



Arbitration Application No.1347 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2025

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Arbitration Application No.1347 of 2025

M/s.Indusind Bank Ltd.,
represented by its
Assistant Vice President,
A.Ganesh Kumar,
Consumer Finance Division,
No.34, G.N.Chetty Road,
T.Nagar, Chennai - 600 017.

.... Applicant

Vs.

Shiva Earth Movers
Mukand Vihar, Ground Floor,
156/2 Street, No.7,
Baba Mohan Ram Colony,
Mukundpur, Delhi - 110 042.

.... Respondent

PRAYER

Arbitration Application (Com.Div.) filed under Order XIV Rule 8 of O.S.Rules read with Section 9(1) (2) (ii) (a) (b) (d) & (e) of the Arbitration and Conciliation Act, 1996, praying to pass an order of appointment of Jonty Bhardwaj, Chief Manager - Employee No - R21448, employee of the applicant as a receiver to seize and deliver the vehicle/machine JVB India Limited, Backhoe Loader bearing vehicle Registration No.HR30AA5273, Vehicle Engine No.H00396030 and Chassis No.HAR3DXINP03347517 to the custody of the applicant available at the respondent premises or wherever found and with



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whomsoever it is found and permit the receiver to obtain police aid and to break open the premises.

For Applicant : Ms.Meera Gnanasekar

ORDER

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996, [for brevity 'the Act'] for appointment of a receiver to seize and deliver the vehicle/machine to the custody of the applicant, available with the respondent and if necessary, with police aid.

2. The applicant and the respondent entered into an agreement dated 20.10.2023 wherein the applicant extended financial facilities to the tune of Rs.35,64,038/-. The EMI commenced on 20.11.2023 and it expires on 21.09.2028.

3. The specific case of the applicant is that the last payment notice was given on 05.03.2025 and the last EMI was paid on 17.03.2025 and thereafter, no payment has been made. As on August'2025, the total amount due and payable is Rs.5,07,189/-. It is under these circumstances,



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the present application has been filed before this Court.

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4. This Court heard the learned counsel for the applicant and carefully perused the materials available on record.

5. It is an admitted case that the last payment was made in March'2025 and thereafter, no payment was made on the side of the respondent. There is no material to show that the applicant has initiated steps for referring the matter to the Arbitral Tribunal. That apart, the trigger notice under Section 21 of the Act has not been given. This Court does not find any manifest intention on the part of the applicant to arbitrate. This is the minimum requirement for entertaining and passing interim order under Section 9 of the Act. Useful reference can be made to the judgment of the Apex Court in the case of *Ashok Traders v. Gurumukh Das Saluja [(2004) 3 SCC 155]*.

6. In view of the above, it is left open to the applicant to initiate arbitration proceedings and thereafter, seek for necessary interim relief.

N.ANAND VENKATESH, J.



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This application is disposed of in the above terms.

13.10.2025

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