

Application No.5799 of 2016**S.VIMALA, J.**

This application has been filed under Order XIV Rule 8 of O.S.Rules r/w. Section 9(ii)(b) of the Arbitration and Conciliation Act of 1996, seeking a prohibitory order prohibiting the garnishee from making the payment upto a limit of Rs.3,36,390/- to the second respondent by withholding the salary of the second respondent every month to the extent as contemplated in Section 60 of C.P.C. viz. after deducting the first Rs.1,000/- of the salary of the second respondent and withholding 1/3rd of the remainder salary and restrain the second 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 this application till enforcement of the award passed in the arbitration proceedings.

2. Heard the learned counsel for the applicant.

3. Despite notice being served on the respondents and their names having been printed in the cause list, there is no representation on behalf of the respondents.

4. The first respondent availed loan from the applicant for the purchase of a vehicle, namely, Tata Ace Vehicle, under the Loan Agreement dated 30.09.2010. Under the terms of the Agreement, the principal amount is Rs.2,58,847/- and finance charges at the rate of 11.64% flat is Rs.1,50,613/-, totalling a sum of Rs.4,09,460/- repayable in 59 monthly installments, commencing from 01/11/2010 and ending on 01/09/2015.

5. According to the applicant, the due amount payable by the first

respondent is Rs.3,36,390/- as on 01.11.2016.

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6. It is stated by the applicant that though the applicant had initiated arbitration proceedings and an award has also been passed by the Arbitrator in favour of the applicant, the first respondent neither repay the due amount nor return the vehicle. As the second respondent, who is the father of the first respondent, is working as Worker in the Garnishee establishment and he is the guarantor, this application has been filed seeking prohibitory order, prohibiting the garnishee from making the payment of salary upto a limit of Rs.3,36,390/-, by withholding the salary of the second respondent every month.

7. The statement of accounts produced by the applicant shows that the first respondent ought to have paid a sum of Rs.3,36,390/- as on 01.11.2016. Furthermore, the award has also been passed by the Arbitrator directing the first and second respondents to pay the due amount along with interest to the applicant. Therefore, a prima facie case is made out by the applicant. Once the amount is paid by the garnishee to the second respondent and if it is appropriated by the second respondent, the applicant may not be able to get back the money.

8. Hence, 1/3rd salary of the second respondent, after deducting the first Rs.1000/-, is ordered to be withheld by the Garnishee until further orders. The Garnishee is directed to deposit the withheld amount into this Court to the credit of this application.

26.04.2017

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Note: The applicant is permitted to communicate the order to the respondent.

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