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

NOTICE OF MOTION NO.1749 OF 2018

IN

ARBITRATION PETITION (L) NO.395 OF 2018

Dhiraj Joginder Sharma & Anr.

...Applicant /
Petitioner

Versus

Tata Motors Finance Ltd.

...Respondent

Jannat K. Yadav, for the Petitioner.

CORAM : R.I. CHAGLA J

DATE : 1ST NOVEMBER, 2023

ORDER :

1. By this Notice of Motion, the Applicant / Petitioner has sought restoration of the Arbitration Petition by setting aside the conditional order passed by the Prothonotary and Senior Master of this Court dated 5th June 2018.

2. The Applicant has stated that upon filing of the Arbitration Petition under Section 34 of the Arbitration and

Conciliation Act, 1996 for challenging the Award dated 21st October, 2016 and which Arbitration Petition was filed on 9th April, 2018, there were office objections to the said Petition including for legible copies to be furnished. Due to some unavoidable circumstance in the Applicant's family, the Applicant was unable to contact his Advocate for necessary instructions and for providing the legible copies and there were intervening court vacations from 5th May, 2018 till 3rd June, 2018. The Applicant's Advocate was not in Mumbai and hence the Applicant could not proceed for compliance of the office objection. Further, due to technical problems of the Applicant's Advocate's mobile, she was not contactable.

3. When the Applicant contacted his Advocate, he was informed that the Arbitration Petition was shown as rejected under Section 986 of the High Court Original Side Rules and date of rejection was 26th June, 2018. The Applicant was unaware of the rejection of Arbitration Petition prior thereto. The Applicant states that the delay is unintentional and / or not deliberate and is due to the peculiar circumstances of the case. The Applicant has further stated that if the delay is not condoned grave injustice and loss will be caused to the Petitioner which cannot be compensated in terms of

money.

4. I have considered the averments in the Affidavit in Support of the Notice of Motion as well as taking note of the conditional order dated 5th June, 2018 passed by the Prothonotary and Senior Master whereby the Arbitration Petition came to be rejected on 26th June, 2018 for non compliance of the office objections, I am of the view that the delay in non compliance of office objections has been satisfactorily explained in paragraphs 3 and 4 of the Affidavit in Support of the Notice of Motion. Accordingly, the relief sought for in the Notice of Motion is required to be granted. Hence, I pass the following order:-

(i) The Arbitration Petition (L) No.395 of 2018 is restored to file by setting aside the conditional order dated 5th June, 2023.

(ii) Notice of Motion is made absolute in the above terms.

[R.I. CHAGLA J.]