

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16/7/2020

C O R A M

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Application Nos.3712 and 5419 of 2019

Equitas Small Finance Bank Limited
rep. By its Authorised Signatory
Mr.R.S.Bharath
Chennai.

...

Applicant in both the
applications

Vs

1. Kannan

2, Rakhaye

3. Bright Selvakumar

...

Respondents in both the
applications

Applications filed under XIV Rule 8 of Original Side Rules, 1956
r/w. Section 9 (2) (b) & (e) of the Arbitration and Conciliation Act, 1996.

For applicant

...

Mr.A. Damodaran

For respondents

...

Mr.M.A.Aruneshe

COMMON ORDER

Application No.3712 of 2019 has been filed to direct the respondents to furnish security for the sum of Rs.4,61,756/- failing which to order attachment of immovable property morefully described in the Schedule to the Judges summons pending initiation and disposal of the arbitration proceedings between the applicant and the respondents and till enforcement of the award that may be ultimately passed in the arbitration proceedings and a copy of the attachment order to be transmitted through the District Court, Kanyakumari and the attachment order may be hand delivered to the applicant for transmission.

2. Application No.5419 of 2019 has been filed to amend last four lines of the affidavit at para 5 as “However the applicant is not able to take custody of the vehicle on its own as the respondents is an influential person in the locality and apprehending breach of peace and law and order of problem, the applicant has not resorted to taking custody of the vehicle. Till date, the contract is not settled” instead of the vehicle in question has been lawfully and peacefully taken into custody by the applicant bank and parked safely at the parking yard, similarly pre-sale letter was sent to the respondent and to delete the whole paragraph 6 and the word “shortfall” in the third line of para 12.

3. The main crux of the application originally filed directing the respondents to furnish security for a sum of Rs.4,61,756/-. Paragraph Nos.5 and 6 have categorically stated that as per the loan agreement dated 20/8/2018, vehicle was seized by the applicant bank on 20/8/2018 and the applicant bank had sent an intimation letter stating that on account of the default committed by the respondents/borrowers in the payment of instalments to them under the above said loan agreement that the vehicle in question has been lawfully and peacefully taken into custody by the applicant Bank and parked safely at the parking yard, similarly pre-sale letter was sent to the respondent.

4. In para 6, it is stated that the applicant has not repaid the instalment amount regularly and has committed default in payment of the same. Hence the applicant bank was constrained to sell the vehicle in question for the best available price and after appropriating the sale proceed, and if there was a short fall, he is liable to pay to the respondent Bank as per the agreement entered into between both parties.

5. On perusal of both the affidavits as well as the application, this

amend the typographical error but is only to remove the admission made by them. This amendment will cause serious prejudice to other side and change the character of the issue itself. Hence **Application No.5419 of 2019 for amendment is hereby dismissed.**

6. It is also hereby noted that Application No.3712 of 2019 has been filed for interim relief. From the submission of both sides it came to light that award has already been passed on 29/6/2019 and the award in applicant favour, as per the submission of the learned counsel.

7. In such a view of the matter, Application No.3712 of 2019 is closed and the applicant is directed to work out his remedy to enforce the award as per the law before the Executing Court.

Sd/.N.S.K.J.

16.07.2020

//Certified to be a true copy//

Dated this the th day of 2020.

Su.25.08.2020

COURT OFFICER(O.S.)

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.