

Application No.5345 of 2018**M.GOVINDARAJ.J.**

This application has been filed by the applicant/finance company under Section 9 of the Arbitration and Conciliation Act, 1996, to appoint Mr.Seemant Solanki, Legal Coordination as a receiver to seize and take possession of the vehicle, which is more fully described in the schedule to the Judges summons which is lying in the custody of respondent or his men, agents, servants from his premises or wherever found with Police aid and break open of premises if necessary.

2. Service is complete as recorded by Master. Despite the name of the respondent being printed in the cause list, there is no representation. Hence service is held sufficient.

3. The respondent availed of a vehicle loan from the Applicant-company and executed a loan agreement No.XTRADHA00001683787 dated 30.05.2016, for a sum of Rs.3,01,600/- to be paid in 4 Payment installments. The first installment commenced from 28.06.2016 and the re-payments were to run till 28.05.2018. It is stated that as on 25.06.2018, a sum of Rs.1,95,942.36 is outstanding. In terms of the loan agreement executed by the respondent, the

applicant/Finance company is entitled to re-possess the vehicle in the event of default committed by the respondent. It is also submitted that the continued use of the vehicle by the respondent would depreciate its value.

4. The learned counsel for the applicant would submit that an award has been passed on 28.02.2018 in Arbitration Case No.DKR/CIFCO/5044/2017.

5. Therefore, considering the facts and circumstances of the case and in view of the apprehension expressed in the affidavit filed in support of this application, this Court is satisfied that it is just and convenient that an order of appointment of a Receiver is made and accordingly, Mr.Seemant Solanki, Legal Coordination as Receiver to take custody of the vehicle.

6. The receiver is entitled to take possession of the vehicle from the respondent or its agent or any one in possession thereof. If necessary, the Receiver shall get police assistance and the Station House Officer of the concerned Police Station, within whose jurisdiction the vehicle is found, will render requisite assistance for this purpose.

7. The receiver shall seize the vehicle within a period of four months from the date of receipt of a copy of this order. The said period shall expire thereafter.

8. As the learned counsel for the applicant would submit that an award of arbitration between the applicant and the respondent has been passed as early as on 28.02.2018 in Arbitration Case No.DKR/CIFCO/5044/2017 the Receiver shall preserve the vehicle without alienating or encumbrance thereof till orders are passed by this Court in this application. In case the respondent comes forward to regularise the default and undertakes to pay the outstanding installments, the applicant may at his discretion consider to re-schedule in the repayment of the balance amount payable by the respondent. In case there is a re-scheduling of the repayment of the loan, the applicant shall release the vehicle.

9. In view of the above direction, this petition is closed.

06.12.2018

msr

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Note :

1. The counsel for the applicant is permitted to receive the certified copy of the order of the Receiver and communicate the same to the Receiver.
2. Issue order copy within four weeks.

M.GOVINDARAJ,J.

Msr/ebsi



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