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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMM. ARBITRATION PETITION NO. 387 OF 2024
ALONGWITH
COMM. ARBITRATION APPLICATION (L) NO. 33908 of 2024

Tata Motors Finance Limited ...Petitioner

Versus

Mangesh Medankar and Ors. ...Respondents

Mr. Gaurav Jangle a/w Ms. Akshita Jain i/b I.V. Merchant &
Company *for the Petitioner.*
None for the Respondents.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : MARCH 24, 2025

PC :

1. This Petition has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 (*“the Act”*).

2. By an order dated September 30, 2024, a Learned Single Judge of this Court had been pleased to grant ad-interim reliefs in terms of prayer clauses “a” and “f”. Thereafter, taking note of the continued absence of the Respondents, the Learned Single Judge of this Court on November 13, 2024 made it clear that further ad-interim reliefs would be considered in future.

3. Today, when the matter is called out, I am informed that the earlier order has not been complied with by the Respondents and none has entered appearance for the Respondents till date. In these circumstances, taking into account the continued absence of the Respondents, and to make the pre-arbitration securing of the subject-matter of the arbitration more

effective, further ad-interim reliefs would be granted in terms of prayer clause “g” of the Petition which reads thus:-

g) In the event if the Respondents fails to handover possession of the hypothecated vehicles in terms of prayer clause (d) above, pending the hearing and final disposal of the arbitration and until final execution of the Arbitral Award, this Hon'ble Court be pleased to direct the Court Receiver, High Court, Bombay to take forcible physical possession of the Hypothecated Assets and/or other disclosed assets/properties of the Respondents, by breaking open seal/locks of whatsoever nature or by whomsoever put on the premises where the said hypothecated vehicles are lying, with or without giving notice of their visit to the Respondents, with a direction to visit the place where the assets of the Respondents are lying/situate and take physical possession of the same from the Respondents and or the person in possession of the same, with police assistance, if necessary, and with the power to sell the same by public auction or private treaty and/or recover and/or realize the same and to pay over the net sale proceeds and/or net recoveries and/or the net realization thereof to the Petitioner in or towards the satisfaction of its dues claimed hereunder and give credit thereof and in that event the Court Receiver so appointed be directed to handover the hypothecated assets so possessed to the Petitioner or buyer of the said hypothecated assets;

4. It is made clear that the Petitioner shall have liberty to approach the Learned Court Receiver with a copy of this order within a period of one week from the date on which this order is being uploaded on the website of this Court. An Application under Section 11 of the Act is said to have been filed being Commercial Arbitration Application (L) No. 33908 of 2024 (“**Section 11 Application**”). Although, it is not listed today, considering continued absence of the Respondents, no useful purpose would be served by keeping the matters pending any further. Besides considering that additional ad-interim relief has indeed been granted today, it would be appropriate to enable the arbitral proceedings forthwith so that the temporary interim measures that are already issued under Section 9 of the Act are truly in aid of arbitration and do not become an end by themselves.

5. In these circumstances, the Section 11 Application is taken on board and ***disposed of*** in the following terms:-

A] The disputes and differences covered by this Application is hereby referred to the Mumbai Centre for International Arbitration (<https://mcia.org.in>), in terms of its Institutional Arbitration Rules, to appoint an appropriate arbitrator to adjudicate upon the disputes and differences between the parties arising out of and in connection with the Agreement referred to above;

B] A copy of this Order will be communicated to the Mumbai Centre for International Arbitration by the Advocates for the Applicant from the date on which this order is uploaded on the website of this Court. The Applicant shall provide the contact and communication particulars of the parties to the Centre along with a copy of this Order;

C] The Learned Sole Arbitrator is requested to forward the statutory Statement of Disclosure under Section 11(8) read with Section 12(1) of the Act to the Advocates for the Applicant so as to enable them to file the same in the Registry of this Court. The Registry of this Court shall retain the said Statement on the file of this Application and a copy of the same shall be furnished by the Advocates for the Applicant to the Respondents;

D] The parties shall appear before the Learned Sole Arbitrator on such date and at such place as indicated, to obtain appropriate directions with regard to conduct of the arbitration including fixing a schedule for pleadings, examination of witnesses, if any, schedule of hearings etc. At such meeting, the parties shall provide a valid and functional email address

along with mobile and landline numbers of the respective Advocates of the parties to the Arbitral Tribunal. Communications to such email addresses shall constitute valid service of correspondence in connection with the arbitration;

E] All arbitral costs and fees of the Arbitral Tribunal shall be borne by the parties equally in the first instance, and shall be subject to any final Award that may be passed by the Tribunal in relation to costs.

6. The Section 9 Petition as it now stand converted into proceedings under Section 17 of the Act. Further steps as necessary may be taken by the Arbitral Tribunal appointed hereby. Both the Section 9 Petition and the Section 11 Application are hereby *finally disposed of* in the aforesaid terms.

7. Needless to say, nothing contained in this order is an expression of an opinion on merits of the matter or the relative strength of the parties. All issues on merits are expressly kept open to be agitated before the arbitral tribunal appointed hereby.

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.]