

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.11.2020

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

A.No.8406 of 2019

M/s.Daimler Financial Services India
Private Limited
Rep. by its Authorised Signatory
having its office inter alia at
Unit 201, 2nd Floor, Campus Park,
143, Dr.M.G.R.Road,
Perungudi, Chennai – 600 096. ... applicant

Vs.

1.Durotech Marketing
XV/15A, Kokkur PO Changaramkulam
Malappuram Kerala – 676 505.

2.Abdul Rasheed M C
Manikkulathi House, Eramangalam Post,
Malappuram Kerala – 679 587. respondents

Prayer: Judges summons filed under Order XIV Rule 8 of O.S. Rules R/w

Section 9 (ii) (a) (b) & (c) of the Arbitration and Conciliation Act, 1996 to

appoint the applicant's employee Mr.Suresh, as receiver to seize and take possession of the Hypothecated Car which is morefully described in the below schedule lying in the custody of respondent or his men, agents, servants from his premises or wherever found with Police assistance and by breaking open the premises if necessary and pass such other order or orders as may deem fit and proper in the circumstances of the case.

For Applicant : Mr.S.Namasivayam

For Respondent : Mr.S.Rajmakesh

ORDER

This application is filed for appointing a Receiver to seize the vehicle as an interim measure.

2. The applicant would submit that under loan agreement dated 18.02.2016, the respondent had availed a sum of Rs.45,00,000/- as loan in respect of the Vehicle. The respondent had committed default in repayment of the dues and it is the contention of the applicant that unless a Receiver is appointed to take charge of the vehicle, there is

every likelihood of the respondent disposing of the Vehicle, and in that event, the applicant would be left with no recourse to recover the outstanding. The Vehicle is now hypothecated in favour of the applicant.

3. When the matter came up before this Court the Court had suggested that the parties should attempt to resolve the issue however the respondent has not come forward with a viable solution. Therefore this Court is proceeding to pass orders.

4. Taking into consideration the above, this Court is of the view that the applicant has made out a prima facie case and the balance of convenience is also in their favour. Accordingly, Mr. Suresh is appointed as Receiver to seize the vehicle covered under the contract. This order shall operate for a period of four (4) weeks from the date of receipt of a copy of this order.

5. The Receiver shall take possession of the Vehicle from the respondent or their agents or any person claiming under him or in whose possession the Vehicle is.

6. The Receiver shall also be provided Police assistance if requested by him, by the Station House Officer of the jurisdictional Police Station in which the vehicle is found.

7. It is made clear that the order of appointing the Receiver shall be served on the respondent by the applicant before the Receiver takes any action on the basis of this order.

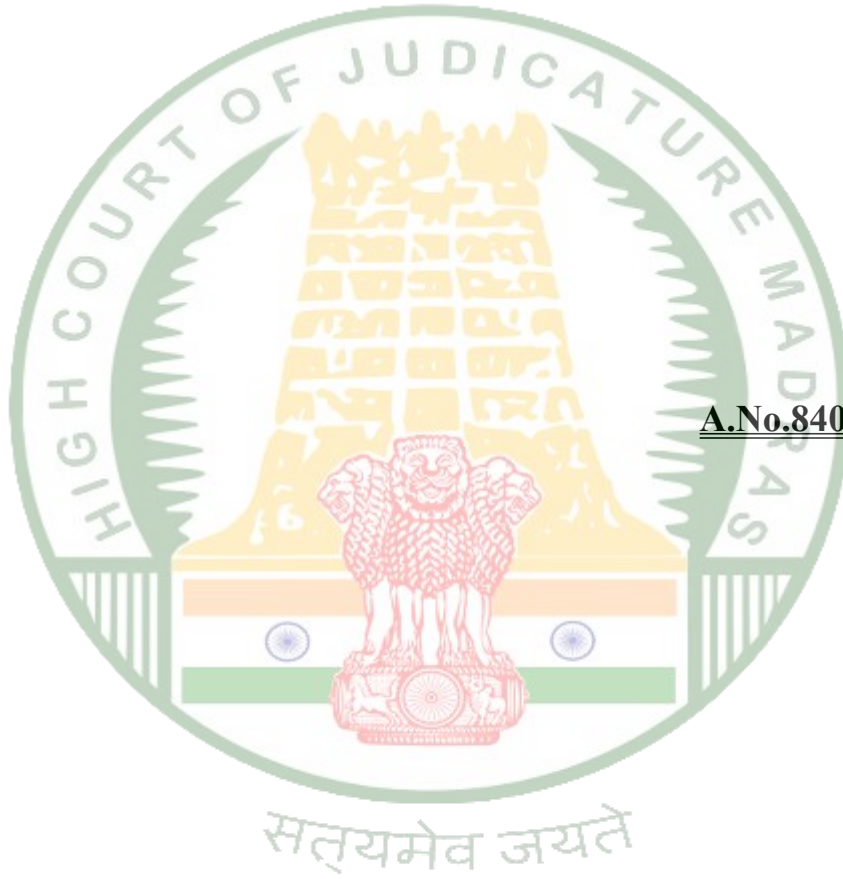
8. The Application is accordingly closed. No costs.

Internet : Yes/No
Index : Yes/No
Speaking / Non-Speaking
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19.11.2020

P.T. ASHA. J.

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