

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2020

C O R A M

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Application No.4859 of 2019

M/s.Shriram Transport Finance Co. Limited,
represented by its Authorised Signatory
and Executive Mr.S.Varadhan,

... Applicant

Vs

1. Mr. J.Brezhnev

2. Mr.D.Vijayabarathi

... Respondents

PRAYER : Application filed under Order XIV Rule 8 of Original Side Rules r/w Section 9(ii)(b) and (e) of the Arbitration and Conciliation Act, 1996, praying to appoint an Advocate Commissioner with direction to seize the schedule mentioned vehicle, which is lying under the custody of the respondent or his men, agents, servants or anyone claiming under them from the premises of 1st respondent at Plot No.298, Shelter Street, 7th Cross Street,

Palkalai Nagar Avenue, Palavakkam, Chennai-600 041 or at any other place where the scheduled asset is found, with the police aid and by breaking open locks if necessary and to take the same into his custody and sell the same at fair market price.

For Applicant : Mr.K.Subhashini

For Respondents : No appearance

ORDER

This application has been filed by the applicant/finance company under Section 9 of the Arbitration and Conciliation Act, 1996, to appoint an Advocate Commissioner with direction to seize the schedule mentioned vehicle which is lying under the custody of the Respondents or their men, agents, servants or anyone claiming under them from the premises of 1st respondent at Plot No.298, Shelter Street, 7th Cross Street, Palkalai Nagar Avenue, Palavakkam, Chennai-600 041 or at any other place where the scheduled asset is found, with the police aid and by breaking open locks if necessary and to take the same into his custody and sell the same at fair market price.

2. This application is pending from the year 2019 for appointment of advocate commissioner. It is to be noted that without demonstrating intention to arbitrate the matter, interim protection cannot be granted as an interim measure. When the intention to arbitrate the matter is shown by the party, this Court can normally intervene under Section 9 of the Act to grant interim protection. However, till now, the arbitration proceedings has not been initiated. Therefore, this Court is not inclined to pass any order. Accordingly, this application is dismissed. However, it is for the applicant to initiate arbitration proceedings and he can seek appropriate relief before the Arbitrator.

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N. SATHISH KUMAR, J.

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