Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
CHAMBER SUMMONS NO. 468 OF 2018
IN
COMM EXECUTION APPLICATION (L) NO. 527 OF 2018

Tata Capital Financial Services Ltd ...Applicant
Versus
AR A S P V P V & Ors ...Respondents

Mr Ranjeev Carvalho, *with Mayur Bhojwani & Prangana Barua, i/b Manilal Kher Ambalal & Co., for the Applicant.*
Mr Vishar Thaker, *with Anjali Trivedi, for Respondents Nos. 1 to 3 and 5 to 9.*

CORAM: G.S. PATEL, J
DATED: 5th June 2018

PC:-

1. The parties were in arbitration before Mr Aditya Thakkar, an Advocate of this Court. The Claimant, Tata Capital Financial Services Ltd agreed to compromise its claim which is in excess of Rs. 4 crores for an amount o fRs. 1,90,00,000/-. This amount was held in the name of the 1st Respondent firm, M/s. AR.A.S.P.V.P.V. with the Tamilnad Mercantile Bank Ltd for fixed deposit Nos. 477481 and 477482. It was agreed between the parties that if the 1st Respondent did not make the necessary arrangements for encashment of this fixed deposits, then Tata Capital would be at liberty to move the arbitral tribunal again.

2. Today Respondents Nos. 2, 3 and 5 to 9, all erstwhile partners of Respondent No. 1 firm say that they are even now ready and willing to abide by these consent terms. Their compliance has been rendered impossible because Respondent No. 4 by his notice dissolved Respondent No. 1 firm and gave intimation of this notice of dissolution to the Tamilnad Mercantile Bank Ltd. The inevitable consequence of this was that the bank has refused to allow the encashment of the fixed deposits without an appropriate order of the Court or the signature of all parties. Evidently the later course is not possible and hence the present application.

3. Respondent Nos. 3 and 5 to 9 are agreed that on their behalf Respondent No. 2 may sign such documents as Tamilnad Mercantile Bank Ltd requires but it seems to me clear that in view of the consent terms signed on 21st December 2017 it is necessary to direct the Tamilnad Mercantile Bank Ltd to liquidate the fixed deposit Nos. 477471 and 477482 and remit the entire amount of Rs. 1,90,00,000/- with all accretions to the account of the Prothonotary and Senior Master, High Court, Mumbai.

4. The Prothonotary and Senior Master will communicate an authenticated copy of this order to the General Manager of the Tamilnad Mercantile Bank Ltd, at the following address.

Tamilnad Mercantile Bank Limited, Madurai Main Branch, 51, East Avani Moola Street, Madurai 625 001

(email id madurai_main@tmbank.in)

5. The Tamilnad Mercantile Bank Limited through its Branch Manager will act on receipt of the communication from the Prothonotary and Senior Master of this Court and will make the necessary transfer by RTGS within 72 hours of the receipt of that communication. In addition, the Advocates for the Applicant and Respondents Nos. 1 to 3 and 5 to 9 are at liberty to forward them an authenticated copy of this order to the Bank as well by courier and email.

6. List the matter for further orders and directions on 19th June 2018.

7. Respondent No. 4 has remained absent in these proceedings. Respondent No. 4 was present in the arbitral proceedings through his Advocate. He is not present today.

8. As to the question of notice to the Respondent No. 4, this matter will be addressed after the money is received in this Court.

(G. S. PATEL, J)