

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.03.2021

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

A.No.811 of 2021

M/s.TVS Credit Services Limited
Jayalakshmi Estates,
New No.29, Old No.8,
Haddows Road,
Chennai – 600 006
rep. by its Authorised Signatory ... Applicant

Vs.

M/s.Bhuvana Projects Pvt. Ltd.,
M-26, II Floor, Samanta Vihar,
Kalinga Hospital Chowk,
C.S. Pur, Bhubandeswar,
Khurdha, Nr.Kalinga Hospital,
Mancheswar B.O., Orissa – 751 017. Respondent

Prayer: Judges summons filed under Order XIV Rule 8 of O.S. Rules R/w Section 9 (ii) (a) (b) (d) & (e) of the Arbitration and Conciliation Act, 1996 to appoint Mr.Jyotirmaya Das, Territory Manager - Collection as Receiver to seize and take possession of the vehicle which is morefully described in the schedule to the Judges summon

which is lying in the custody of the respondent or respondent's men, agents, servants from respondent premises or wherever found with police aid and break open the premises if necessary.

For Applicant : Mr.D. Pradeep Kumar

ORDER

This application is filed under Section 9 of the Arbitration and Conciliation Act, for appointing the employee of the applicant as a Receiver to take possession of the vehicle which is lying in the custody of the respondent or respondent's men, agents, servants from respondent premises or wherever found with police aid and break open the premises if necessary.

2.The applicant have extended financial assistance to the respondent for purchasing a Honda Amaze 1.5 SMT I DTEC. The petitioner and the respondent had entered in a Loan -cum- Hypothecation Agreement dated 27.03.2018 under which the amount financed together with finance charges was repayable in 63 equated monthly installments.

3.The petitioner would contend that after a few installments, the respondent became irregular in paying the installments and ultimately, after paying 24 installments, the respondent did not come forward to make any further payments. As on 12.02.2021, the respondent was due and liable to pay a sum of Rs.3,20,556/-. The petitioner would contend that although they have an inherent right to repossess the vehicle in case of default as per the term of the Loan -cum- Hypothecation Agreement, however, they are unable to exercise their rights. Therefore, the applicant is before this Court.

4.Considering the fact that the Agreement enjoins the respondent to pay the equated monthly installments without any demand being made by the applicant, it is seen that the respondent is in default. The applicant is not able to exercise his rights under the Agreement.

5.In these circumstances, the applicant has made out a case for appointment of an receiver to seize the vehicle. Accordingly, this Application is allowed and Mr.Jyotirmaya Das, Territory Manager - Collection, 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 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.

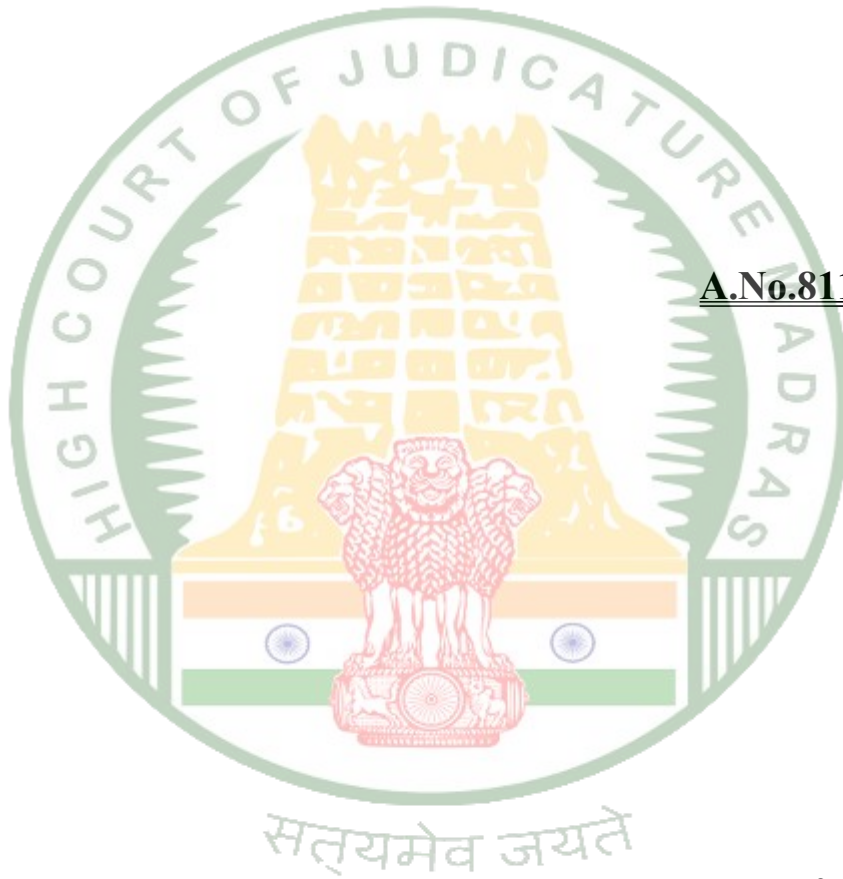
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P.T. ASHA. J.

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