
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 58 OF 2025

Mahindra and Mahindra Financial Services Limited ...Petitioner

Versus

Prolay Mondal ...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 August 10, 2022 (“***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 November 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.28,95,637.90/-. 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., "ACE CNC LATHE MODEL, VANTAGE 1250 & WITH ALL ACCESSORIES AS PER SCOPE OF SUPPLY (ACE) COST IS Rs 4944731";

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., "ACE CNC LATHE MODEL, VANTAGE 1250 & WITH ALL ACCESSORIES AS PER SCOPE OF SUPPLY (ACE) COST IS Rs 4944731" 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. 10170001714381 and IFSC Code - BDBL0001759 of the Respondent No. 1 with Bandhan Bank, Delhi, Branch- Howrah; (ii) bank account bearing account No.69190000205675 and IFSC Code -

BDBL0001759 of Respondent No. 1 with Bandhan Bank, Branch - Howrah; (iii) bank account bearing account no. 95401400002050 and IFSC Code CNRB0000189 of the Respondent No. 2 with Canara Bank, Branch- Howrah and (iv) 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. 28,95,637.90/- (Rupees Twenty-Eight Lakhs Ninety-Five Thousand Six Hundred Thirty-Seven and Ninety 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 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. Since that would fall in the midst of 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.]