

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Application No.7438 of 2018

M/s.Cholamandalam Investment and
Finance Company Limited,
'Dare House', No.2, N.S.C. Bose Road,
Parrys, Chennai - 600 001.
Represented by its Authorised Signatory. Applicant

versus

Sapneswar Behera,
S/o.Phakir Behera,
Aipalasapur, Chandaka,
Angarapada, Khurda, Near Siba Temple,
Odisha - 752 054. Respondent

Prayer: Application filed under Order XIV Rule 8 of Original Side Rules read with Section 9(ii)(a)(b)(c)(d) & (e) of the Arbitration and Conciliation Act, 1996, to appoint employee of the applicant viz. Mr.Gyana Ranjan Dash, ARM, as Receiver to seize and take possession of the vehicle, which is more fully described in the schedule to the Judges Summons, which is lying in the custody of respondent or his men, agents, servants from his premises or wherever found with Police aid and break open of premises, if necessary.

For Applicant : Mr.N.Santhosh Nagarajan

ORDER

This application has been filed seeking a direction to appoint employee of the applicant viz. Mr.Gyana Ranjan Dash, ARM, as Receiver to seize and take possession of the vehicle, which is more fully described in the schedule to the Judges Summons, which is lying in the custody of respondent or his men, agents, servants from his premises or wherever found with Police aid and break open of premises, if necessary.

2. The respondent availed of loan from the applicant for purchase of vehicle and executed a loan agreement No.XVFPBNR00000808780 dated 31.08.2012, for a sum of Rs.2,74,650/- to be paid in 47 monthly installments and the first installment commenced from 01.10.2012 and the re-payments were to run till 01.08.2016. As on 11.09.2018, a sum of Rs.2,97,737.08 is due and payable by the respondent. In terms of the loan agreement executed by the respondent, the applicant is entitled to re-possess the vehicle in the event of default committed by the respondent. It is submitted that the continued use of the vehicle by the respondent would depreciate its value.

3. Notice sent to the respondent has been served and affidavit of service is also filed to that effect. Though the name of the respondent is printed in the cause list, there is no representation for him either in person or through counsel.

4. Upon considering the facts and circumstances of the case, this Court is satisfied that the applicant has made out a *prima facie* case in its favour and accordingly, employee of the applicant Mr.Gyana Ranjan Dash, ARM, is appointed as Receiver to take custody of the vehicle. The receiver will be entitled to take possession of the vehicle from the respondent or its agent 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. This Order shall operate only for a period of six weeks from the date of receipt of a copy of this Order.

WEB COPY

N.SATHISH KUMAR, J.

sri

5. As the learned counsel for the applicant would submit that an award of arbitration between the applicant and the respondent has been passed on 21.09.2016, the Receiver shall preserve the vehicle without alienating or encumbering thereof till orders are passed by this Court in this application. However, in case the respondent make payment of the outstanding installments, the Receiver shall release the vehicle to the respondent. It is open to the applicant to work out his remedy by enforcing the award as per law.

6. With the above direction, this application is closed.

30.07.2020

sri

The counsel for the applicant is permitted to receive the certified copy of the order of the Receiver and communicate the same to the Receiver.

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