

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION APPLICATION (L) NO.13965 OF 2023

Avanse Financial Services Ltd.

... Applicant

Versus

Tamanna Gusain & Anr.

...Respondents

Ms. Bijal K. Gogri i/b GNP Legal for Applicant.

Mr. C.S. Lamba a/w Md. Shamsheer Ali for Respondent No.3.

CORAM : ADVAIT M. SETHNA, J.

DATE : 28 JANUARY 2025

P.C.:

1. Learned Advocate for the Applicant has drawn my attention to an order dated 25 September 2024, passed by this Court, which reads thus :-

"1. Mr Suryansh Kumar, learned Counsel representing for Respondent No. 3 undertakes to file the vakalatnama by 26th September 2024. At his request, time to file and serve the Reply is granted upto 3rd October 2024. If the Reply is not filed and served by 3rd October 2024, the Respondent No. 3 shall be liable to pay costs of Rs. 25,000/- to the Applicant for causing the delay of hearing so far.

2. The parties and Advocate are hereby notified that failure to file the Reply on the said date would render the Respondent not only liable to costs but also the matter being proceeded with ex parte.

3. Liberty to Respondent No. 3 to file a scanned copy of the duly executed vakalatnama by tomorrow, ie., 26th September 2024

and the original to be filed by 1st October 2024.

4. List the matter on 9th October 2024 for further orders.”

2. The above order of the Court had categorically directed the Respondent No.3 to pay a cost of Rs.25,000/- to the Applicant for causing delay of hearing so far and Respondent No.3 was also directed to file a reply and serve it to the Applicant by 3 October 2024. Learned Advocate for Respondent No.3 is present. He would state on instructions that none of these is done until date. It is clear that despite a categorical order passed by this Court dated 25 September 2024, there is no compliance on behalf of Respondent No.3. Such non-compliance of the Court's order cannot be accepted and has to be taken seriously.

3. In view therefore, Respondent No.3 is directed to pay a cost of Rs.25,000/- to the Applicant by way of a demand draft by **29 January 2025**, positively without fail. Learned Advocate for Respondent No.3 undertakes that such directions shall be complied with within such stipulated time frame.

4. It appears that the orders of the Court are taken lightly by Respondent No.3, which is not expected from any litigant appearing before the Court in a commercial matter, as such delay caused without any justification, would ultimately defeat the ends of justice.

5. In light of the above, as an adjournment become inevitable even today. I, therefore, direct Respondent No.3 to pay a further cost of

Rs.10,000/- to the Applicant for causing further delay in these proceedings. Such a cost shall be paid by way of demand draft on or before **31 January 2025**. Learned Advocate for Respondent No.3 undertakes to ensure compliance of the said directions.

6. Subject to the above directions and Respondent No.3 shall file an affidavit of compliance, which would be placed on record of this Court. Only then and thereafter, within a period of one week from 31 January 2025, Respondent No.3 would be entitled to file an affidavit-in-reply, if they so desire. Learned Advocate for the Applicant shall file a rejoinder, if necessary, within a period of two weeks thereafter.

7. It is pointed that Respondent Nos.1, 2 and 4 despite being served, have chosen not to appear in the proceedings before this Court. It is made clear that subject to the above order/directions, Respondent Nos.1, 2 and 4, who continue not to appear despite service on the adjourned date of hearing, the application filed under Section 11 of the Arbitration and Conciliation Act, 1996, shall proceed and appropriate orders would be passed, on the adjourned date of hearing.

8. Stand over to **21 February 2025**.

[ADVAIT M. SETHNA, J.]