
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 364 OF 2024

Aditya Birla Finance Limited ...Applicant

Versus

Lalneo Kipgen ...Respondent

Ms. Tikshta 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 November 30, 2022 (“***Agreement***

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 October 17, 2023. 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. 28,59,116/-. It is seen from the service affidavit dated February 25, 2025 that 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 Respondents have 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) Be pleased to pass an order of injunction restraining the respective Respondents, including their servants, agents, assignees and/or any other person claiming by, through or under them from selling, transferring, alienating, dealing with or disposing or creating third party rights with respect to the Mortgaged Property;

b) be pleased to direct the Respondent Nos. 1 to 4 to file an Affidavit before this Hon'ble Court inter alia disclosing all their respective assets (moveable and/or immoveable) including bank accounts (with bank statement of last 1 year), investments, along with particulars of encumbrance thereon, ITR returns of the last 3 years and all other properties owned by the Respondent Nos. 1 to 4 jointly and/or severally and of any of the entities/firm owned by the Respondent Nos. 1 to 4;

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.]