

Application No.5333 of 2019**PUSHPA SATHYANARAYANA, J.**

This application has been filed by the applicant/company, to appoint the applicant's employee Mr.Sanjay, 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 her men, agents, servants from their premises or wherever found with police assistance and by breaking open the premises if necessary.

2. The respondent availed of loan from the Applicant-company for purchase of Truck and executed a loan agreement cum Deed of Guarantee and Deed of Hypothecation Deed dated 30.01.2017 for a sum of Rs.31,63,500/- to be paid in 60 monthly installments. As on 25.11.2017, a sum of Rs.31,72,962.25 is due and payable by the respondent. In terms of the loan agreement executed by the respondent, the applicant/company is entitled to re-possess the Truck in the event of default committed by the respondent. It is submitted that the continued use of the Truck by the respondent would depreciate its value.

3. Notice sent to the respondent has been delivered and affidavit of service is also filed to that effect. Though the name of the respondent is printed in the cause list, there is no representation for her 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.Sanjay of the applicant Company is appointed as Receiver to take custody of the Truck. The receiver will be entitled to take possession of the Truck from the respondent or her 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 Truck is found, will render requisite assistance for this purpose.

5.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 Truck without alienating or encumbering thereof till the arbitration proceedings are concluded. However, in case the respondent makes

payment of the outstanding installments, the Receiver shall release the Truck to the respondent. The receiver shall seize the Truck 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

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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.



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