
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 54 OF 2025

Mahindra and Mahindra Financial Services Limited ...Petitioner

Versus

Hi Tech Engineering ...Respondent

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

None for Respondent.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : APRIL 24, 2025

PC :

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 Master Facility Agreement dated March 17, 2023 (“***Agreement***”). Clause 24.11 of the Agreement contains the arbitration clause, which, in the interest of brevity, is not extracted herein.

2. The Respondent has 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 Respondent is to the tune of Rs.43,49,415.89/-. 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 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 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, is 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. That pending the hearing and final disposal of the arbitral proceedings, and until the execution of the arbitral award, the Hon'ble Court be pleased to pass an order of injunction, 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., "Tsugami Precision engineering india pvt ltd Model: 3 CNC Lathe Mi06jc-II; Quantity: 1; Machinery Cost Rs. 64,42,800/-";

c. In alternate to prayer (b), that pending the hearing and final disposal of the arbitral proceedings, and until the execution of the arbitral award, the Hon'ble Court be pleased to appoint Court Receiver, High Court, Bombay or some other fit and proper person as the receiver as a Receiver under Order XL Rule 1 of CPC, in respect of hypothecated assets i.e., "Tsugami Precision engineering india pvt ltd Model: 3 CNC Lathe Mi06jc-II; Quantity: 1; Machinery Cost Rs. 64,42,800/-" and the Receiver, so appointed be authorized to take physical possessions of the said Machinery with police assistance, if required and thereafter, to direct the Receiver so appointed, to handover possession of the said hypothecated assets being the said Machinery to the Petitioner, and allow the Petitioner to transfer the same by way of lease or sale or otherwise towards satisfaction of its dues;

d. That pending the hearing and final disposal of the arbitral proceedings, and until the execution of the arbitral award, the Hon'ble Court be pleased to, this Hon'ble Court be pleased to order and direct the Respondents to 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. That pending the hearing and final disposal of the arbitral proceedings, and until the execution of the arbitral award, the Hon'ble Court be pleased to direct attachment of

(i) bank account bearing account no. 013120110000391 and IFSC Code BKID0000131 of the Respondent No. 1 with Bank of India, Vasai, Branch- Gokhivare Naka and (ii) other Bank accounts as disclosed pursuant to prayer (d), and the said Banks shall not allow withdrawal from the said Bank Accounts to the extent of a sum of Rs. 43,49,415.89/- (Rupees Forty Three Lakhs Forty Nine Thousand Four Hundred Fifteen and Eighty Nine Paise only) and overdue and other applicable charges, being amounts due to the Petitioner.

5. It is made clear that should the Respondent be desirable of varying, altering or vacating the *ad-interim* relief granted hereby, the Respondent 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 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. Since that would fall amidst the vacation, list on ***June 19, 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.]

Page 4 of 4

April 24, 2025