
(2020) 02 CAL CK 0056

In the Calcutta High Court

Case No : Arbitration Petition (AP) No. 54 Of 2020

SREI Equipment Finance Limited

APPELLANT

Vs

Ranju Kumari

RESPONDENT

Date of Decision : 14-02-2020

Acts Referred:

Arbitration And Conciliation Act, 1996 — Section 9

Citation : (2020) 02 CAL CK 0056

Hon'ble Judges : Ashis Kumar Chakraborty, J

Bench : Single Bench

Advocate : Pratip Mukherjee, S. Chakrabort

Judgement

Ashis Kumar Chakraborty, J

The Court : This is an application under Section 9 of the Arbitration & Conciliation Act, 1996 as amended by Act 3 of 2015 (in short, "the Act of 1996").

From the affidavit of service filed by the petitioner it appears that the petitioner forwarded copies of the application to the respondent and the

respondent received the same. However, the respondent remains unrepresented. Accordingly, this application is taken up for hearing in the absence of the respondent.

It is the case of the petitioner that in terms of a lease agreement dated December 15, 2017 (hereinafter referred to as "the said agreement") the respondent obtained lease of the asset (hereinafter referred to as "said asset"), described in paragraph 2 of the application for a period of five years with effect from the date of execution of the said agreement, which remains hypothecated in favour of the petitioner. According to the

petitioner, the respondent has failed to pay the monthly lease rentals payable in respect of the said asset and, as such, as on November 8, 2019,

Rs.29,91,174/- remains due and outstanding by the respondent to the petitioner. In spite of repeated demands, the respondent has failed to pay the said

sum of Rs.29,91,174/- or any part thereof. Thus, the petitioner claims to have terminated the said agreement and filed this application to take

possession of the said asset through Receiver.

Considering the materials on record, I find that the petitioner has made out a prima facie case for obtaining interim protection in respect of the said

asset, described in Paragraph 2 of the application, presently lying in and around Nawada in the State of Bihar.

Accordingly, Mr. Pradip Pal, Advocate, Bar Association Room No.18, is appointed the Receiver to take actual physical possession of the said asset,

described in Paragraph 2 of the application from the respondent. After taking possession of the said asset, the Receiver shall keep the same, in his

custody, at a safe place to be provided by the petitioner.

The Receiver shall be paid an initial remuneration of 2500 GMs by the petitioner. The petitioner shall also bear the travelling expenses of the Receiver

and shall provide him a befitting accommodation at the relevant place in the State of Bihar. Needless to mention that a competent officer of the

petitioner shall all along accompany the Receiver in the State of Bihar.

If necessary, the Receiver shall approach the Superintendent of Police for obtaining police assistance to implement this order. If the petitioner deposits

the requisite fees with the concerned authorities, the Superintendent of Police of the concerned District shall render necessary police assistance to the

Receiver to take actual physical possession of the said asset from the respondent.

The application is made returnable on March 16, 2020.

The Receiver shall file his report on the next date of hearing.

All parties, including the Receiver and the concerned police authorities shall act on the copy of the certified website copy of this order.