
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMM. ARBITRATION PETITION NO. 297 OF 2024

Digitally
signed by
SHRADDHA
KAMLESH
TALEKAR
Date:
2025.03.24
20:24:09
+0530

Aditya Birla Finance Limited

...Petitioner

Versus

K.S.M. Engineering & 3 Ors.

...Respondents

Ms. Tikshita Mody a/w. Ms. Jenny Somaiy i/b Akhil Modi & Associates,
for Petitioner.

None for Respondents.

CORAM : SOMASEKHAR SUNDARESAN, J.

Date : March 12, 2025

P. C.

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 a Loan Agreement dated December 21, 2023 (“***Agreement***”). The Agreement is at Exhibit ‘C’ to the Petition. Clause 22 (found at Page 61 of the Petition) of the Agreement contains the arbitration clause, which, in the interest of brevity, is not extracted herein.

2. It is seen from the record that default occurred under the Agreement and a loan recall-cum-invocation notice was issued on May 31, 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.1,62,81,769.38. It is seen from the record that service has been effected. Since there is no reply whatsoever to the Loan Recall Notice, when it has been issued on May 31, 2024, *ex-parte ad-interim* relief in terms of prayer clause (a) and (c) is hereby granted.

3. A case has been made out for grant of reliefs as set out below, which 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 Respondents and their 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 their personal Mortgage Properties :-

i. SfNo. 404/6, 404/7B Balaji Industrial Park, Annur Taluk, Annur SRO, Coimbatore District, Sarcarsamakulam, Tamil Nadu — 641107,

ii. SfNo. 404/7, 404/7C Balaji Industrial Park, Annur Taluk, Annur SRO, Coimbatore District, Sarcarsamakulam, Tamil Nadu — 641107.

c. That pending the hearing and final disposal of this petition and arbitration proceedings, the Hon'ble Court be pleased to order and direct the Respondents, to file their respective comprehensive affidavit disclosing on oath the assets both movable and immovable held by them jointly and or severally including details of all Bank accounts (with account numbers, Bank, Branch etc) and all the amounts lying in the Bank accounts and also all debts and receivables payable by third

parties to the borrower/s/Respondents with their precise and exact addresses.

4. The Respondents shall be entitled to approach this Court to seek varying, altering or vacating the *ad-interim* relief granted hereby, the Respondents may appear on the next date and present their say. The Petitioner is expected to invoke arbitration forthwith since reliefs under Section 9 are only temporary measures to secure the subject property of the arbitration.

5. List under the caption, “***Interim Relief-Section 9***” on ***April 3, 2025***. On that date, the Petitioner shall provide an update on the invocation.

6. 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.]