

Application No.1496 of 2018**N.SATHISH KUMAR, J.,**

The present Application has been filed seeking to pass an order prohibiting the garnishee from making payment upto a limit of Rs.3,22,582.29/- to the respondent by withholding the salary of respondent every month to the extent as contemplated in Section 60 of C.P.C. viz., after deducting the first Rs.1,000/- of the salary of the respondent and withholding 1/3rd of the remainder salary and restrain the 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 arbitration proceedings between the applicant and the respondent and till enforcement of the award that may be ultimately passed in the arbitration proceedings.

2. It is the case that the first respondent has availed a sum of Rs.3,11,050/- under a Loan Agreement No.XVFPBNR00001635593 dated 28.03.2016 in respect of vehicle Hyundai EON bearing Registration No.OD-02-AB-6142. The first respondent has paid only few installments and thereafter, committed default in payment of loan. As on 09.02.2018, the first respondent is liable to pay a sum of Rs.3,22,582.29/- to the applicant. Despite several requests of the applicant, the first respondent neither repaid the dues nor permit the applicant to inspect the vehicle or surrender the vehicle to the applicant. Therefore, the applicant initiated arbitration proceedings against the first respondent in ARB Case No.078/2017.

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3. Though service was completed on the first respondent, none appeared on behalf of the first respondent.

4. Considering the facts and circumstances of the case, this Court is inclined to allow this Application by granting an order prohibiting the second respondent/garnishee from making payment as prayed for by the applicant in the present Application.

5. Accordingly, this Application is allowed and the second respondent/garnishee is prohibited from making the payment upto a limit of Rs.3,22,582.29/- to the respondent as prayed for in the present Application. Further, the second respondent/garnishee is directed to deposit the amount of salary so withheld every month to the credit of the above application pending completion of arbitration proceedings. The disbursal thereof shall be subject to the conclusion of the proceedings for arbitration.

6. It is needless to say that as and when the arbitration award is passed, the parties shall be at liberty to proceed as per law.

7. The applicant is directed to communicate a copy of this order to the respondents.

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