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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS COMMERCIAL DIVISION

COMMERCIAL ARBITRATION PETITION NO. 446 OF 2024

Tata Motors Finance Ltd.

....Petitioner

Versus

Priyanka Services & Ors.

....Respondents

Mr. Gaurav Jangle a/w Ms. Kunjita Shah i/b I.V. Merchant & Co., for the
Petitioner.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : FEBRUARY 5, 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 cum Hypothecation cum Guarantee Agreement dated April 20, 2022 (“***Agreement***”) that was executed to finance commercial vehicles. The commercial vehicles financed pursuant to the Agreement are listed at Exhibit ‘C’ to the Petition. Clause 23 of the Agreement contains the arbitration clause, which, in the interest of brevity, is not extracted herein. The Agreement contains an explicit clause for re-possession of the vehicles in Clause 13.

2. The Respondents committed a default in servicing the loan on April 2, 2023. It is seen from the record that defaults occurred under the Agreement and a loan recall-cum-invocation notice was issued on July 23, 2024. A vehicle inspection notice dated July 25, 2024 was also issued. 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.1,02,90,068.29. It is seen from the record that this Petition has been served on the Respondents but the Respondents have not entered appearance.

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

4. Since despite notice, the Respondents have not appeared and have not replied to the notices issued by the Petitioner, Learned Counsel seeks reliefs sought in prayer clauses (a) and (e). A case has been made out for grant of such reliefs as moulded below, and one further relief as submitted at the hearing, which would apply pending the consideration of further interim relief by the Arbitral Tribunal that would be constituted in the matter:

- A) *The Respondents are hereby injuncted, 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 C to the Petition);*
- B) *The Court Receiver of this Court is hereby appointed to take possession of the vehicles listed in Exhibit C. The Respondents are hereby directed to disclose the current and exact location of the hypothecated vehicles listed in Exhibit C 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 C 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 **March 5, 2025.**

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.]