

A.Nos.4735 to 4740, 4801 & 4907 of 2019

PUSHPA SATHYANARAYANA, J.

These applications have been filed by the applicant/finance company under Section 9 of the Arbitration and Conciliation Act, 1996, to appoint Mr.Tikendra Sharma, Area Receivable Manager of the applicant company, as a receiver to seize and take possession of the vehicle, 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. The respondent in all these applications have entered into a separate agreement and availed vehicle loan from the Applicant-company and executed a loan agreement, which are detailed as follows:

Appln. No.	Agreement No.	Date	Amount	No. of install ments	1 st installment date	Last installment date	Amount due	As on date
4735/19	XVFPRPV 000025 57035	11.09.2018	32,00,000/-	59	15.10.2018	15.08.2023	32,61,301.64	03.07.2019
4736/19	XVFPRPV 000025 57037	11.09.2018	32,00,000/-	59	15.10.2018	15.08.2023	32,59,707.64	03.07.2019
4737/19	XVFPRPV 000025 57039	11.09.2018	32,00,000/-	59	15.10.2018	15.08.2023	32,54,641.64	03.07.2019

Appln. No.	Agreement No.	Date	Amount	No. of installments	1 st installment date	Last installment date	Amount due	As on date
4738/19	XVFPRPV 000022 70223	31.01.2018	30,20,000/-	59	10.03.2018	10.01.2023	27,37,897.08	03.07.2019
4739/19	XVFPRPV 000021 14844	26.09.2017	20,00,000/-	55	28.10.2017	28.04.2022	16,19,595.26	03.07.2019
4740/19	XVFPRPV 000019 52774	31.03.2017	27,00,000/-	58	28.04.2017	28.01.2022	19,57,380.31	03.07.2019
4801/19	XVFPRPV 000020 98414	12.09.2017	9,88,293/-	59	15.10.2017	15.08.2022	7,90,513.43	04.07.2019
4907/19	XVFPRPV 000021 51720	28.10.2017	1,42,680/-	60	28.11.2017	28.10.2022	1,27,673.24	04.07.2019

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 notice by way of paper publication was effected and the name of the respondent has been printed in the cause list, none appears on behalf of the respondent in all these applications.

4. Even before the receiver could be appointed, the learned counsel for the applicant has filed a memo in all the above matters stating that the respondent is in Raipur, Chattisgarh District, which is a disturbed area. It is also stated that the respondent is an influential person. Hence, the applicant seeks specific direction to the Superintendent of Police, Raipur to give police aid. It is also stated that unless the Court directs the police to provide necessary aid and assistance to the receiver at the time of the visit, it will be difficult for the receiver to complete the task.

5. 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.Tikendra Sharma, Area Receivable Manager of the applicant company is appointed as Receiver to take custody of the subject vehicle in all these applications. The receiver will be 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 Superintendent of Police, Raipur is directed to give necessary police aid and assistance to receiver for the purpose of execution of warrant.

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6. 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 arbitration proceedings have been initiated and are pending. The Receiver shall preserve the vehicle without alienating or encumbrance thereof till the arbitration proceedings are concluded.

7. The receiver shall seize the vehicle within a period of eight weeks from the date of receipt of a copy of this order. However, in case the respondent make payment of the outstanding installments, the Receiver shall release the vehicle to the respondent.

8. Accordingly, these Applications are closed.

20.09.2019

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Note: Issue order copy on or before 27.09.2019.

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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