

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 53 OF 2025

Mahindra and Mahindra Financial Services Limited ...Petitioner

Versus

Saloni Engineering Works & Ors ...Respondents

Mr. Zerick Dastur, a/w Khushil Shah and Jennifer Sanjana , i/b Khushil Shah for the Petitioner.

None for Respondents.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : JUNE 16, 2025

ORDER :

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 an Agreement dated October 27, 2022 (“***Agreement***”). Clause 24.11 of the Agreement contains the arbitration clause at page 79 of the Petition, which, in the interest of brevity, is not extracted herein.

2. The Respondents have evidently committed a default in servicing the loan. It is seen from the record that a notice in this regard was issued on October 21, 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.26,44,422.17/-. 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 notice(s), there is no response at all, necessitating the protection of the subject-matter of the arbitration agreement. It is submitted that the subject-matter of the arbitration agreement runs the risk of being dissipated and denuded, rendering the very arbitration infructuous. Consequently, urgent interlocutory relief is sought.

4. Since despite notice, the Respondents have not appeared, Learned Counsel seeks the reliefs sought in prayer clauses (a), (c), (d) and (g). A case has been made out for grant of *ad interim* reliefs, and moulding, if any, as considered appropriate by this Court. Such *ad interim* reliefs would apply pending the consideration of further interim relief by the Arbitral Tribunal that would be constituted in the matter:

(a) The Respondents are injuncted inter alia, restraining the Respondents by themselves, their 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 off or creating any third party rights or interest of whatsoever nature and in any manner whatsoever in respect of their hypothecated assets i.e., "M/s. Electronica Plastic Machines Ltd, Machine Microprocessor based Plastic Injection Moulding Model Future Model 320 iu 1395 - 39) Costs:- Rs. 4614980";

(c) The Court Receiver, High Court, Bombay is appointed as a Receiver under Order XL Rule 1 of CPC, in respect of hypothecated assets i.e., "M/s. Electronica Plastic Machines Ltd, Machine Microprocessor based Plastic Injection Moulding Model Future Model 320 iu 1395 - 39) Costs:- Rs.4614980" and is authorized to take physical possessions of the said Machinery with police assistance, if required and thereafter hand over possession of the said hypothecated assets being the said Machinery to the Petitioner;

(d) The Respondents shall disclose on affidavit all their respective movable and immovable assets including bank accounts which are owned by them or in which they have any rights or interests;

(g) No withdrawals are permitted from bank account bearing account no. 083005001484 and IFSC Code ICIC0000830 of the Respondent No. 1 with ICICI Bank, New Delhi, Branch- Lawrence Road to the extent of a sum of Rs.26,44,422.17/- (Rupees Twenty-Six Lakhs Forty-Four Thousand Four Hundred Twenty-Two and Seventeen Paise only);

5. It is made clear that should the Respondents be desirous of varying, altering or vacating the *ad-interim* relief granted hereby, the Respondents may appear before the Arbitral Tribunal, and present its say.

6. Learned Counsel for the Petitioner undertakes that an application under Section 11 of the Act is yet to be filed but will be filed. Liberty to do so within a period of 30 days from the upload of this Order on this Court's website to enable time to invoke arbitration afresh and file the same. In these circumstances list this Petition along with the Section 11 Application after four weeks i.e. on ***July 21, 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.]