

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL ARBITRATION PETITION NO. 108 OF 2025

Tata Motors Finance Ltd.

...Petitioner

Versus

Kool Ex Cold Chain Ltd. & Ors.

...Respondents

**Mr. Gaurav Jangle, a/w Nidhi Mistry, i/b I.V. Merchant & Co., for
the Petitioner.**

None for Respondent.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : MARCH 10, 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 Loan cum Hypothecation cum Guarantee Agreements dated August 25, 2018, April 16, 2019 and November 15, 2018 (“***Agreements***”) that was executed to finance commercial vehicles. The commercial vehicles financed pursuant to the Agreement are listed at Exhibit ‘G’ to the Petition. Clause 21 of the Agreement contains the arbitration agreement, which, in the interest of brevity, is not extracted herein. The Agreement contains an explicit clause for re-possession of the vehicles in Clause 12.

2. The Respondents committed a default in servicing the loan account. It is seen from the record that defaults occurred under the

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Agreements and loan recall-cum-invocation notices were issued on March 22, 2024 and July 26, 2024. Learned Counsel for the Petitioner submits that the amount due under the Agreement, as claimed by the Petitioner from the Respondents is to the tune of Rs.43,84,57,334.13.

3. Learned Counsel for the Petitioner submits that there is an evident default, and despite issuance of loan recall cum invocation notices there is no sighting of the vehicles financed (the subject property relating to the arbitration). He submits that the vehicles run the risk of getting lost or dissipated, rendering the arbitration infructuous. Consequently, he seeks urgent interlocutory relief.

4. The Petitioner has filed an affidavit of service dated February 18, 2025. Since despite notice, the Respondents have not appeared and have not replied to the notices issued by the Petitioner, therefore Learned Counsel for the Petitioner seeks interim reliefs. A case has been made out for grant of such reliefs as moulded below, which would apply pending the consideration of further interim relief by the Arbitral Tribunal that would be constituted in the matter:

A) The Respondent are hereby enjoined, whether by themselves, or through servants, assigns, employees, agents, representatives, officers, or any other person/s claiming through or under them or under any instrument, whatsoever, from in any manner selling, alienating, transferring, parting with the possession of, encumbering, dealing with, disposing of or creating any third party rights or interest of whatsoever nature and in any manner whatsoever in respect of their hypothecated commercial vehicles (more particularly described at Exhibit G to the Petition);

B) The Court Receiver of this Court is hereby appointed to take possession of the vehicles listed in Exhibit G. The Respondent are hereby directed to disclose the current and exact location of the hypothecated vehicles listed in Exhibit G to the Petition, on oath and to hand over

peaceful possession of the Hypothecated Vehicles to the Court Receiver, with the Petitioner acting as the agent of the Court Receiver; and

C) The Court Receiver and the Petitioner are hereby authorised to seek assistance of the police from the appropriate concerned police station upon payment of necessary charges for seeking police assistance for taking physical possession of the hypothecated vehicles as described in Exhibit G to the Petition as per the repossession clause of the said Loan Agreements.

5. It is made clear that should the Respondents be desirable of varying, altering or vacating the *ad-interim* relief granted hereby, the Respondents may appear on the next date and present their say.

6. With the aforesaid directions, this Petition is stood over to ***April 7, 2025.***

7. Should any Application under Section 11 be filed in connection with these matters, the same shall be tagged and list along with the Petition on the next date. Advocates for the Petitioner shall highlight to the Registry the connected Section 11 Application having been filed.

8. 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.]