

Application No.1248 of 2016**RAJIV SHAKDHER,J.**

1.The prayer made in the Application is as follows:-

"pass an order prohibiting the Garnishee from making the payment upto a limit of Rs.5,58,442/- to the 2nd respondent by withholding the salary of the 2nd respondent every month to the extent as contemplated in Section 60 of C.P.C. viz., after deducting the first Rs.1000/- of the salary of the 2nd respondent and withholding 1/3rd of the remainder salary and restrain the 2nd respondent from receiving the salary amount so withheld from the Garnishee and further direct the Garnishee to deposit the amount of salary so withheld every month to the credit of the above application pending disposal of arbitration proceedings between the Applicant and the Respondents and till enforcement of the award that may be ultimately passed in the arbitration proceedings ? "

2.Though the respondents have been served, there is no appearance on their behalf. On the last date of hearing, accommodation is sought by the counsel for the respondents to file a reply, subject to payment of costs of Rs.1,000/-.

3. The averment made in the affidavit of the applicant is that respondent No.1, approached the applicant to extend a loan facility, vide agreement No.XVFPTVM00000560489, dated 23.02.2011 for purchasing a vehicle Maxximo bearing Registration No.KL-19-B-1427. The second respondent, who is the wife of the first respondent, is a co-borrower. The loan amount disbursed in favour of respondent No.1 was a sum of Rs.2,56,190/-. The said amount was payable in 48 Equated Monthly Installments (EMIs), commencing from 01.04.2011 and ending on 01.03.2015.

4. It is averred that the subject vehicle is hypothecated to the applicant. According to the applicant, out of 48 installments which have fallen due, respondent No.1 has paid 13.03 installments, and that 34.97 installments remain unpaid. As on 29.02.2016, respondent No.1 is required to pay a sum of Rs.5,58,442/-.

5. The loan agreement entered into between the applicant and respondent No.1 contains the arbitration agreement, which is reflected in Clause 29 of the agreement, dated 23.02.2011.

6. Learned counsel for the applicant avers that arbitration proceedings have been initiated and the same are pending

adjudication.

6.1 The learned counsel for the applicant further avers that respondent No.2 is employed with the garnishee/respondent No.3. Accordingly, the applicant has moved this Court seeking the relief, which is extracted above.

7. Given the aforesaid circumstances, I am inclined to allow the prayer, sought for. Accordingly, the Application is disposed of in terms of the prayer extracted hereabove.

8. It is made clear that the parties will have liberty, hereafter, to take steps, *albeit*, in accordance with law, as may be deemed fit.

09.08.2016

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