

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 25TH DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

Arb.Appln. No.110 of 2021

In the matter of Arbitration &
Conciliation Act, 1996

and

In the matter of Disputes between
M/s.Equitas Small Finance Bank
Limited And Mr.Yogesh Kisan Pote
and others Arising under Loan
Agreement Dated 14.12.2018 bearing
Loan Agreement No.
SLKLMBI0209503.

M/s. Equitas Small Finance Bank Limited

4th Floor, Phase-II, Spencer Plaza,

769, Anna Salai, Chennai,

Tamil Nadu – 600 002.

Represented by its Authorised Signatory

Mr. R.S. Bharath (Emp.No. 31681)

...

Applicant

Vs.

1.Mr. Yogesh Kisan Pote,

Block No-2, First Floor, Inamdar Blgd,

At Vihari, Khopoli, Chowk,

Raigarh (MH), Maharashtra – 410 203.

... Borrower / Respondent - 1

2.Mrs. Suvarna Yogesh Pote,

Block No-2, First Floor, Inamdar Blgd,

At Vihari, Khopoli, Chowk,

Raigarh (MH), Maharashtra – 410 203.

...Co Borrower / Respondent – 2

3. Mr. Nanabhau Gitaram Borude,

At Vihari, Khopoli Taluk,

Kalapur District, Vihari Chowk,

Raigarh, Maharashtra – 410 203.

.. Guarantor

:Respondents

Application praying that this Hon'ble Court be pleased to pass an order of appointment of Mr.Vijaykumar Babasaheb Yadav, Senior Receivable Officer, Komothe Kalamboli Branch of the applicant company as receiver to seize the vehicle more patricularly described in the schedule to the Judges Summon wherever stationed in the premises of the respondents or wherever it is found and with whomsoever it is found with powers to break open the premises and grant permission to the receiver to obtain police aid from the concerned police officer.

This application coming on this day before this court for hearing in the presence of Mr.A.Damodaran, Advocate for the Applicant herein, and the Respondent herein not appearing in person or by Advocate and upon reading the Judge's Summons and the affidavit of R.S.Bharath, filed herein,

it is ordered as follows:-

That Mr.Vijaykumar Babasaheb Yadav-Senior Receivable Officer, Kamothe Kalamboli Branch of the applicant company be and is hereby appointed as the receiver to seize the vehicle morefully setout in the schedule hereunder covered under the contract and this order shall operate for a period of six (6) weeks from the date of receipt of a copy of this order and thereafter, this Order shall stand automatically cancelled.

2. That the receiver appointed herein shall be entitled to seize and

take possession of the vehicle from the respondent or their agents or any one in possession thereof.

3. That if necessary, the Receiver appointed herein, shall get police assistance and the Station House Officer of the concerned Police Station, within whose jurisdiction the vehicle is found, shall render requisite assistance for this purpose.

4. 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.

5. That the Arb.Appln. No.110 of 2021 do stand closed.

SCHEDULE

A 2009 TATA 2516 Heavy Commercial Vehicle bearing Chassis No. MAT46910197H18748 and fitted with Engine No. 697TC58HQZ111811 and bearing registration No. MH 12 FC7003.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
25th DAY OF AUGUST 2021.

Sd/-

ASSISTANT REGISTRAR (Comm. Cases)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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EVK
03/09/2021

Arb.Appln. No.110 of 2021

ORDER

DATED : 25.08.2021

THE HON'BLE MR. JUSTICE
V.PARTHIBAN

FOR APPROVAL: 06/09/2021

APPROVED ON: 07/09/2021

Copy to:-

Mr.Vijaykumar Babasaheb Yadav,
Senior Receivable Officer,
Receiver
Komothe Kalamboli Branch,
M/s. Equitas Small Finance Bank
Limited 4th Floor, Phase-II, Spencer
Plaza, 769, Anna Salai, Chennai,
Tamil Nadu – 600 002.

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Application praying that this Hon'ble Court be pleased to pass an order of appointment of Mr.Vijaykumar Babasaheb Yadav, Senior Receivable Officer, Komothe Kalamboli Branch of the applicant company as receiver to seize the vehicle more patricularly described in the schedule to the Judges Summon wherever stationed in the premises of the respondents or wherever it is found and with whomsoever it is found with powers to break open the premises and grant permission to the receiver to obtain police aid from the concerned police officer.

This Application coming on this day before this court for hearing the court made the following order:-

This application has been filed for an interim measure of appointing a receiver to seize the vehicle.

2. The respondents availed a vehicle loan from the Applicant-company and executed a loan agreement No.SLKLMBI0209503 dated 14.12.2018, for a sum of Rs.3,75,000/- to be paid in 53 instalments and the first instalment commenced from 15.01.2019 and the re-payments were to run till 15.05.2023. It is stated that as on 27.07.2021, a sum of Rs.53,509/- is outstanding. In terms of the loan agreement executed by the respondents,

the applicant/Finance company is entitled to re-possess the vehicle in the event of default committed by the respondents. It is also submitted that the continued use of the vehicle by the respondents would depreciate its value.

3. The learned counsel for the applicant submitted that service has been completed on the respondents. From the court records, it is seen that the respondents have been served notice and despite their names appeared in the cause list today, there is no appearance by them or anyone on their behalf.

4. In the above circumstances, in consideration of the pleadings and the materials placed on record, this Court is convinced that the applicant has made out a prima facie case and balance of convenience is in favour of the applicant. Therefore, the named receiver in the application Mr.Vijaykumar Babasaheb Yadav-Senior Receivable Officer, Kamothe Kalamboli Branch of the applicant company is appointed as a receiver to seize the vehicle covered under the contract. This Order shall operate only for a period of six weeks from the date of receipt of a copy of this Order and thereafter, this Order shall stand automatically cancelled.

5. The receiver will be entitled to seize and take possession of the vehicle from the respondents or their agents or any one in possession thereof. If necessary, the Receiver shall get police assistance and the Station House Officer of the Police Station concerned, within whose

jurisdiction the vehicle is found, will render requisite assistance for this purpose.

6. This Order of appointment shall be served on the respondents by the applicant before the receiver takes any action on the basis of this Order.

7. Accordingly, this application is closed.

Sd./-V.P.N.J.

25/08/2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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