

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.02.2020

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

A.No.298 of 2021

M/s.Fullerton India Credit Co. Ltd, (FICCL),
having its registered office at
MEGH Towers, III Floor, Old No.307,
New No.165 Poonamallee High Road,
Maduravoyal, Chennai – 600 095,
rep.by its authorised signatory
Mr.Karthick Chakkaravarthi

... applicant

Vs.

Mr. Senthilkumar Ganesan

... respondent

Prayer: Judges summons filed under Order XIV Rule 8 of O.S. Rules R/w
Section 9 (ii) (a) (d) & (e) of the Arbitration and Conciliation Act, 1996 to
appoint Mr.Karthick Chakkaravarthi, Authorised Signatory and State
Collection Manager, Chennai, as the receiver to seize and deliver the
vehicle TATA LPT 909 EX2/38 WB BS IV, bearing Engine
No.497TC41HSY15244 and Chassis No.MAT507207H15244 and
Registration No.TN-19-AE-3795 available at the respondent's premises or
wherever found and permit the received to obtain police aid and to break
open the premises.

For Applicant : Mr.V.Balasubramani

ORDER

This application is filed for appointing a Receiver to seize the vehicle as an interim measure.

2.The applicant would submit that under loan-cum-hypothecation agreement dated 31.07.2019, the respondent had availed a sum of Rs.8,40,882/ as loan in respect of the Vehicle. The respondent had committed default in repayment of the dues and it is the contention of the applicant that unless a Receiver is appointed to take charge of the vehicle, there is every likelihood of the respondent disposing of the Vehicle, and in that event, the applicant would be left with no recourse to recover the outstanding. The Vehicle is now hypothecated in favour of the applicant.

3.Though service has been effected on the respondent he has neither appeared in person nor through pleader. Therefore, this Court is proceeding to pass orders in his absence.

4.A perusal of the papers would indicate that the respondent has been in default right from the beginning. Except for two installments, no other installments have been paid to date and a sum of Rs.8,37,551/- remains due. The applicant has further stated that they had attempted to repossess the assets but in vain and therefore, they have invoked Section 9 of the arbitral proceedings for necessary orders.

5.Taking into consideration the above, this Court is of the view that the applicant has made out a prima facie case and the balance of convenience is also in their favour. Accordingly, Mr.Karthick Chakkaravarthi, Authorised Signatory and State Collection Manager, Chennai, is appointed as Receiver to seize the vehicle covered under the contract. This order shall operate for a period of four (4) weeks from the date of receipt of a copy of this order.

6.The Receiver shall take possession of the Vehicle from the respondent or their agents or any person claiming under him or in whose possession the Vehicle is.

7.The Receiver shall also be provided Police assistance if requested by him, by the Station House Officer of the jurisdictional Police Station in which the vehicle is found.

8. It is made clear that the order of appointing the Receiver shall be served on the respondent by the applicant before the Receiver takes any action on the basis of this order. The vehicle shall not be sold without obtaining orders of this Court till the disposal of the Arbitral proceedings.

9.The applicant shall take steps to initiate arbitration proceeding within a period of 90 days from the date of this order.

The Application is ordered accordingly. No costs.

Internet : Yes/No
Index :Yes/No
Speaking / Non-Speaking
mps

04/02/2021

P.T. ASHA. J.,

mps



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