and it is open to respondents to oppose the application and to raise all defence in accordance with law.

I would hasten to add that I have not made any observations on the entitlement of applicant's relief that they propose to make in the appropriate forum and the defence that the respondents would raise.

4. The Court Receiver is discharged without passing of accounts. Mr. Kanade undertakes on behalf of applicant that they shall pay the charges of the Court Receiver, if any outstanding, within two weeks from receiving

communication from the Court Receiver. Undertaking accepted.

5. Interim Application No. 477 of 2021 accordingly stands disposed.

(K.R. SHRIRAM, J.)