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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COURT RECEIVER REPORT NO. 180 OF 2024

IN

COMMERCIAL ARBITRATION PETITION (L) NO. 28237 OF 2023

Tata Motors Finance Limited

...Petitioner

Vs.

Jahir Khan Transport Company & Anr.

...Respondents

WITH

COURT RECEIVER REPORT NO. 271 OF 2024 (NOB)

WITH

COMMERCIAL ARBITRATION PETITION (L) NO. 28237 OF 2023

Mr. Akash Rebello a/w Nadeem Shama, Abhishek Bhaduri and Abhayjeet
Khairwar i/by Goenka Law Associates for the Petitioner.

Mr. Aijaz Sayyed a/w Sonal Mishal for the Respondents.

Mr. N. C. Pawar, O.S.D., Court Receiver is present.

CORAM : ARIF S. DOCTOR, J.

DATE : 19TH AUGUST, 2024

P.C.:-

1. Mr. Rebello, Learned Counsel appearing on behalf of the Petitioner has invited my attention to an order dated 28th March, 2024 from which he points out that given the conduct of the Respondents in disobeying orders of this Court, this Court had taken note of the same and issued *suo motu* contempt notice to the Respondents under Rule 5(a) of the Contempt of Courts (Bombay

High Court) Rules, 1994 as also directed the Court Receiver to take possession of the hypothecated assets which were the body and chassis of trucks in respect of which the Petitioner had lent advance monies to the Respondent. He points out that the order dated 28th March, 2024 had been tested in Appeal, which Appeal came to be dismissed on 16th August, 2024 after this Court noted as follows:-

“P.C.:

1. On 21st June 2024, the following order was passed:

“1. We have heard learned counsel for the parties for some time.

2. In the light of the observations made in paragraphs 7 to 9 of the impugned order dated 28 March 2024, learned counsel for the appellants was called upon to furnish the address where the vehicles in question could be found. On instructions, learned counsel for the appellants has furnished the following details:-

Sehasu Ali Nagar (Majre Parking) Sasपुराली नगर, Amroha, Birali, Uttar Pradesh.

Waseem Ahmed – 6395277391/9457187275

3. Having heard learned counsel for the respondent, we are inclined to grant limited stay to the order dated 28 March 2024. The relevant portion of prayer clause (g) reproduced hereinbelow:-

“if necessary, with the power to sell the same by public auction or private treaty and/or recover and/or realize the same and to pay over the net sale proceeds and/or net recoveries and/or the net realization thereof to the Petitioner in or towards the satisfaction of its dues claimed.”

shall be stayed until further orders.

4. The Court Receiver is directed to take steps in accordance with the reliefs granted vide prayer clause (g) as referred to in the order dated 28 March 2024 except the portion referred to hereinabove. Police assistance, if necessary, can also be sought.

5. Put up for further consideration on 5 July 2024.

6. Parties to act on an authenticated copy of this order.”

2. Thereafter, on 6th August 2024, the following order was passed:

“1. None for the appellants–applicants.

2. The learned Court Receiver has tendered his report dated 16th July 2024. The same is taken on record. It has been stated in the said report that at the address provided by the appellants, the vehicles that were sought to be attached were not found. For this reason, possession of the said vehicles could not be taken in terms of the order dated 21st June 2024.

3. Since there is no appearance on behalf of the appellants, one opportunity is given.

4. List under the caption “For Dismissal” on 16th August 2024.”

3. Today the learned counsel for the appellants submits that the appellants are not imparting necessary instructions to the learned counsel despite necessary steps being taken.

4. In view of aforesaid, the Appeal is dismissed for want of prosecution.

5. The Receiver's report that was tendered in the present proceedings is permitted to be placed in Commercial Arbitration Petition (L) No. 28237 of 2023.

6. Needless to state, the respondents are at liberty to take all permissible steps against the appellants for non-compliance.

7. The Interim Application is also disposed of."

2. Basis this, Mr. Rebello submits that today the Petition under Section 9 can be disposed of since there are no further reliefs that are being sought for. He submits that the Court Receiver Reports as and when they come up can be taken up for hearing and passing of the necessary directions.

3. Learned Counsel Mr. Sayyed appearing on behalf of the Respondents makes the same submission that was made before the Division Bench namely that the Respondents are not giving any instructions to the Learned Counsel. He thus seeks a discharge.

4. Having heard Learned Counsel for the parties, Mr. Rebello is right in his submission that nothing survives in the present Section 9 Petition. The contempt notice as also the Receiver's Reports shall keep their own fate. Section 9 Petition is therefore disposed of in the aforesaid terms.

5. Learned Counsel for the Respondents to take appropriate steps for discharging with the Registry of this Court.

6. At this stage, Court Receiver has submitted that he has filed two Reports. The first Court Receiver Report No.180 of 2024 pursuant to the order dated 28th March, 2024, pursuant to which he submits that he has visited the site in question and it was found that the said body and chassis of the said trucks were not at the said site. The other Court Receiver Report No. 271 of 2024 was pursuant to the order dated 21st June, 2024. Again he submits that on visiting the said site in question, no trucks were found. Thus, both these Reports are disposed of as such.

7. Without passing of accounts the necessary costs, charges and expenses of the Court Receiver i.e. Rs.5000/- each to be borne by the Petitioner.

8. Returnable date for issuance of the contempt notice is extended upto 18th September, 2024, on which date it is made clear that relevant police authority i.e. F. P. Jhirka Police Station, Firozpur Jhirka, Haryana 122104 to ensure the presence of the Respondents before this Court.

(ARIF S. DOCTOR, J.)