
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 116 OF 2024

Aditya Birla Finance Limited ...Applicant

Versus

Kamal Madhavdas Rajpal ...Respondent

Ms. Tikshita Modi, a/w Stephanie Pereira i/b Akhil Modi & Associates for the Applicant.

None for Respondent.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : APRIL 2, 2025

PC :

1. This is a Petition under Section 9 of the Arbitration and Conciliation Act, 1996 ("***the Act***") seeking interlocutory protective reliefs in connection with disputes and differences relating to an Agreement dated May 26, 2017 ("***Agreement***"). Clause 57 of the Agreement contains the arbitration clause, which, in the interest of brevity, is not extracted herein.

2. The Respondent has evidently committed a default in servicing the loan. It is seen from the record that a notice in this regard was issued on August 10, 2022. Learned Counsel for the Petitioner

submits that the amount due under the Agreement, as claimed by the Petitioner from the Respondent is to the tune of Rs. 19,28,628/-. The Petitioner has filed service affidavit dated March 11, 2025. It is seen from the Service affidavit dated March 11, 2025 this Petition has been served on the Respondent, but the Respondent has not entered appearance.

3. Learned Counsel for the Petitioner submits that there is an evident default, and despite issuance of a notice(s), there is no response at all, necessitating the protection of the subject-matter of the arbitration agreement. It is submitted that the subject-matter of the arbitration agreement runs the risk of being dissipated and denuded, rendering the very arbitration infructuous. Consequently, urgent interlocutory relief is sought.

4. Since despite notice, the Respondent has not appeared, Learned Counsel seeks reliefs sought in prayer clauses (a) and (b). A case has been made out for grant of *ad interim* reliefs, and moulding, if any, is as considered appropriate by this Court. Such *ad interim* reliefs would apply pending the consideration of further interim relief by the Arbitral Tribunal that would be constituted in the matter:

a) That pending the hearing and final disposal of the arbitration proceedings, the Respondent and his agents or any person claiming under them be restrained by a temporary order and injunction of this Hon'ble Court from in any manner, directly or indirectly, dealing, selling, offering for sale, causing it to be offered for sale, transferring, causing to be transferred parting with possession of, delivering, creating or causing to be created any third party rights in respect of personal assets or properties in any manner whatsoever;

b) The possession of the vehicle model FREELANDER 2 SD4 HSE, bearing Chassis No.SALFA2AB2DL910345, Engine No. DZ784087161224DT, bearing Registration No. MH14DW0012 should be handed over to the receiver appointed by the Petitioner from the possession of the Respondent;

5. It is made clear that should the Respondent be desirable of varying, altering or vacating the *ad-interim* relief granted hereby, the Respondent may appear before the Arbitral Tribunal, and present its say.

6. Learned Counsel for the Petitioner undertakes that an application under Section 11 of the Act is yet to be filed but will be filed. Liberty to do so within a period of 30 days from the upload of this Order on this Court's website to enable time to invoke arbitration afresh and file the same. In these circumstances list this Petition along with the Section 11 Application after four weeks i.e. on ***April 30, 2025***.

7. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]