

A.No.3031 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.5,62,320/- to the respondent by withholding the salary of the 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 respondent and withholding 1/3rd of the remainder salary and restrain the 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 initiation and disposal of arbitration proceedings between the Applicant and the Respondent and till enforcement of the award that may ultimately be passed in the arbitration proceedings ? "

2. Notice in this Application was issued both to respondent No.1 as well as the Garnishee, i.e. respondent No.2.

2.1. Learned counsel for the applicant says that, notice was effected via private mode and affidavit of service has been filed.

2.2. Despite service, the respondents have chosen not to appear.

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.XVFPDMI00001073186, dated 31.10.2013 for purchasing a vehicle AL 2516 bearing Registration No.CG-05-D-1597. The loan amount disbursed in favour of the respondent No.1 was a sum of Rs.21,50,000/-. The said amount was payable in 55 Equated Monthly Installments (EMIs), commencing from 01.11.2013 and ending on 01.05.2018.

4. It is averred that the subject vehicle is hypothecated to the applicant. According to the applicant, the vehicle has been seized and sold. Therefore, as on 17.06.2016, respondent No.1 is required to pay a sum of Rs.5,62,320/-.

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 31.10.2013.

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.1 is employed with the garnishee/respondent No.2. 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 made. Accordingly, the Application is disposed of in terms of the prayer extracted hereinabove.

8. Since the arbitration proceedings have been initiated and the same are pending, the parties are given liberty to take necessary steps hereafter, albeit, in accordance with law, as may be deemed fit.

01.08.2016

suk

RAJIV SHAKDHER,J.

suk

Application No.3031 of 2016

01.08.2016