

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2017

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.SUNDAR

O.S.A.No.260 of 2016

1. B.C.Sandesh
Proprietor, S.R.E.Travels
Head Post Office Road
Opp. to KSRTC Bus Stand
Chitra Durga, Karnataka - 577 501.
2. Chidanand Reddy
S.R. Express Tours & Travels
SRE Complex, Head Post Office Road
Opp. to KSRTC Bus Stand
Chitra Durga, Karnataka - 577 501. Appellants

Vs.

M/s.L & T Finance Limited
KGN Complex 5th Floor
No.62, Ethiraj Salai,
Egmore, Chennai
rep. by its Authorized Signatory, S.Uma. Respondent

PRAYER: Appeal under Order XXXVI Rule 9 of the Original Side Rules and Clause 15 of the Letters Patent against the order dated 23.12.2016 in A.No.6860 of 2016 in A.No.5806 of 2015.

A.No.6860 of 2016 : Application praying that this Hon'ble Court be pleased to direct Mr.H.Ramprakash Reddy, Proprietor Meenaxi Roadlines, No.2A Seetharam Nivas KC Road, Bellary, Karnataka to surrender the vehicles bearing Nos.KA 16B 7207 and KA 16 B 7209 to the Advocate commissioner appointed by this Hon'ble Court and in case of failure to do so, direct the Superintendent of Police, Bellary to secure Mr.H.Ramprakash Reddy, Proprietor Meenaxi Roadlines, No.2A Seetharaman Nivas K.C.Road, Bellary, Karnataka before this Hon'ble Court.

For Appellants	: Mr.L.Chandrakumar for Mr.A.Deivasigamani
For Respondent	: Mr.R.Umashankar

JUDGMENT
(Delivered by the Hon'ble Chief Justice)

The vehicles which were hypothecated by the appellants in obtaining finance from the respondent were illegally parted with to a third party and there are admittedly defaults in payment of instalments. It is in these circumstances that the learned Single Judge vide the impugned order dated 23.12.2016 under Section 9 of the Arbitration and Conciliation Act, 1996 has directed securing of the vehicles to be retained by the financier till the final disposal of the application.

2. The learned counsel for the appellants seeks to contend that the third party has filed a civil suit in Karnataka, where there are some interim orders.

3. We fail to appreciate the plea for the reason that the financing was by the respondent to the appellants and the vehicles are hypothecated with the respondent. In the absence of payment of instalments, the respondent would be entitled to seize the same. The third party is not concerned with the transaction in question.

4. We find no reason to interfere with the impugned order.

5. The appeal is dismissed. No costs. Consequently, C.M.P.No.20601 of 2016 is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sasi

To

The Sub Assistant Registrar,
Original Side,
High Court, Madras 104.

+1cc to Mr.A.Deivasigamani, Advocate, S.R.No.1126
+1cc to Mr.R.Umashankar, Advocate, S.R.No.1053

O.S.A.No.260 of 2016

SV(CO)
CA(19/01/2017)