

## ORDER

1. Petition under Section 9 of the Arbitration and Conciliation Act, 1996 read with Section 151 CPC received by entrustment. It be checked and registered.
2. Heard. The instant petition has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 for appointment of receiver and to take possession of the vehicle i .e. Tata LPT 3118 bearing registration No. PB23M9553, Chassis No. C02523, Engine No.0276 and to appoint the receiver DSP Traffic concerned as an interim measures to protect the interest of petitioner during pendency of the petition to take possession of the above vehicle.
3. I have gone through the documents placed on the file. The perusal of file reveals that an amount of Rs. 19,95,000/- was financed for 48 months at half yearly EMI of Rs.52,565/-and an amount of Rs.4,89,298 was due in the aforesaid loan as on 17.11.2017. The respondent stopped making the payment of equal monthly installments of the said loan amount. Compelled by indifferent attitude of the respondents, petitioner company was constrained to exercise his right to terminate the loan agreement and recall entire outstanding amount due towards the respondents. The amount of installments are due against the respondent. An order has been sought from the court for an interim

measure of protection in respect of interim custody of the aforesaid vehicle.

4. Taking into consideration the totality of the facts coupled with due assistance rendered and on perusal of the terms of loan agreement, notice which has been issued prior to the filing of petition and as per guidelines laid down in **ESCORT FINANCE LTD. VS. HILTON RUBBER LTD. AND OTHERS. II (2003) BC 16**, there is no impediment in acceptance of present application exparte ought to be and is hereby accepted exparte with no order as to costs subject to following directions:-

(I) DSP Traffic concerned is hereby appointed as exparte receiver with direction to forthwith seize vehicle, i.e. Tata LPT 3118 bearing registration No. PB23M9553, Chassis No. C02523, Engine No.0276. If required the receiver can take assistance of other police officials as per law and in case taking assistance of other police officials, petitioner shall deposit Rs. 2000/- to the police department in the head as assessed by the concerned police authority.

(II). Receiver will release the vehicle to the respondent, if the respondent make

payment of the disputed amount to the petitioner, at the time of seizure of the vehicle *ibid*.

III) The petitioner will appoint an Arbitrator within a period of one month from today for adjudication of the matter in dispute;

IV) The receiver shall also take photographs of the seized vehicle from different angles ; and

V) In case during the period of 30 days, the arbitrator is not appointed, the seized vehicle shall be returned to the respondent.

Let, notice be issued to the respondent vide RC/AD on furnishing of the same within a span of 7 days from today, for 06.01.2018 to show cause as to why ex-parte order should not be confirmed. Dasti notice/summons be issued if desired.

Date of order: 05.12.2017.

Next Date.06.1.2018.

Purpose.

*Kashmira Singh steno.II.*

(Avtar Singh Barda)

ADJ,Ldh (UID No.PB0159)

This order has been directly dictated on the computer.