

**IN THE COURT OF SHRI AVTAR SINGH BARDA,
ADDITIONAL DISTRICT JUDGE,
LUDHIANA.**

Unique Identification Code No. (PB0159)

Arbitration Petition No. 217 dated 31.10.2017.
Computer Generated No.2959/2017.
Date of order: 7.2.2018.

Axis Bank Limited, a company incorporated under the Companies Act, 11956 and Banking Company within the meaning of the Banking Regulation Act,1949 and having its Registered Office and Corporate Office At Rishul, 3rd Floor, Opposite Samartheshwar, Temple, Law Garden, Ellis Bridge, Ahmedabad 380 006 and Local Branch at Axis Bank Limited, Surya Tower Complex, 2nd Floor, RAC Department, 108, The Mall, Ludhiana through its Authorised representative Mr. Sumit Singh. . . .Petitioner.

Versus

1. Narender Raladuram.
2. Mr. Raldu both residents of Village Sainthli Tehsil Narwana District Jind Haryana.

. . . Respondents.

Petition under section 9 of the Arbitration and Conciliation Act 1996 for an interim measure of Protection in respect of the following matters as the interim custody of the movable asset of the respondents/borrowers,i.e Tractor 33HP-E/EIC333 bearing registration No. HR32H7274, Chassis No. 923314136144, Engine No. E05425 in the name of DSP Traffic while taking the custody of vehicle in question and an interim injunction for restraining the respondent / borrowers defaulter the alienating of their movable property.

Present: Shri Sachin Goyal Advocate, for the Petitioner.
Respondent exparte.

ORDER.

1. Petitioner has filed the present petition u/s 9 of Arbitration & Conciliation Act, 1996.
2. It is pleaded that petitioner is a Limited Company and Sumit Singh is authorized to file the petition. Respondents approached the petitioner company for taking loan of Rs. 3,00,000/- was financed for purchasing the aforesaid vehicle. The loan agreement was executed and respondent and loan amount was to repay the loan in 48 equal **half yearly installments** of Rs.56,881/-. The respondents have committed default in repayment of loan installments and an amount of

Rs.2,55,523/-is outstanding against the respondent as on October 2017. Due to fundamental breach of loan agreement, the vehicle is to be taken by the petitioner company. As per terms of agreement, the matter is to be referred to the Arbitrator. Respondent is trying to take away the vehicle outside the jurisdiction of the court to defeat the claim of petitioner. It is prayed that interim custody of the movable asset of the respondents/borrowers,i.e.Tractor 33HP-E/EIC333 bearing registration No. HR32H7274, Chassis No. 923314136144, Engine No. E05425 in the name of DSP Traffic while taking the custody of vehicle in question and an interim injunction for restraining the respondents/borrower defaulter the alienating of their movable property.

3. Upon notice, respondents failed to appear in the court inspite of being served through publication and accordingly were proceeded against exparte.

4. I have heard exparte arguments advanced learned counsel for the petitioner and have gone through the entire judicial record carefully with his able assistance.

5. Vide order dated 31.10.2017, this court had appointed DSP Traffic concerned as Receiver with the following directions:-

(I) DSP Traffic concerned is hereby appointed as exparte receiver with direction to forthwith seize vehicle, i.e. Tractor 33HP-E/EIC333 bearing registration No. HR32H7274, Chassis No. 923314136144, Engine No. E05425 . 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.

6. Thereafter, notice was issued to respondents to show cause as to why exparte order should not be confirmed against them but they failed to appear in the court inspite of being served through publication and accordingly were proceeded against exparte.

7. Learned counsel for petitioner Shri Sachin Goel advocate suffered statement in the court that the petitioner company has already started proceedings in compliance of order dated 31.10.2017 passed by this court.

8. In view of these facts, the petitioner is entitled to the relief claimed. Thus, the interim order dated 31.10.2017 is hereby confirmed, whereby DSP Traffic concerned was appointed receiver to seize the

vehicle in question. However, receiver will release the vehicle in case the respondent makes the payment of the disputed amount to the petitioner at the time of seizure. The petitioner is further allowed to sell the vehicle and to adjust the sale proceedings of the vehicle in the loan amount of respondent, as per law. The vehicle will be sold in open auction, as per rules. The application u/s 9 of Arbitration Act is accordingly disposed of. File be consigned to the record room.

Pronounced in open court
7.2.2018.

Avtar Singh Barda
Additional District Judge,
Ludhiana. UID PB0159)

This order has been directly dictated on the computer.

Kashmira Singh, stenographer-II.