

**In the court of Sachin Sharma, Additional District Judge,
Ferozepur**

CNR No.PBFZ0100-6130-2021

CIS No. Arb.93 of 2021

Arb. Case No.14, dated. 22.09.2021

Date of Order: 30.09.2021

M/s. Mahindra & Mahindra Financial Services Ltd., having its Registered office at Gateway Building Apollo Bunder, Mumbai-400 001 and having one of its branch office at opposite Municipal Council, Mall Road, Ferozepur City, PIN-CODE :152002, through its authorised signatory Mr. Daljeet Singh.

... Petitioner

Versus

1. Gurpreet Singh son of Nanak Singh, resident of village Bhadru, Ferozepur to Mallanwala Road, Tehsil and District Ferozepur (Borrower).

2. Sandeep Singh son of Bohar Singh, resident of village Bhadru, Ferozepur to Mallanwala Road, Tehsil and District Ferozepur. (Guarantor).

... Respondents

Petition on behalf of the petitioner named above inter-alia, under section 9 of the Arbitration and Conciliation Act, 1996 read with section 151 CPC, 1908 for an interim measure of protection, by way of appointing *ex-parte* receiver to take possession of vehicle Mahindra 605 DI Tractor, having Vehicle no.PB-05S-5172, Engine no.NCSU976, Chassis no.NCSU976.

And consequential relief of injunction against the respondents not to dispose, sell, transfer, lend the vehicle in question till vehicle is re-possessed by receiver or the financed amount is recovered.

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Present: Sh. Ranvik Mehta, Adv. Counsel for the petitioner.

O R D E R

1. Heard on the application filed by the petitioner, under section 9 of the Arbitration and Conciliation Act, 1996 read with section 151 CPC, 1908 for an interim measure of protection, by way of

appointing *ex-parte* receiver to take possession of vehicle Mahindra 605 DI Tractor, having Vehicle no.PB-05S-5172, Engine no.NCSU976, Chassis no.NCSU976 and consequential relief of injunction against the respondents not to dispose, sell, transfer, lend the vehicle in question till vehicle is re-possessed by receiver or the financed amount is recovered.

2. I have heard learned counsel for the petitioner and have gone through the record very carefully.

3. At the very outset, learned counsel for the petitioner has made prayer for interim measure on protection by appointing *ex-parte* receiver to take possession of the vehicle given in the head note of the petition, as there is a default in installment of loan payment, as agreed between the parties by the defendant no.1, and reiterated the same plea taken in his petition.

4. After having heard the contention raised by the learned counsel for the petitioner alongwith the record annexed with the petition, this court is of the view that *prima facie* case is made out in his favour for appointment of receiver, in order to possess the above said vehicle because if the same is sold or transferred or a charge is

created over the same, it would cause hardship in the recovery of the loan amount and given the fact that it is a commercial transaction, the business of the petitioner would also be effected and the same can be termed as irreparable loss. Accordingly, the duly authorized representative of the petitioner is hereby appointed as receiver to get the possession of the above said vehicle from the respondents and the concerned Incharge, Traffic Police of that area, will assist him to take possession of the same, if required and the receiver shall abide by the following conditions:-

- i) The receiver will keep the above said vehicle in the same condition, as it would be at the time of taking into possession and shall furnish his report to this court.*
- ii) The receiver shall also take photographs of the seized vehicle from the different angles; and*
- iii) The receiver will release the vehicle to the respondent, if the respondents make payment of the disputed amount to the petitioner, at the time of seizure of the vehicle ibid;*

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

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

Let, notice be issued to the respondents *vide* RC/AD be issued for 29.10.2021 to show cause as to why *ex-parte* order should not be confirmed.

Dated: 30.09.2021
yashpaul

Sd/-(Sachin Sharma)
Addl.District Judge,
Ferozepur
UID No.PB0519