

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.03.2021

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

A.No.1383 of 2021

M/s.Sundaram Finance Limited,
No.21, Patulous road,
Chennai,
rep.by its Senior Manager – Legal
Mr.S.Sornaraj

... Applicant

Vs.

1.Mr.V.Chandrasekar
2.Mr.V.Ramalingam

... Respondents

Prayer: Judges summons filed under Order XIV Rule 8 of O.S. Rules read with Section 9 (ii) (a) (b) & (e) of the Arbitration and Conciliation Act, 1996 to appoint Mr.A.Murali, Deputy Manager of the applicant's Company, as the receiver to take custody of the vehicles being 5 numbers Ashok Leyland 1618 Heavy Goods vehicles morefully described in the schedule to the Judges summons available at the respondent's premises or wherever it is found and deliver it to the applicant with liberty to sell and to permit the Advocate Commissioner to obtain police aid and to break open the premises within which the said vehicles are lying.

For Applicant : Mr. Uma Sankar

ORDER

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

2.The applicant would submit that under Loan Agreement dated 06.09.2017, the respondents had availed a sum of Rs.1,15,00,000/- as loan in respect of the Vehicles. The respondents 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 vehicles, there is every likelihood of the respondents disposing of the Vehicle, and in that event, the applicant would be left with no recourse to recover the outstanding. The vehicles are now hypothecated in favour of the applicant.

3.A perusal of the papers would indicate that the respondents after paying the first 11 installments defaulted in the pay of the 12th installment. After notice issued by the applicant on 06.03.2019, the 12th and 13th

installments were paid. Thereafter, no other installments from the 14th installment have been paid to date and as on 18.03.2019, a sum of Rs.1,33,52,541.29 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.

4. 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.A.Murali, Deputy Manager of the applicant's Company, is appointed as Receiver to seize the vehicles 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.

5. The Receiver shall take possession of the Vehicles from the respondents or their agents or any person claiming under him or in whose possession the Vehicles are.

6.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 vehicles are found.

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

8.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

26.03.2021

P.T. ASHA. J.

mps



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