

Application No.8901 of 2018**PUSHPA SATHYANARAYANA, J.**

This application has been filed by the applicant/company, to appoint the employee of the applicant namely Mr.Sabu.K, Senior Legal Executive as Receiver to seize and take possession of the vehicle which is morefully described in the schedule to the judges summons which is lying in the custody of the respondent or his men, agents, servants from his premises or wherever found with police aid and break open of premises if necessary.

2.The respondent availed of a vehicle loan from the Applicant-company and executed a loan agreement No.XVFPSUB00002021941 dated 23.06.2017, for a sum of Rs.5,18,466/- to be paid in 47 instalments and the first installment commenced from 25.07.2017 and the re-payments were to run till 25.05.2021. It is stated that as of 10.11.2018, a sum of Rs.4,56,913.57 is outstanding. In terms of the loan agreement executed by the respondent, the applicant/ Finance company is entitled to re-possess the vehicle in the event of default committed by the respondent. It is also submitted that the continued use of the vehicle by the respondent would depreciate its value.

3. Earlier on 23.11.2018 this Court had appointed one Mr.P.Ebenezer Paul, Advocate as an Advocate Commissioner to seize and possess the vehicle in question, however, he has returned the warrant expressing certain difficulties. The learned counsel for the applicant also seeks to appoint a receiver of the applicant-Company.

4.Upon considering the facts and circumstances of the case, this Court is satisfied that the applicant has made out a *prima facie* case in its favour and accordingly, Mr.Sabu.K, Senior Legal Executive, is appointed as Receiver

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to take custody of the vehicle. The Receiver will be entitled to take possession of the vehicle from the respondent or its agent or any one in possession thereof. If necessary, the Receiver shall get police assistance and the Station House Officer of the concerned Police Station, within whose jurisdiction the vehicle is found, will render requisite assistance for this purpose.

4. The agreement entered into between the applicant and the respondent provides for arbitration in the event of disputes and differences between the parties. It is submitted by the learned counsel for the applicant that proceedings for arbitration have been initiated and are pending in Arbitration case. The Receiver shall preserve the vehicle without alienating or encumbrance thereof till the arbitration proceedings are concluded or till orders are passed by this Court in this application. However, in case the respondent makes payment of the outstanding installments, the Receiver shall release the vehicle to the respondent.

5. Notice to the respondent returnable by 05.07.2019, in addition to private service. Batta to be paid within three days from today. Private notice to be issued within one week from today. List the matter before the Master for completion of service. Let the Master verify compliance with the aforesaid and record the same prior to posting the matter before the Court.

07.06.2019