

IN THE OFFICE OF THE CITY CIVIL COURT, 2nd BENCH CALCUTTA

Misc case 8276/24

Order 02

25.11.24

Record received from Ld. Chief Judge, City Civil Court, Calcutta for order and disposal.

The petition under section 9 of Arbitration and Conciliation Act is moved before this court praying for interim order for appointment of receiver in terms of the prayer. The application is supported by an affidavit along with annexures.

Perused the application along with copies of documents annexed thereto. Issue notice upon the respondents asking them to showcause within 15 days from the date of receipt thereof as to why the petitioner's prayer for appointment of receiver shall not be allowed. Issue the notice.

Fix 01.03.2025 for SR .

Since the prayer for ad-interim injunction is not agitated, hence such prayer stands refused.

Heard Ld. Advocate for the petitioner. Considered.

It is alleged by the petitioner that the respondents no 1 & 2 have paid 14 monthly installments out of 36 monthly installments in respect of the vehicle in question inspite of notice and existence of Hire Purchase Finance agreement with arbitration clause in between the parties.

It transpires from the record that a huge amount of money is still due and payable by the respondents to the petitioner in terms of the agreement between the parties. It is submitted by Ld. Counsel for the petitioner that there is an apprehension that the subject vehicle may be removed by the respondents to some unknown place or alienated and as such has prayed for appointment of receiver who can further appoint an agent for the purpose of tracing and taking possession of the vehicle.

In view of the facts stated above, there appears a strong prima facie case for appointment of receiver for preservation of the vehicle in question. In view of urgency in the matter and the circumstance as stated, the prayer for ad-interim order for appointment of receiver is considered and allowed for protection and preservation of the vehicle in question. Let Rupchand Chakraborty as advocate be appointed as receiver temporarily for the purpose of taking over possession of the vehicle bearing Regd No. WB66AP2457 Engine No. PBENH009232, Chasis No MZDJ21C16N1H15010.

The receiver is authorised to take all possible steps in accordance with law including appointment of agent. The police authority of the nearby police stations or the Superintendent of Police, under the jurisdiction of whom the vehicle in question will be intercepted, would render assistance as is required lawfully by the Receiver, if at all necessary, who shall submit the Report before this Court.

(2)

Contd. Order 2, dt 25.11.24

So long as the vehicle in question shall remain in custody of Receiver, he/she shall remain responsible for any loss or damage, if any, caused to the vehicle. The receiver shall not dispose of, alienate or transfer the vehicle in question and shall not change the nature and character of vehicle in question in course of his custody.

The fee of the receiver is provisionally assessed at Rs. 6000/-.

Writ be issued accordingly.

Let a copy of this order be handed over to the receiver for information and necessary compliance.

The petitioner is at liberty to initiate the arbitral proceeding within the time stipulated under sub-section 2 of S.9 of Act of 1996 failing which this order shall stand vacated and petitioner is directed to file report regarding commencement of such proceedings if any positively by the next date. **If the petitioner takes possession of the vehicle from the receiver, it shall not sale the same unless and until the petitioner is authorised to do so either by this Court or by the Ld. Arbitrator who will be appointed as per S.9(2) of the Act.**

Let a copy of this order along with the application with all annexure thereto be served upon the respondents forthwith and petitioner is to file affidavit of service positively on the next date.

S/D

Judge

Judge 2nd Bench