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**CM-4809-CII-2016
CM-4786-CII-2016 IN
FAO-1090-2016**

ABID

VS

SUNDRAM FINANCE LTD. AND ORS.

Present: Mr. Keshav Pratap Singh, Advocate
for the applicant (in CM-4809-CII-2016) with
Mr. Sher Mohammad-appellant in person
in FAO Nos.1092, 1095, 1097, 1098, 1102 of 2016.

Mr. Nitin Thatai, Advocate
for the applicant (in CM-4786-CII-2016).

CM-4809-CII-2016

The applicant has filed the application putting a proposal of settlement over and above what has been noticed in the order dated 12.02.2016 vide which the aforementioned FAO and other connected FAOs have been disposed of.

Notice of application.

Mr. Nitin Thatai, Advocate accepts notice on behalf of non-applicant.

Reasons stated are not supported by any plausible justification, no ground is made out for recalling/modification of the order dated 12.02.2016, hence, the present application is dismissed.

CM-4786-CII-2016

Mr. Nitin Thatai, learned counsel appearing on behalf of the applicant in CM-4786-CII-2016, submits that the appellant/non-applicant had

not complied with the directions contained in the order and therefore, the order, vide which the FAO has been disposed of, is recalled.

Notice of application.

Mr. Keshav Pratap Singh, Advocate accepts notice on behalf of the non-applicant.

This Court, while disposing of the aforementioned FAO, on consideration of the matter, much less, submissions made on behalf of the appellant, granted the liberty to the appellant that in order to discharge the liability to deposit a sum of ₹ 50 Lacs within a period of two weeks and rest of amount i.e in equal installments of ₹ 20 Lacs each, within a period of six months starting from March 2016,, viz-a-viz the loan taken for the purchase of mortgaged vehicles.

In the application, it is stated that the non-applicant/appellant has not complied with the directions, as not deposited an amount of ₹ 50 Lacs, as more than two weeks have elapsed, and therefore, the order dated 04.02.2016, under challenge, passed under Section 9 of the Arbitration and Conciliation Act, may be held to be enforceable.

I have heard learned counsel for the parties and appraised the paper book and of the view that the order dated 12.02.2016 is not complied with. The FAOs filed against the order dated 04.02.2016, whereby the Principal Court had issued the following directions:-

- 1. Mr. K. Rajesh, Branch Manager is appointed as sole receiver;*
- 2. He shall take possession of the subject vehicle and will keep the vehicle at the place provided by the petitioner;*
- 3. In case the respondent pays the amount, which is due and*

payable, the subject vehicle will be released to the respondent on superdari and in such eventuality, the receiver will issue receipt to the respondent;

- 4. The receiver will be entitled to take assistance of the concerned Police Station, if necessary. However, it is directed that the receiver will be bear in mind that due courtesies are extended to the respondent while taking the possession of subject vehicle and the respondent will also bear in mind time and place at which possession of the said vehicle is taken so that no inconvenience is caused to the respondent.*
- 5. The receiver shall also take photographs of the vehicle in question on the date of recovery, which shall be attached with the report.*
- 6. The receiver will submit his report to this effect.*
- 7. It is further made clear that in case the petitioner wants to sell the vehicle in question, then the consent of respondent shall be taken before selling the vehicle after sending the detailed information to the respondent. The respondent shall also be at liberty to come with the customer ready to purchase the vehicle in question and then the matter will jointly be decided by both the parties and vehicle in question will be sold to that customer, who will pay more amount of the vehicle in question. The present petition is disposed of, accordingly. File be consigned to record room after due compliance.”*

In view of the aforementioned situations, I am of the view that no interference is warranted in the order under challenge for non-compliance of the order, undertaking reflected in the order dated 12.02.2016 whereby, the FAOs were disposed of.

There is no substance in the appeals, much less, application

seeking for meting out the different set of schedule to proposal for payment of the money.

Accordingly, the appeals are dismissed and the order dated 04.02.2016, under challenge, is hereby affirmed.

A copy of this order be given under the signatures of the Reader attached with this Court.

01.03.2016
yogesh

**(AMIT RAWAL)
JUDGE**