

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.**SATHISH KUMAR**

Application Nos. 8949 & 8950 of 2019

M/s.Hatsun Agro Product Ltd.,
having registered office at
No.1/20-A, Rajiv Gandhi Salai (OMR),
Karapakkam, Chennai-600 097.
and also carrying on its business at
Old No.AD-83/New No.AD13,
Anna Nagar, Opp. IOB Towers Branch,
Chennai-600 040.

... Applicant in
both Applns.

Vs.

Mr.Sandeep Ananda Walke,
Proprietor/Managing Partner,
M/s. Dattaguru Enterprises,
having office at No.81/1/1,
Dighi Krushna Nagar,
Pune-411015.

And residing at No.73/106,
Near Hanuman Mandir,
Patil Aali Dighi Gavthan,
Dighi Gaon, Pune – 411005.

... Respondent in
both Applns.

PRAYER in A. No.8949 of 2019 : Application filed under Order XIV Rule 8 of O.S.Rules r/w Sec.9(ii) (a) & (e) of the Arbitration and Conciliation Act, 1996, praying to direct the respondent to hand over possession of the premises along with company assets as mentioned in the schedule and all related documents in terms of the Distribution Agreement dated 09.11.2018.

PRAYER in A. No.8950 of 2019 : Application filed under Order XIV Rule 8 of O.S.Rules r/w Sec.9(ii) (a) & (e) of the Arbitration and Conciliation Act, 1996, praying to appoint an Advocate Commissioner to break open the respondent's premises along with police protection and take possession of the premises as mentioned in the schedules and hand over the same to the applicant.

For Applicant in both Applns.: Mr.G.Kalyan Jhabakh

For M/s.Surana and Surana

ORDER

These applications have been filed originally for a direction to hand over the vacant possession of the premises along with company products and assets mentioned in the schedule with the aid of Advocate Commissioner

with police force. An additional affidavit has been filed by the applicant, wherein they seek appointment of Advocate Commissioner to take inventory and possession of the following goods :-

1. 100 LTS HARD TOP FREZER – 17 Nos.
2. Cash Counter
3. Landing Table
4. Bar Code scanner
5. Sone Led TV 32 inch
6. LLP Ghee Rack
7. Corner Cupboard
8. Dust Bin
9. Floor Mat
10. Pen Drive
11. Thermometer
12. Wall mounted fan
13. Ceiling fan and
14. Leased premises at No.81/1/1, Dighi Krushna Nagar, Pune-411015.

2. It is the contention of the learned counsel appearing for the applicant that the franchise agreement has been terminated and the amount has been paid to the respondent. Having terminated the agreement, the respondent has to hand over all the goods belonging to the applicant,

however, the movables have not been handed over to the applicant. Therefore, the appointment of Advocate Commissioner is required to take inventory of the movables stated in the affidavit.

3. Taking note of the fact that the factory is situated at Pune and the amount has been paid to the respondent and the goods appeared to be belonging to the applicant and in order to preserve the goods, this Court is of the view that the appointment of Advocate Commissioner is necessary, as the property situated at Pune. Therefore, Mr.Chorbele Nitish Sanjay, (Enrl.No.MAH/1520/2011), (Mobile No.09422320820) a practising Advocate is appointed as an Advocate Commissioner to take inventory and possession of the movable goods morefully mentioned in the additional affidavit. It is open to the Advocate Commissioner to avail necessary police aid to enforce the order of this Court to take inventory and possession of the goods and the Advocate Commissioner can retain the possession of the movables after taking inventory, which shall be handed over after the result

of arbitral proceedings pending between the parties. The fee of the Advocate Commissioner is Rs.50,000/- (Rupees fifty thousand only) payable by the applicant directly.

4. With the above direction, these applications are ordered.

14.08.2020

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N. SATHISH KUMAR, J.

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