
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO. 102 OF 2025

Mahindra And Mahindra Financial Services
Limited

...Petitioner(s)

Versus

Shri Hari Enterprises & Anr.

...Respondent(s)

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Mr. Zerick Dastur a/w. *Khushil Shah and Jennifer Sanjana I/b Zerick Dastur Advocates, for Petitioner.*

None for Respondents.

CORAM : SOMASEKHAR SUNDARESAN, J.

Date : April 9, 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 an Agreement dated March 31, 2023 (“***Agreement***

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 Respondent is to the tune of Rs. 95,81,584/-. 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) and (d). 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) The Respondents are hereby restrained, whether by themselves, or 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. Swift Auxi Technik Pvt Ltd; Machinery Description: Injection Moulding with Two Station Rotary Machine Model: SV-120-R2 Servo (1 Unit) & SV-160- R2-Servo (2 Unit); Quantity 3; Machinery Cost Rs. 28,91,000/- 35 & 64,90,000/- and Refinance on Existing Machine, VMC 1 (Cosmos), Injection Moulding ton (Neelgiri) for which cost is after WDV 8698 7121/-;

(c) The Court Receiver, High Court, Bombay shall be appointed as the receiver in respect of hypothecated assets i.e., "M/s Swift Auxi Technik Ltd; Machinery Description: Injection Moulding with Two Station Rotary Machine Model: SV-120-R2 Servo (1 Unit) & SV-160-R2- Servo (2 Unit); Quantity 3; Machinery Cost Rs. 28,91,000/- & 64,90,000/- and Refinance on Existing Machine, VMC 1 (Cosmos), Injection Moulding ton (Neelgiri) for which cost is after WDV 86,98,7121/-" 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;

(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.

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 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 within a period of one week from the date of upload of this order on the website of this Court to enable time to invoke arbitration afresh and file the same. In these circumstances list this Petition along with the Section 11 Application on ***May 7, 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.]