

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

**INTERIM APPLICATION NO. 4492 OF 2022
IN
COMMERCIAL EXECUTION APPLICATION NO. 1400 OF 2018**

Phoenix ARC Pvt. Ltd. ... Applicant/Assignee

In the matter between

TATA Capital Financial Services Ltd. ... Award Holder/Orig. Applicant

Versus

Shreeji Autoworld Pvt. Ltd. & Ors. ... Respondents

Mr. Narayan Awate a/w Datta Vadar for the Applicant.

CORAM : R.I. CHAGLA, J.

DATED : 24th APRIL, 2023.

ORDER :

1 The learned Counsel for the Applicant/Assignee has tendered an affidavit of service dated 12.04.2023 which shows service on the Respondents by hand at the office of the Respondent's Advocate. The affidavit of service is taken on record.

2 In the affidavit of service Notice dated 10.04.202 of the Advocates of the Applicant, is annexed at Exhibit-A and receipt of notice

has been acknowledged at Exhibit-B.

3 Accordingly, the Respondents have been served with the Interim Application and despite service they have not made any appearance in Court.

4 By this Interim Application the Applicant has sought substitution of its name in place of Original Applicant TATA Capital Financial Services Limited. Further relief is sought for amending Columns E and G of the Execution Application on the ground that there has been subsequent payment or adjustment to the award in respect of which execution is sought, being an amount of Rs.30,00,000/-. Thus, the Columns E and G of the Execution Application are required to be amended accordingly.

5 The learned Counsel appearing for the Applicant has referred to the Assignment Agreement dated 08.04.2019 annexed at Exhibit-B to the Interim Application whereby the debts due to the Applicant/Decree Holder has been assigned to the Applicant. He has submitted that by virtue of the said Assignment Agreement, the Applicant/Assignee is required to come in place of the Award Holder/Original Applicant in the present proceedings.

6 Having considered the submissions and taking note of the fact that the Applicant has been assigned the debts due to the Decree Holder by virtue of Assignment Agreement dated 08.04.2019, the amendment is required to be allowed.

7 Further, in view of the payment or adjustment made in the sum of Rs.30,00,000/- subsequent to the passing of award, the amount awarded with interest requires to be correspondingly amended in Columns E and G of the Execution Application. Hence, the relief sought for is granted.

8 The Applicant is permitted to substitute the Original Applicant and amend Columns E and G of the Execution Application in accordance with schedule annexed to the Interim Application and for consequential amendment in the proceedings.

9 The amendment shall be carried out within a period of two weeks from the date of this order.

10 Interim Application is accordingly disposed of.

(R.I. CHAGLA, J.)