Application No.7950 of 2019

PUSHPA SATHYANARAYANA, J.

This application has been filed by the applicant/finance company under Section 9(ii)(a)(b)(d) & e of the Arbitration and Conciliation Act, 1996, to appoint employee of the applicant, namely, Mr.Rahul govind Pawar, Branch Legal Manager as Receiver to seize and take possession of the vehicle which is more fully described in the schedule to the judges summons which is lying in the custody of 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 loan from the Applicant-company for purchase of vehicle and executed a loan Agreement No.XSHUKRD00002353059 dated 31.3.2018 for a sum of Rs.6,50,000/- to be paid in 48 monthly installments and the first installment commenced from 28.4.2018 and the re-payments were to run till 28.3.2022. As on 10.10.2019, the respondent is liable to pay a sum of Rs.6,11,709.14 together with interest. In terms of the loan agreement executed by the respondent, the applicant/company is entitled to re-possess the vehicle in the event of default committed by the respondent. It is submitted that the continued use of the vehicle

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by the respondent would depreciate its value.

3. Notice sent to the respondent has been served and affidavit of service is also filed to that effect enclosing acknowledgement card. Though the name of the respondent is also printed in the cause list, there is no representation for him 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.Rahul govind Pawar, Branch Legal Manager of the applicant Company is appointed as Receiver to take custody of the vehicle. The receiver will be entitled to take possession of the vehicle from the respondent or his 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.

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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. The Receiver shall preserve the vehicle without

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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 vehicle to the respondent. The receiver shall seize the vehicle within a period of eight weeks from the date of receipt of a copy of this order.

6. Accordingly, this application is closed.

26.11.2019

Asr

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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