

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 15TH DAY OF APRIL 2021

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

A. No.9464 of 2019

In the matter of Arbitration &
Conciliation Act, 1996

and

In the matter of disputes and
differences between Mr.T.Velsamy
and Mr.T.Pandiyammal arising under
Loan cum Hypothecation Agreement
No.GUDCYO805020003 dated
02.05.2018.

M/S.SHRIRAM TRANSPORT FINANCE CO.LIMITED,
Represented by its Authorized Signatory and
Executive Mr.S.Varadhan S/o.Mr.P.M.Seethapathy,
Having its Registered Office at Mookambika Complex,
III Floor, No.4 Lady Desika Road,
Mylapore Chennai - 600 004.

..Applicant

-Vs-

1. MR.T.VELSAMY,
S/O.THIRUVASAGAM,
Balaji Nagar, 8th Cross Street,
Salamangalam Landmark;
Nearby Mosque,
Padappai, Sriperumbudur Taluk,
Kanchipuram District - 601 301.

2. MR.T.PANDIYAMMAL,
D/O.PUSHAM,
8th Cross Street, Salamangalam,
Landmark;
Nearby Mosque,
Padapppai, Sriperumbudur Taluk,
Kanchipuram District - 601 301.

3. V.VASU,
S/O.VENUGOPAL,
Munu Adhi Street,
Chitlapakkam,
Chennai - 600 064.

..Respondents

Application praying that this Hon'ble Court be pleased to appoint an Advocate Commissioner with direction to seize the schedule mentioned Vehicle which is lying under the custody of the Respondents or their men, agents, servants or anyone claiming under them the address where it is kept, namely HARSHA TOYOTA NO.15, RANGASAMY STREET, CHAMBERS COLONY, BEHIND ADYAR ANAND BHAVAN, CHROMPET, CHENNAI - 600 044 or at any other place where the scheduled asset is found, with the police aid and by breaking open locks if necessary and to take the same into his custody and sell the same at fair market price.

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

This application has been filed for relief of appointment of Advocate Commissioner to seize the vehicle.

2. The entire dispute arise out of the Hire Purchase Agreement between the applicant and the respondents. The respondents said to have committed default in the year 2019. Despite breaching the contract and the default committed by the respondents, the applicant has not invoked the arbitration as per the agreement. Keeping silent for more than two years and seeking relief for interim orders indicates that there is no manifest intention on the part of the applicant to refer the matter for arbitration. In such view of the matter, I am not inclined to grant the relief. It is for the applicant to invoke arbitration and seek interim order as per Section 17 of the Act.

3. Accordingly, this application is dismissed.

Sd/.N.S.K.J.

15.04.2021

//Certified to be a true copy//

Dated this the th day of 2021.

su.28.04.2021

COURT OFFICER(O.S.)

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.