

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.02.2021

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

A.No.637 of 2021

M/s.HDB Financial Services Limited,
Registered Office at Radhika, 2nd Floor,
Law Garden Road, Navrangpura,
Ahmedabad – 380 009.

Corporate Office at
Process House, 2nd Floor, Kamala Mills Compound,
Lower Parel, Mumbai – 400 013.

Branch Office at
4th Floor, Loyal Towers, No.68/2, Greams Road,
Chennai – 600 006.

Represented by its Associate – Legal
Mr.Shanmuga Sundaram

... Applicant

Vs.

Aby Samuel

... Respondent

Prayer: Judges summons filed under Order XIV Rule 8 of O.S. Rules R/w
Section 9 (ii) (d) & (e) of the Arbitration and Conciliation Act, 1996 to
appoint Mr.Vijaya Kumar M as receiver, to seize and deliver the Vehicle
Make – TATA SK 1613, Registered No.KL17H3654, Chassis
No.MAT373180B1E13302, Engine No.697TC69DYY113437 available at
the respondent's premises or wherever found and permit the receiver to

obtain police aid and to break open the premises.

For Applicant : Mr.M.Arunachalam

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 30.06.2019, the respondent had availed a sum of Rs.6,56,791/- 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. Taking into consideration the fact that the respondent had been in continuous default, 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.Vijaya Kumar M 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.

4. 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.

5. 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.

6. 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. The vehicle shall not be sold without obtaining orders of this Court till the disposal of the Arbitral proceedings.

7. The applicant shall take steps to initiate arbitration proceeding within a period of 90 days from the date of this order.

8. The Application is ordered accordingly. No costs.

23.02.2021

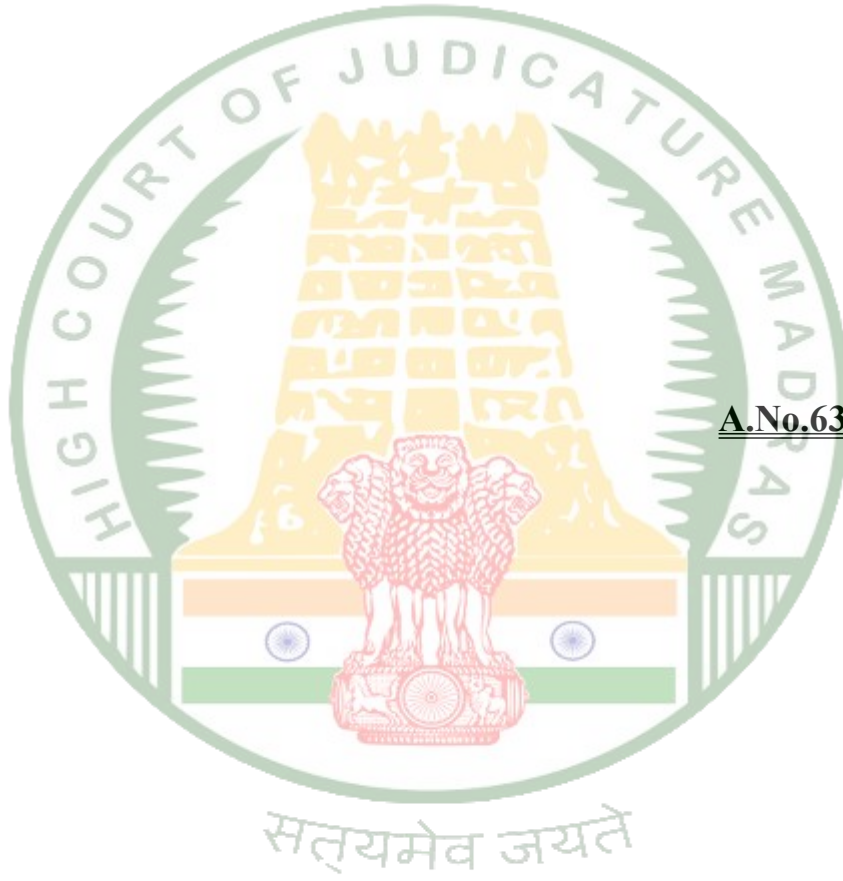
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