

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 01ST DAY OF DECEMBER 2021

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.Application.No. 145 of 2021

In the matter of Arbitration &
Conciliation Act, 1996

And

In the matter of Disputes between
M/s. TVS Credit Services Limited
and Mr. Rajmani Shukla Arising
under Loan Cum Hypothecation
Agreement Dated 21.05.2019
bearing Agreement
No.UP3038LN0000247.

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

... Applicant

-Vs-

Mr. Rajmani Shukla,
S/o Nageshwar Prasad,
Vill 101 Hasanpur Korari,
Phoolpur, Allahabad, Nr.School,
Bahadurgarh Arwasi B.O,
Uttar Pradesh – 212402.

... Respondent

Application praying that this Hon'ble Court be pleased to appoint
the employee of the Applicant viz, Mr.Ansar Ahamad Siddiqui, Territory
Collection Manager, as Receiver to seize and take possession of the

Vehicle which is more fully described in the schedule to the Judges Summons which is lying in the custody of respondent or respondent's men, agents, servants, from respondent premises or wherever found with Police aid and break open of premises if necessary.

This application coming on this day before this court for hearing in the presence of Mr.D.Pradeep Kumar, 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 Shanthi G.K. filed herein, **it is ordered as follows:-**

That Mr. Ansar Ahamad Siddiqui, Territory Collection Manager be and is hereby appointed as receiver, who is empowered to re-possess the vehicle morefully setout in the schedule hereunder from the respondent's premises or wherever found.

2. That the receiver appointed herein, on re-possession, shall hand over the custody of the same to the applicant immediately.

3. That if the receiver so requires, he shall also seek police aid and if necessary, break open the premises in order to re-possess the said vehicle in the presence of the police.

4. That if the applicant herein 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.

SCHEDULE

MF 1035 DI, bearing Engne No.S324D59381, Chassis No.871952
and registered as UP70CH6853.

WITNESS THE HON'BLE MR. JUSTICE MUNISHWAR NATH
BHANDARI, ACTING CHIEF JUSTICE, HIGH COURT AT
MADRAS AFORESAID, THIS THE 01st DAY OF DECEMBER 2021.

Sd/-
ASSISTANT REGISTRAR (Comm.Cases)
//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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MU
27.12.2021

Arb.Application.No. 145 of 2021

ORDER

DATED : 01.12.2021

THE HON'BLE MR. JUSTICE

ABDUL QUDDHOSE

FOR APPROVAL: 29.12.2021

APPROVED ON : 05.01.2022

Copy to:-

Mr. Ansar Ahamad Siddiqui,
Territory Collection Manager
Receiver,
M/s. TVS Credit Services Limited,
Jayalakshmi Estates,
New No.29, Old No.8,
Haddows Road, Chennai – 600 006.

Note:

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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-Vs-

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Vill 101 Hasanpur Korari,
Phoolpur, Allahabad, Nr.School,
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Uttar Pradesh – 212402.

... Respondent

Application praying that this Hon'ble Court be pleased to appoint
the employee of the Applicant viz, Mr.Ansar Ahamad Siddiqui, Territory

Collection Manager, as Receiver to seize and take possession of the Vehicle which is more fully described in the schedule to the Judges Summons which is lying in the custody of respondent or respondent's men, agents, servants, from respondent premises or wherever found with Police aid and break open of premises if necessary.

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

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996, seeking for appointment of Mr. Ansar Ahamad Siddiqui, Territory Collection Manager, as a Receiver to re-possess the vehicle, which is the subject matter of the Loan Agreement dated 21.05.2019 entered into between the applicant and the respondent.

2. According to the applicant, under the aforementioned Loan Agreement, the respondent availed a loan of Rs.2,76,670/- (Rupees Two Lakhs Seventy Six Thousand Six Hundred and Seventy only) for the purchase of a vehicle, which is the subject matter of the Loan Agreement dated 21.05.2019. It is also the case of the applicant that the said vehicle is hypothecated with them. According to the applicant, the total amount repayable by the respondent under the Loan Agreement is Rs.3,58,792/- (Rupees Three Lakhs Fifty Eight Thousand Seven Hundred and Ninety Two only), repayable in 25 monthly instalments commencing from

05.07.2019 and ending on 05.07.2021.

3. According to the applicant, the respondent was making belated payments and he has paid only 13.42 instalments and the remaining 8.58 instalments remains unpaid. According to the applicant, as on 26.07.2021, a sum of Rs.1,68,023.58 is due and payable by the respondent to the applicant.

4. The applicant has filed the following documents along with this application in order to substantiate their case for appointment of a Receiver to re-possess the vehicle.

- a) Loan cum Hypothecation Agreement dated 21.05.2019, which contains the arbitration clause and terms and conditions of the loan.
- b) Details of vehicle
- c) Statement of Accounts disclosing that a sum of Rs.1,68,023.58 is due and payable as on 26.07.2021.

5. Learned counsel for the applicant submits that after filing of this application, the applicant has initiated Arbitration proceedings.

6. Substituted service has been effected on the respondent and his name has also been printed in the cause list today. However, there is no representation on his side.

7. As seen from the aforementioned documents, it is clear that the respondent has committed default in repayment of the loan to the applicant and has been a chronic defaulter. Under the Loan cum Hypothecation Agreement, the applicant is empowered to re-possess the vehicle on its own. Since the applicant could not re-possess the vehicle on its own, they have come forward with this application under Section 9 of the Arbitration and Conciliation act, seeking for appointment of a Receiver to re-possess the hypothecated vehicle.

8. For the foregoing reasons, this Court is inclined to grant an order as prayed for in Arb.Appln.No.145 of 2021 by appointing Mr.Ansar Ahamad Siddiqui, Territory Collection Manager, as the Receiver, who is empowered to re-possess the vehicle from the respondent's premises or wherever found and the said Receiver, on re-possession, shall hand over the custody of the same to the applicant immediately. If the Receiver so requires, he shall also seek police aid and if necessary, break open the premises in order to re-possess the vehicle in the presence of the Police. 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.

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

Sd./- A.Q.J.
01.12.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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