

ARB 3034 M/s. Indusind bank Limited vs. Avtar Singh.

Present: Sh. Vijay Kalsi Advocate learned counsel for the petitioner.

O R D E R

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 read with Section 151 CPC for appointment of an ex-parte receiver and to take possession of the vehicle i.e. Maruti New Swift DI bearing registration No. PB-10-FT-5308, Engine No.0630602 and chassis No. A77643 to appoint **ACP Traffic, Ludhiana** the receiver as an interim measures to protect the interest of petitioner during pendency of the petition.

3. I have gone through the documents placed on the file carefully. The perusal of file reveals that an amount of Rs. 5,28,923/- was financed in 48 equal monthly installments of Rs.13,950/-each which became due and payable after every month starting from 22.4.2016. Respondents 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 respondent. The amount of installments are due against the respondent. An order has been sought from the court for appointment of receiver with

a direction to seize the above referred vehicle or to appoint the receiver.

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:-

- 1) ACP Traffic, Ludhiana is hereby appointed as exparte receiver with direction to forthwith seize vehicle i .e. Maruti New Swift DI bearing registration No. PB-10-FT-5308, Engine No.0630602 and chassis No. A77643. If required the receiver can take assistance of the police as per law and in case taking assistance of the police, 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 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 dated 20.12.2017 to show cause as to why ex-parte order should not be confirmed. Dasti notice/summons be issued if desired.

Avtar Singh Barda ADJ,Ldh
UID PB0159

Date of Order:14.11.2017.
Next date: 20.12.2017.
Purpose.
Kashmira steno.II.