

A.No.8117 of 2018**PUSHPA SATHYANARAYANA.J.**

This application is filed seeking an order prohibiting the garnishee, from making payment upto a limit of Rs.4,31,605.61, 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.1000/- 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 the above application pending disposal of the arbitration proceedings between the applicant and the respondent and till enforcement of the award.

2. The respondents 1 and 2 had availed a finance facility under loan agreement No.XVFPDUG00002001086 dated 30.05.2017 for a sum of Rs.4,35,600/- for purchase of vehicle. The principal amount of Rs.4,35,600/- carries finance charges of Rs.1,56,835/-, repayable in 47 monthly instalments, the first instalment is commenced on 10.07.2017 and last instalment is on 10.05.2021. It is stated that as of 20.09.2018, a sum of Rs.4,31,605.61, is due and payable by the respondents 1 and 2. The learned counsel for the applicant would submit that proceedings for arbitration have been initiated and are pending in Arbitration Case.

3. R1 was given up. Notice sent to the second respondent/co-borrower, who is the father of the first respondent has been duly served and notice sent to

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the third respondent has been returned and affidavit of service is also filed to that effect enclosing acknowledgment card and returned cover. Though the name of the second respondent is printed in the cause list, there is no representation for him either in person or through counsel. Hence, the service to the second respondent is deemed sufficient.

4. It is seen that the application is based on loan agreement dated 30.05.2017 for availment of a loan of an amount of Rs.4,35,600/-. As on 20.09.2019, the second respondent is liable to pay a sum of Rs.4,31,605.61.

5. In the above circumstances, this Court is inclined to grant an order prohibiting the garnishee from making payment as prayed for.

6. Accordingly, this application is ordered and the garnishee is prohibited from making the payment upto a limit of Rs.4,31,605.61 to the second respondent as prayed for in the application. The Garnishee is directed to deposit the amount of salary so withheld every month to the credit of the above application pending completion of arbitration proceeding. The disbursal thereof shall be subject to the conclusion of the proceedings for arbitration.

7. Needless to say, as and when an award is passed, the parties shall be at liberty to proceed as per law.

27.09.2019

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<http://www.judis.nic.in> Note to office: Applicant is permitted to communicate this order to the second respondent.

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