



Arb.Appln.266 of 2021

ABDUL QUDDHOSE,J.

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This application has been filed before initiating arbitration proceedings under Section 9 of the Arbitration and Conciliation Act, seeking for appointment of Mr.Parveen Kumar, Branch Receivable Manager of the applicant-Bank as a Receiver to re-possess the vehicle, which is the subject matter of the loan agreement dated 25.01.2021 entered into between the applicant and the respondents.

2. The applicant-Bank had lent money to the respondents for the purchase of a vehicle, which is the subject matter of the loan agreement dated 25.01.2021. Under the said loan agreement, the respondents agreed to pay the total loan amount of Rs.4,13,000/- in 48 monthly instalments commencing from 15.02.2021 and ending on 15.01.2025. It is the case of the applicant that the respondents paid only 4 instalments and defaulted from 5th instalment onwards, which fell due on 05.06.2021. Under the loan agreement, the applicant is having the power to re-posses the vehicle from the respondents in case of default. According to the applicant, several cheques issued by the respondents have also got dishonoured for insufficiency of funds. Since the applicant could not re-possess the vehicle



the Arbitration and Conciliation act, seeking for appointment of a Receiver to re-possess the hypothecated vehicle. As on 07.09.2021, a sum of Rs.41,366/- is due and payable by the respondents towards the arrears of instalment dues alone. If the balance instalments are taken into consideration, the total outstanding will be Rs.4,32,808/- as seen from the statement mentioned in paragraph 6 of the affidavit filed in support of this application.

3. Though the respondents have been duly served and their names have also been printed in the cause list today, there is no representation on their side.

4. Learned counsel for the applicant, on instructions, would submit that the applicant is ready and willing to initiate the arbitration proceedings within a period of two weeks from the date of receipt of a copy of this order. The said statement is recorded.

5. Since the applicant was unable to re-possess the vehicle on its own, this Court is inclined to grant an order as prayed for in Arb.Appln.No.266 of 2021 by appointing Mr.Parveen Kumar, Branch Receivable Manager of the applicant-Bank as the Receiver, who is



empowered to re-posses the vehicle from the respondents either at the respondents' premises or wherever found and he is also permitted to obtain Police aid, if need arises and break open the premises in the presence of the Police. Once the vehicle is re-possessed, the Receiver shall hand over custody of the same to the applicant immediately. However, if the applicant seeks to sell the re-possessed vehicle, they shall approach the Arbitral Tribunal by filing an application under Section 17 of the Arbitration and Conciliation Act and the Arbitral Tribunal shall decide the said application on merits and in accordance with law.

5. Accordingly, this application is allowed as prayed for.

25.11.2021

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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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