

D/L. 2.
January 18, 2024.
MNS.

WPA No. 27996 of 2022

M/s Om Motor Finance Private Ltd.
Vs.
The State of West Bengal and others

Mr. Amar Singh

... for the petitioner.

Ms. Sana Naaz

...for the respondent no. 3.

1. Affidavit-of-service filed in Court today be kept on record.
2. Learned counsel for the petitioner submits that the petitioner is in the business of granting loans. In the year 2019, a loan was given. Out of 47 instalments, about 9 were not cleared off by the debtor. Accordingly, an order was obtained by the petitioner from the concerned Court under Section 9 of the Arbitration and Conciliation Act, 1996 ("the 1996 Act"). By such order dated August 4, 2021, a Receiver had been appointed to take custody of the vehicle, subject to remuneration being paid to her.

3. Now the petitioner seeks to pay the taxes dues in respect of vehicle to keep the said vehicle pliable.
4. However, since the premise of an order under Section 9 of the 1996 Act is that an arbitration proceeding has to be initiated, the appropriate relief lies before the concerned Arbitrator, if an Arbitrator has been approached.
5. Hence, there is no scope of grant of any relief of prerogative writ under Article 226 of the Constitution of India.
6. Accordingly, WPA No. 27996 of 2022 is disposed of by granting liberty to the petitioner to pray for appropriate relief before the Arbitrator under Section 17 of the 1996 Act.
7. There will be no order as to costs.
8. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)