

Application No.5331 of 2019**PUSHPA SATHYANARAYANA, J.**

This application has been filed by the applicant/company, to appoint the applicant's employee Mr.Dipak Ghadvi, as Receiver to seize and take possession of the Truck which is morefully described in the judges summons lying in the custody of respondent or their men, agents, servants from their premises or wherever found with police assistance and by breaking open the premises if necessary.

2. The respondents availed of loan from the Applicant-company for purchase of trucks and executed a loan agreement cum Deed of Guarantee and Deed of Hypothecation dated 19.02.2019 for a sum of Rs.83,14,250/-/- to be paid in 59 monthly installments. As on 03.06.2019, a sum of Rs.90,21,102.94 is due and payable by the respondents. In terms of the loan agreement executed by the respondents, the applicant/company is entitled to re-possess the trucks in the event of default committed by the respondents. It is submitted that the continued use of the trucks by the respondents would depreciate its value.

3. Notices sent to the respondents have been delivered and affidavit of service is also filed to that effect. Though the names of the respondents are printed in the cause list, there is no representation for them either in person or through counsel.

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.Dipak Ghadvi of the applicant Company is appointed as Receiver to take custody of the trucks. The receiver will be entitled to take possession of the trucks from the respondents or their agents 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 trucks are found, will render requisite assistance for this purpose.

5.The agreement entered into between the applicant and the respondents 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 trucks without alienating or encumbering thereof till the arbitration

proceedings are concluded. However, in case the respondents make payment of the outstanding installments, the Receiver shall release the trucks to the respondents. The receiver shall seize the trucks within a period of eight weeks from the date of receipt of a copy of this order.

6. Accordingly, this Application is closed.

14.11.2019

srn

The counsel for the applicant is permitted to receive the certified copy of the order of the Receiver and communicate the same to the Receiver.



WEB COPY



Application No.5331 of 2019

WEB COPY

14.11.2019