

Application No.4348 of 2019

PUSHPA SATHYANARAYANA, J.

This application has been filed by the applicant under Section 9 of the Arbitration and Conciliation Act, 1996, to appoint Mr.Manivannan SS, Branch Manager, Marthandam Branch, IndusInd Bank Limited, of the applicant company, as receiver to seize and deliver the vehicle more particularly described in the schedule to the Judges Summon to the custody of the Applicant, available at the respondent premises or wherever found and with whomsoever it is found and permit the receiver Mr.Manivannan SS to obtain police aid and to break open the premises.

2. The respondent availed of loan from the Applicant-company for purchase of vehicle and executed a loan Agreement No.TLM00845C dated 27.12.2017, for a sum of Rs.6,00,000/- to be paid in 60 monthly installments and the first installment commenced from 27.12.2017 and the re-payments were to run till 21.11.2022. It is stated that as on 26.06.2019, a sum of Rs.8,19,057.44 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.

3. Though the respondent was represented through a counsel and filed counter, there was no representation for him in the earlier occasion. Hence, the matter was directed to be posted on 03.10.2019. Today (03.10.2019), when the matter is taken up for hearing, there is no representation for him either in person or through counsel.

4. Upon considering the facts and circumstances of the case, this Court is satisfied that the applicant has made out a *prima facie* case in its favour and accordingly, Mr.Manivannan SS, Branch Manager of the applicant company is appointed as Receiver to take custody of the vehicle. The receiver will be entitled to take possession of the vehicle from the respondent or his agents 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.

5.The agreement entered into between the applicant and the respondent provides for arbitration in the event of disputes and differences between the parties. It is submitted by the learned counsel for the applicant that proceedings for arbitration have been initiated and are pending in Arbitration case. The Receiver shall preserve the vehicle without alienating or encumbering thereof till the arbitration proceedings are concluded. However, in case the respondent makes payment of the

outstanding installments, the Receiver shall release the vehicle to the respondent. The receiver shall seize the vehicle within a period of six weeks from the date of receipt of a copy of this order.

6. With the above direction, this Application is closed.

03.10.2019

drl/srn

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.



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