

Application No.9306 of 2019

N.SATHISH KUMAR, J.

This application is filed under Order XIV Rule 8 of O.S. Rules Read with Section 9 (ii) (d) and (e) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Advocate Commissioner to seize and deliver the vehicle, which is more fully described in the schedule to the Judges Summons to the custody of the Applicant, available at the Respondent premises or wherever found and with whomsoever it is found and permit the Advocate Commissioner to obtain police aid and to break open the premises.

2. It is the case of the applicant that as per the loan agreement dated 17.11.2017, the respondent has availed a sum of Rs.18,00,000/-. As there was a default as per the contract, the matter was referred to arbitration and award has been passed on 06.09.2019. Hence, it is his contention that unless an advocate commissioner is appointed to take charge of the vehicle, there will be irreparable injury and the vehicle will be sold by the other side. Hence, it is prayed for appointment of an advocate commissioner.

3. Admittedly, an Award has been passed. Even before enforcement of the Award, the Court, in a fit case can grant interim Order. Admittedly, the dispute already culminated to an Award. In such view of the matter, if the vehicle is

allowed to be sold by the respondent, the very right of the applicant will be defeated.

4. Taking into consideration that the applicant has made out a prima facie case and balance of convenience is in favour of the applicant and if an interim Order is not passed, the applicant will be put to irreparable injury, Mr.K.Gangadaran, Advocate, No.431, New Adl. Law Chambers, High Court, Chennai [Mobile No.9566011025] is appointed as an advocate commissioner to seize the vehicle covered under the contract which has culminated into the Award dated 06.09.2019. This Order shall operate only for a period of 30 days from the date of receipt of a copy of this Order. He shall be paid an initial remuneration of Rs.15,000/- (Rupees fifteen Thousand only). The expenses toward her travel and stay shall be defrayed by the applicant.

5. The receiver will be entitled to take possession of the vehicle from the respondents or their agents or any one in possession thereof. If necessary, the Receiver shall get police assistance and the Station House Officer of the concerned Police Station, within whose jurisdiction the vehicle is found, will render requisite assistance for this purpose.

6. As the learned counsel for the applicant would submit that an award of arbitration between the applicant and the respondents has been passed on 06.09.2019 in Arbitration Case. Such being the matter, in the event of seizure of vehicle and sale of the same by the receiver, amount realised shall be adjusted towards the award amount. This Order of appointment of Advocate Commissioner shall be served on the respondent by the applicant before the Advocate Commissioner takes any action on the basis of this Order.

7. Accordingly, this application is closed.

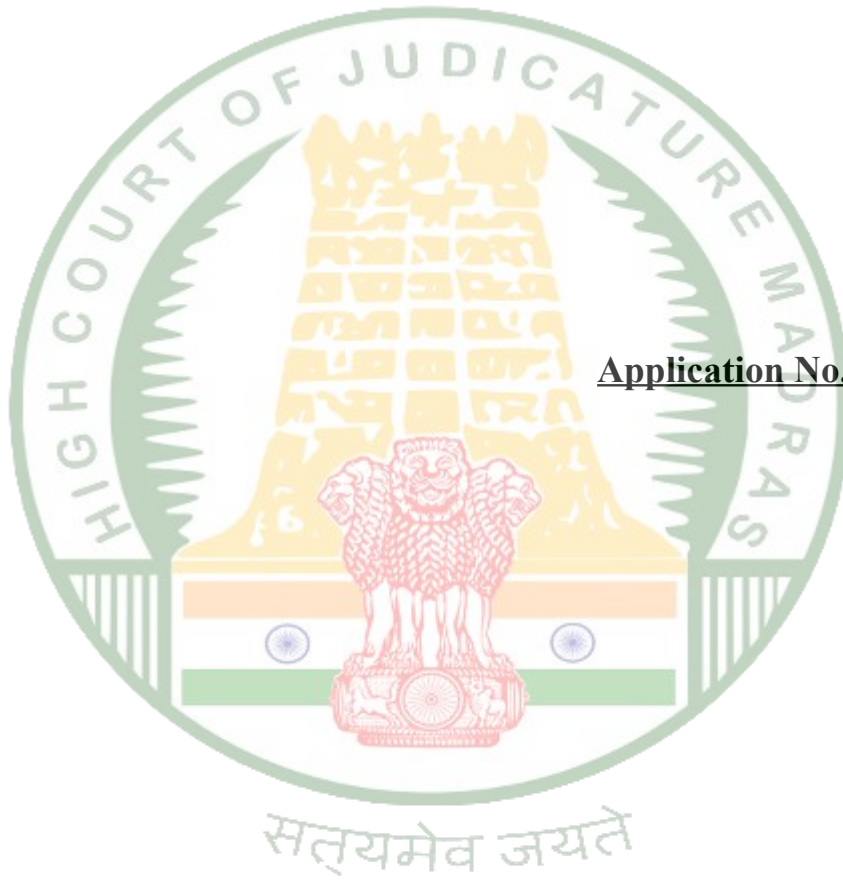
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