
IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL ARBITRATION PETITION NO.448 OF 2024

Tata Motors Finance LimitedPetitioner
Versus
Devendra Singh Rajpoot & Anr. ...Respondents

Mr. Gaurav Jangle a/w. *Prathamesh Mhadre i/b. IV Merchant & Company, Advocates for Petitioner.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : MARCH 28, 2025

PC :

1. This is a Petition under Section 9 of the Arbitration and Conciliation Act, 1996 (*“the Act”*) seeking certain protective interlocutory reliefs in connection with a Loan-cum-Hypothecation-Cum-Guarantee Agreement dated June 29, 2021 (*“Agreement”*). Clause 21 of the Agreement contains the arbitration agreement, which, in the interest of brevity, is not extracted herein.

2. The Respondents committed a default in servicing the loan. It is seen from the record that defaults occurred under the Agreement and a Loan recall-cum-Invocation Notice was issued on July 27, 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. 81,17,698.27/-. 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 there is no response from the Respondents. He submits that the mortgaged property run the risk of getting lost or dissipated, rendering the arbitration infructuous. Consequently, he seeks urgent interlocutory relief.

4. Since despite notice, the Respondents have not appeared and have not replied to the notice issued by the Petitioner, Learned Counsel seeks reliefs sought in prayer clauses (a) & (e) and (f). 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 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 Respondent 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. Notice of this order shall be served on the Respondents within a period of one week from the date on which this order is uploaded on the website of this Court.
6. Learned Counsel for the Petitioner undertakes to invoke arbitration within a period of one week from the date on which this order is uploaded on the website of this Court.
7. The Respondents are at liberty to approach this Court seeking to vary, modify, alter or vacate the ad-interim reliefs hereby granted.
8. To ascertain the status of the invocation and for further consideration of this Section 9 Petition, list on ***April 24, 2025***.
9. 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.**]