
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL ARBITRATION PETITION NO. 26 OF 2025
WITH
INTERIM APPLICATION (L) NO. 20671 OF 2024
IN
COMMERCIAL ARBITRATION PETITION NO. 26 OF 2025

Siemens Financial Services Pvt. Ltd. ...Petitioner

Versus

Shakthi Imaging & Diagnostics Pvt. Ltd. & Ors ...Respondents

Mr. Anoshak Dave, a/w Aaushi Doshi, Diksha Tripathi, i/b India Law LLP, for the Petitioner.

Mr. Rajesh Singh, for Respondent Nos.1 to 5.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : MARCH 5, 2025

PC :

1. By an order dated May 10, 2024, a Learned Single Judge of this Court was pleased to take a sympathetic view towards the Respondents and leaned heavily on the Petitioner to accept payment of Rs. 20 Lakhs within a period of three weeks from that date. On the premise that the Respondent would deposit the amount within the aforesaid period, the Learned Single Judge directed that no other interlocutory measure be taken and stood the matter over.

2. However, despite being listed from time to time, the matter has only been listed today for consideration. It is the case of the Petitioner that since the last date, there has been no change at all and not even a rupee has been paid in compliance with the undertaking given to this Court.

3. Learned Counsel for the Respondents submits that a payment of Rs. 4 Lakhs was made, which fact is also contested by the Petitioner. Even if this statement were true, it is totally inappropriate that after undertaking to the Learned Single Judge in May 2024 that Rs. 20 lakh would be paid in three weeks, over one months later, the undertaking has evidently not been complied with.

4. In these circumstances, without getting into further discussion, it is evident that a more serious interlocutory intervention would be warranted. In my opinion, the prayers made at prayer clauses (a), (b) and (c) (as moulded below), (d), (e) and (f) are hereby granted as *ad interim* measures.

a. that pending the hearing and final disposal of the arbitration proceedings and till the Award which may be passed is enforced in accordance with Section 36 of the Arbitration and Conciliation Act 1996, the Respondents be directed to deposit a sum of Rs.47,18,086/- (Rupees Forty Seven Lakh Eighteen Thousand Eighty Six Only) due as on 13th December, 2023 with this Hon'ble Court or to furnish sufficient securities and/or bank guarantee to the satisfaction of this Hon'ble Court in order to secure the Petitioner's claim;

b. that pending the hearing and final disposal of the arbitration proceedings and till the Award which may be passed is enforced

in accordance with Section 36 of the Arbitration and Conciliation Act 1996, the Respondents, their agent/s, servant/s, and any third person/s claiming through them be restrained by an order of injunction of this Hon'ble Court from in any manner dealing with, selling, transferring, disposing of, or alienating or encumbering or mortgaging or hypothecating or charging or parting with possession of or transferring, or inducting anyone else into or creating any right, title or interest or license in favour of anyone else in respect of:

i. Siemens 32 Slice CT Somatom.go.Now, situated at City Plaza Commercial Centre, D No.1/341, RTC Bus stand road, opposite district court, Kadapa, Hyderabad, Telangana- 5160001 ;

c. That pending the hearing and final disposal of the arbitration proceedings and till the Award which may be passed is enforced in accordance with Section 36 of the Arbitration and Conciliation Act 1996, the Petitioner submit that Court Receiver, High Court, Bombay or any other fit and proper person be appointed as Receiver in respect of the hypothecated assets with all powers under Order XL Rule 1 of the Code of Civil Procedure 1908 with specific directions to take forcible physical possession of the hypothecated machine with the assistance of police and break open the lock in case the premise is locked where the equipments are kept;

d. that police assistance be provided to the Court Receiver or any other fit person as the Hon'ble Court may deem fit for such period as this Hon'ble Court may deem fit;

e. the Respondents be directed to file an affidavit disclosing the detailed list of their personal properties;

f. the Respondents, their agent/s, servant/s, and any third person/s claiming through them be restrained by an order of injunction of this Hon'ble Court, from encumbering and/or transferring and/or disposing and/or alienating and/or creating any third-party rights and/or interfering with the possession of the personal properties so disclosed;

5. By another order dated May 8, 2024 (two days before the last order) another order had been passed in relation to another diagnostic machine, and it is the grievance of the Petitioner that the Court Receiver was frustrated and it took serious police intervention to have the asset seized. Any such repetition this time, would invite action for contempt. It is hoped that any fresh intervention from this Court, would not be necessary.

6. The Respondents shall file an affidavit pointing out all the earnings from the utilization of the said machine from the last date i.e. May 10, 2024 till date. Such affidavit shall be filed no later than March 25, 2025. List this matter along with the connected Section 11 Application, being Commercial Application (L) No.18731 of 2024 on ***March 26, 2025*** on the ***Supplementary Board***.

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.]