

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

**CONTEMPT PETITION (L.) NO.11385 OF 2021
WITH
REVIEW PETITION (L.) NO. 26231 OF 2021
WITH
COMMERCIAL APPEAL (L.) NO.29096 OF 2021
WITH
COURT RECEIVER REPORT NO.289 OF 2021
IN
COMMERCIAL ARBITRATION PETITION NO.285 OF 2021
WITH
INTERIM APPLICATION (L.) NO.22198 OF 2021
IN
COMMERCIAL ARBITRATION PETITION NO.285 OF 2021**

Tata Motors Finance Limited ..Petitioner
Vs.
Mehrab Logistics & Aviation Ltd. & Anr. ..Respondents

Mr. Nitesh Bhutekar with Ms. Gargi Warunjikar and Mr. Aniket Nangre
for Petitioner.

Mr. Arjun Chaudhary for Respondents.

Mrs. Jyoti Chavan, AGP

Ms. Pallavi Dabholkar, APP

Mr. D. N. Kher, Court Receiver with Mrs. Rekha Rane, IInd Assistant to
Court Receiver.

Mr. Jayenth Chiplunkar, Assistant M.V.P. Transport Commissioner Office
present.

Mr. S. M. Belgandkar, PSI, MRA Marg Police Station present.

Police Havaladar No. 8388, Mr. Ramchandra Yashwant Yadav, MRA Marg
Police Station present.

CORAM : G.S. KULKARNI, J.

DATE : MARCH 23, 2022.

P.C.:

1. In the earlier order dated 09 March, 2022 a non-bailable warrant
was issued against respondent no.2 Mr. Abdul H. Khan, resident of 3/62,
A, Sector-3, Vikas Nagar, Lucknow, and Mahrab Tower, 6th Floor, T.C. 16

Vibhuti Khand, Gomtinagar, Lucknow, Uttar Pradesh, Managing Director of respondent no.1. There is a report of Senior Inspector of Police, MRA Marg Police Station, Mumbai dated 23 March, 2022, *inter alia* recording all necessary steps which were taken to execute the NBW however, the same could not be executed for the reasons as set out in the said letter. It clearly appears also from the past history of the present proceedings, and from the said report of the Sr.P.I. that respondent no.2 Mr. Abdul H. Khan is evading arrest.

2. In these circumstances, there is no alternative but to issue a Standing Non-Bailable Warrant against respondent no.2 Mr. Abdul H. Khan, which be issued by the office forthwith. The Commissioner of Police, Mumbai, shall take all steps and more particularly in the light of the report of the Sr. P.I. dated 23 March, 2022 to trace the said person and execute the Standing NBW of Arrest, including by coordinating with the Commissioner of Police, Lucknow.

3. In addition to the above orders, as it appears that there is a reason to believe that respondent no.2 Mr. Abdul H. Khan is concealing himself and absconding as despite a NBW being issued against him, the same could not be executed twice, it is directed that as per the provisions of Section 82 of the Code of Criminal Procedure, 1973, steps be taken to publish a written proclamation requiring respondent no.2 Mr. Abdul H. Khan to appear before this Court.

4. Liberty to the petitioner to apply in the event the Standing NBW of Arrest is executed and the presence of respondent no.2 Mr. Abdul H. Khan is secured on an early date.

5. Further, in the meantime, if the petitioner has any details of the whereabouts of any of the vehicles, the petitioner shall inform the Officer of the Court Receiver all such details so that further steps can be taken by the Officer of the Court Receiver to take physical possession of the vehicles.

6. On a request as made by the Court, Ms.Jyoti Chavan, learned AGP has appeared to assist the Court in regard to the steps being taken by the Mumbai RTO to trace location of the vehicles. Mr. Jayanth Chiplunkar, Assistant M.V.P. Transport Commissioner Office, is present in the Court who states that further steps can be taken to locate the vehicles by tracking the vehicles and by categorizing these vehicles as “wanted vehicles”. Let such steps be taken by the Commissionerate of Transport, State of Maharashtra, as the details of all the vehicles are already supplied by the office of the Court Receiver to the Regional Transport Officer. Let the report in regard to the steps being taken by the Commissioner of Transport, RTO, be informed to the Court Receiver who is at liberty to make appropriate report, as and when necessary.

7. It is also clarified that the Commissioner of Transport/RTO shall also inform and/or issue necessary intimation in regard to the vehicles in question to the other Commissioners of Transport in other parts of the country.

8. The report of the Court Receiver dated 23 March, 2022 is taken on record in which it is informed that on 16 March 2022, a meeting was held by the Court Receiver with the representative of respondent no.1. Mr. Siddharth Srivastva, Financial Legal Advisor attended the meeting who stated that respondent no.1 is willing to hand over the possession of 44 vehicles as set out in the minutes of the meeting as under:-

“ The representative of M/s. Mehrabh Logistic who is present before me submits that, he is requesting time to hand over the possession of 65 vehicles. He is saying that he will give symbolic possession of 44 vehicles at the Yard at Sohna, Dhulawant Village, Block-Taoru, Dist. Mewat, Haryana and remaining 21 vehicles which was already under symbolic possession to the Court Receiver. He submits that if the directions given by the Hon’ble Court to give physical possession, then he is ready to hand over the 44 vehicles out of 65 vehicles and for balance 21 vehicles he requested for 15 days time. Advocate for petitioner submits that as per the directions of the Hon’ble Court, the Court Receiver has to take physical possession of all 65 vehicle and as of now the respondent is giving physical possession of 44 vehicles.”

However, despite such assurances as made on behalf of the respondents, possession of 44 vehicles could not be taken on 21 March, 2022.

9. The Court Receiver to coordinate with the office of the Commissioner of Transport.

10. The Office of the Commissioner of Police, Mumbai, shall keep informed the learned Prothonotary and Senior Master of this Court, of the progress in regard to the execution of NBW issued to respondent no.2- Mr. Abdul H. Khan. As also the office of Commissionerate of Transport/RTO shall keep apprised the office of the Court Receiver in regard to the location of the vehicles. Let a preliminary report in regard to the progress made be placed on record by the Court Receiver after 10 days from today.

11. The learned APP shall forward a copy of this compliance order to the Commissioner of Police, Mumbai for necessary action.

[G.S. KULKARNI, J.]