

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 15012 of 2024**

=====

JAYENDRASINH MERUBHA JADEJA PROPRIETOR OF M/S. RAJDEEP SECURITY
SERVICES

Versus

TATA MOTORS FINANCE LIMITED

=====

Appearance:

MR VIVEK B GUPTA(5611) for the Petitioner(s) No. 1

=====

***CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA
AGARWAL***

and

HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 22/10/2024

ORAL ORDER

(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL)

Heard the learned counsel for the petitioner .

2. The present petition has been filed invoking the supervisory jurisdiction of this Court under Article 227 of the Constitution of India seeking to challenge the order passed by the Commercial Court in Commercial Appeal No. 8 of 2024 under Section 13 of the Commercial Courts Act, 2015. It is sought to be submitted by the learned counsel for the petitioner that suit for recovery was filed in the year 2011 and for a sufficient long time the defendant did not appear before the trial Court. The suit initially proceeded *ex-parte* for a period of one and half year. Later, the trial Court issued *suo motu* notice to the defendant whereafter the defendant appeared and

filed an application under Section 8 of the Arbitration and Conciliation Act, 1996 as Exhibit-21 on 14.02.2013. The said application has been rejected vide order dated 25.11.2013 passed by the trial Court. Another application Exhibit-27 under Section 8 of the Arbitration and Conciliation Act, 1996 was filed on 01.10.2014, which has again been dismissed with cost of Rs.5,000/- vide order dated 06.03.2018. Both the orders passed by the trial Court in rejection of applications under Section 8 of the Arbitration and Conciliation Act, 1956 had attained finality. The suit for recovery was decreed in the year 2020.

3. The contention is that in appeal after a period of around 13 years, the appellate court has entertained the claim of the defendant to relegate the parties for arbitration by taking recourse to under Section 8 of the Arbitration and Conciliation Act, 1996. It is demonstrated before us that the appellate court has returned a finding that the trial Court has mechanically rejected the application Exhibit-27 of the defendant without application of mind, is not supported by any cogent reason. By applying some decisions of the Hon'ble Apex Court mentioned in the order impugned, without application of mind on the facts and circumstances of the case, the judgment and decree passed by the trial Court in Special Civil Suit

No. 104 of 2011 has been set aside and the matter is remitted back to the trial Court for fresh disposal.

4. Taking note of the above, we find that a deeper scrutiny is required. Let a **Notice** be issued to the respondent returnable on **03.12.2024** through Registered Post A.D.

Necessary steps to be taken within one week.

Till the next date of listing, further proceedings in Special Civil Suit No. 104 of 2011 remanded to the trial Court is hereby stayed.

(SUNITA AGARWAL, CJ)

(PRANAV TRIVEDI,J)

phalguni