

ARB no.7 of 1.3.2018
Filing no. 26/2018
CNR No. PBPT-01-002063-2018

HDB Financial Services vs. Jagroop Singh

Present: Sh.Gaurav Singla, Advocate, counsel for the petitioner.

Received by entrustment. It be registered. The learned counsel for petitioner has stated that as per Annexure A3 the foreclosuer amount due against the respondent till 19.2.2018 is Rs.314903/-.

Heard. Perusal of record reveals that the present application under Section 9 of the Arbitration and Conciliation Act, 1996 has been moved through the authorized representative and it is contended that the respondent had approached the applicant for a loan facility against vehicle **TATA LPS 4018, Chassis no. 447205FTZ215064, Engine no.60F62487738, Registration no. PB 08 AX 7599, Loan account no. 1908741, and as per Annexure A3 foreclosure amount amount due towards respondent till 19.2.2018 is Rs. 3,14,903/-**, which also provides for settlement of dispute by Arbitration. Under the agreement, the vehicle was hypothecated with the petitioner to secure the repayment of loan and exclusive charge over the vehicle was created in favour of the petitioner/applicant. However, the respondent had failed to pay the loan installments in spite of repeated requests and also has failed to make available the vehicle, which is a security of the petitioner. The applicant/petitioner apprehends that the vehicle might be sold or disposed or a third party rights might be created which would resultantly irreparable loss to the petitioner and it would be difficult for the petitioner/applicant to recover the loan amount. It is accordingly, prayed

Sh. Manpreet Singh who is authorized representative be appointed as a receiver for taking possession of the vehicle **TATA LPS 4018, Chassis no. 447205FTZ215064, Engine no.60F62487738, Registration no. PB 08 AX 7599**, and directions be also issued to the SHO concerned to assist the receiver in taking possession of the vehicle.

The learned counsel for the petitioner has submitted that if the respondent succeeds to alienate/dispose of the above said vehicle in any manner, then, it shall be difficult to locate the same and to recover the loan amount from the respondent and as such, exparte order may be passed. So, a prayer has been made to appoint the receiver to get the possession of the above said vehicle. The petitioner has also produced the copy of the loan documents executed by the respondent and copy of the notice issued to the respondent demanding the remaining loan amount. As per the agreement, the parties have opted for arbitration as a mode of settlement and accordingly this court is of the opinion that having regard to the circumstances which have been cited in the application, a prima-facie case is made out in favour of the applicant for the appointment of a 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 avoidable 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 respondent and the concerned Incharge, Traffic Police will assist him

to take the 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 respondent 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 respondent.

Let, notice be issued to the respondent vide RC/AD be issued for 6.4.2018 to show cause as to why ex-parte order should not be confirmed.

(Devinder Kumar PB0520)
Addl. District Judge,
Patiala

Date of Order: 1.3.2018

Ravinder Kaur

Next date 6.4.2018

Purpose: