

**SHRIRAM FINANCE LTD (ERLIER KNOWN AS M/S SHRI
RAM TRANSPORT FINANCE COMPANY LIMITED) VS TULSI
DASS etc.**

Present: Sh. Gaurav Bansal, Advocate counsel for petitioner

1. **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 MAGIC-P, bearing registration no. PB11-BA-7893 and to appoint Sh. Ajay Kimothi(Credit Manager) as receiver as an interim measures to protect the interest of petitioner during pendency of the petition to take possession of the above vehicle.**

2. **I have gone through the documents placed on the file,i.e copy of authority/delegation, copy of loan application form, copy of loan cum Hypothecation agreement, copy of statements of account, copy of demand notice etc. The perusal of file reveals that an amount of Rs. 99999/- was financed which became due and payable after every month. The respondent stopped making the payment of monthly installments of the said loan amount. Compelled by indifferent attitude of the respondent, petitioner company was constrained to exercise his right to terminate the loan agreement and recall entire outstanding amount due towards the respondent. 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.**

3. 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) Sh. Ajay Kimothi, employee of the petitioner company is hereby appointed as exparte receiver with direction to forthwith seize vehicle, i.e **Tata Magic-P bearing registration no. PB11-BA-7893**. 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 respondents, if the respondents 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 respondents.

VI. Once the possession of the vehicle is taken, the bank would not be able to sell the same without permission of the court.

VII. The receiver will not change its colour and will submit the report regarding re-possession of the vehicle.

Let, notice be issued to the respondents be issued for **24.11.2023** through ordinary process as well as through RC/AC on filing RC/AD/copy within two days to show cause as to why ex-parte order should not be confirmed. Dasti notice/summons be issued if desired.

Date of Order: 30.10.2023
jaspal Singh, Stenographer Gr-II

This order has been directly dictated on computer

Avtar Singh Barda,
Addl. District Judge, Patiala
UID NO. PB0159