

A.No.2856 of 2020

P.T.ASHA, J.

The above application has been filed under Section 9 of the Arbitration and Conciliation Act for a direction to the respondents to redeliver the goods carrier vehicle bearing Registration No.TN 18 Q 1485, for which the respondent had extended finance facility to the applicant.

2. It is the case of the applicant that he has been repaying the equated monthly instalments and after the 21st instalment was made, the country had gone into a lockdown and it was out of business. Therefore, they are unable to pay the remaining instalments. Further, there has been a moratorium till September, 2020 announced by the Government. However, on October 2020, the respondents have repossessed the vehicle while it was plying with goods in it.

3. The applicant would also state that they are ready to repay the money provided the respondents reschedule the loan facility. Though notice has been served on the respondents, they have not entered appearance either through counsel or in person. The papers would indicate that on 12.10.2020, the respondents had issued a letter to the applicant stating that a sum of Rs.18,895,- was over due and as on that date, that is on 12.10.2020, they had requested the applicant to make the payment on or before 20.10.2020. Even according to the respondents, it was only a sum of Rs.18,895,- that was due as on 12.10.2020, for which, the vehicle has been seized by the respondents while it was transporting goods between Tiruvannamalai and Chennai.

4. The respondents have acted in a high handed manner in repossessing the vehicle even when according to them only a sum of Rs.18,895/- was due.

5. Considering the fact that the dispute has arisen, the applicant shall move necessary application for appointment of an Arbitrator. However, till the appointment of the arbitrator, the respondents shall not sell the vehicle in question.

6. The counsel for the respondents, on instructions, would submit that the vehicle has not been sold to date. Therefore, there shall be an order of injunction restraining the respondents from selling the vehicle till the appointment of the Arbitrator. The applicant shall take necessary steps to set in motion the arbitral process. The applicant shall take steps in this regard within a period of 60 days to initiate arbitration. No cost.

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18.03.2021

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