

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 24TH DAY OF NOVEMBER 2021

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.Appln.No. 235 of 2021

In the matter of Arbitration &
Conciliation Act, 1996

And

In the matter of Disputes between
M/s. Manapuram Finance Limited
and Mr.Dayal Singh Chouhan And
others Arising under Loan
Agreement Dated 13.08.2019
bearing Loan Agreement
MFMPCVLONS000005118569.

M/s. Manapuram Finance Limited,
No.400 (116/1) Dr.Natesan Road,
Triplicane, Chennai – 600 005.
Represented by its Authorised Signatory,
Mr.Maniarasan (Emp.No.62566).

... Applicant

-Vs-

1.Mr.Dayal Singh Chouhan,
No.45, Rajiv Nagar, Ratlam,
Madhya Pradesh – 457 001.

... Borrower

2.Mrs.Lalitha Chouhan,
No.45, Rajiv Nagar, Ratlam,
Madhya Pradesh – 457 001.

... Co-Borrower-I
... Respondent

Arbitration Application praying that this Hon'ble Court be pleased to pass an order of appointment of Mr.Manish Shaikhawat, Assistant Manager, Ratlam, of the applicant company as receiver to seize the vehicle more particularly 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 M/s R.Meenakshi Devi, Advocate for the Applicant herein, and upon reading the Judge's Summons and the affidavit of M.Maniarasan filed herein, **it is ordered as follows:-**

That Mr.Manish Shaikhawat, the Assistant Manager, Ratlam be and is hereby appointed as receiver to repossess the vehicle morefully setout in the schedule hereunder.

2. That the receiver appointed herein, after repossessing the vehicle, keep the same under the custody of the applicant.

3. That during the course of repossession of the vehicle, if the Receiver requires any police assistance, he shall seek the same from the police authorities and the police authorities shall grant police assistance,

if the request made by the Receiver is a genuine one.

4. That if the applicant has already not initiated the arbitral proceedings in accordance with arbitration clause contained in the agreement, the applicant herein be and is hereby directed to initiate the arbitral proceedings in accordance with arbitration clause within a period of two weeks from the date of receipt of a copy of this order.

SCHEDULE

A2010 TATA Motors Ltd bearing Chassis
No.MAT36107A1P41587 and fitted with Engine
No.69FTC66PZY136247 and bearing registration No. MD 09 GF 2407.

WITNESS THE HON'BLE MR. JUSTICE MUNISHWAR NATH
BHANDARI, ACTING CHIEF JUSTICE, HIGH COURT AT
MADRAS AFORESAID, THIS THE 24th DAY OF NOVEMBER 2021.

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

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

MU
22.12.2021

Arb.Appln.No. 235 of 2021

ORDER

DATED : 24.11.2021

THE HON'BLE MR. JUSTICE

ABDUL QUDDHOSE

FOR APPROVAL: 23.12.2021

APPROVED ON : 30.12.2021

Copy to:-

Mr.Manish Shaikhawat,
the Assistant Manager, Ratlam
Receiver,
M/s. Manapuram Finance Limited,
No.400 (116/1) Dr.Natesan Road,
Triplicane, Chennai – 600 005.

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... Applicant

-Vs-

1.Mr.Dayal Singh Chouhan,
No.45, Rajiv Nagar, Ratlam,
Madhya Pradesh – 457 001.

2.Mrs.Lalitha Chouhan,
No.45, Rajiv Nagar, Ratlam,
Madhya Pradesh – 457 001.

... Respondent

Arbitration Application praying that this Hon'ble Court be pleased to pass an order of appointment of Mr.Manish Shaikhawat, Assistant Manager, Ratlam, of the applicant company as receiver to seize the vehicle more particularly 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 under section 9 of the Arbitration and Conciliation Act, seeking for appointment of Mr.Manish Shaikhawat, the Assistant Manager of the applicant as the receiver to repossess the vehicle which is the subject matter of loan agreement dated 13.08.2019 entered into between the applicant and the respondents.

2. Under the aforementioned loan agreement, the respondents availed loan for the purchase of a vehicle and the total amount of Rs.4,75,960.45/- was repayable in 43 monthly installments commenced on 05.10.2019 and ending on 05.03.2023. According to the applicant, the respondents committed default in the repayment of the loan amount as per the loan agreement. It is their case that the respondents paid only 15

installments and thereafter committed default. According to them, a sum of Rs.1,96,564.78 was due and payable by the respondents as on 30.09.2021. Under the loan agreement, the applicant is having the right to repossess the vehicle from the respondents in case of default committed by them. Since they have been unable to repossess the vehicle on their own, they have approached this Court under section 9 of the Arbitration and Conciliation Act before initiating the arbitration as per the arbitration clause contained in the loan agreement.

3. The applicant has filed the following documents namely (a) Loan agreement dated 13.08.2019, (b) Foreclosure notice dated 03.09.2021 and (c) Statement of accounts disclosing that a sum of Rs.1,96,564.78/- is due and payable by the respondents as on 30.09.2021.

4. As seen from the above, it is clear that the respondents are defaulters under the loan agreement dated 13.08.2019 and till date, they have also not surrendered the vehicle to the applicant, despite the said default.

5. The applicant has also expressed their willingness to go for arbitration in accordance with the arbitration clause contained in the agreement. The respondents have also been served in this application and their names have also been printed in the cause list today.

6. After giving due consideration to the aforementioned factors,

this Court is inclined to appoint Mr.Manish Shaikhawat, the Assistant Manager, Ratlam of the applicant company as a Receiver to repossess the vehicle which is mentioned in the schedule to the judges summons from the custody of the respondents or wherever found. Accordingly, Mr.Manish Shaikhawat, the Assistant Manager, Ratlam is appointed as Receiver who shall after repossessing the vehicle, keep the same under the custody of the applicant. During the course of repossession of the vehicle, if the Receiver requires any police assistance, he may seek the same from the police authorities and the police authorities shall grant police assistance, if the request made by the Receiver is a genuine one.

7. Since the relief sought for by the applicant has been granted by this Court, this application is allowed in terms of the aforementioned directions. However, it is made clear that if the applicant has already not initiated the arbitral proceedings in accordance with arbitration clause contained in the agreement, the applicant is directed to initiate the arbitral proceedings in accordance with arbitration clause within a period of two weeks from the date of receipt of a copy of this order.

Sd./- A.Q.J.
24.11.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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