

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 10TH DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

Arb. Appln. No.39 of 2021

In the matter of Arbitration &
Conciliation Act, 1996

and

In the matter of Loan Cum
Hypothecation Agreement, and
dispute between M/s. Daimler
Financial Services India Pvt. Ltd.,
and Thirunavukkarasu P R – Loan
Nos. 20141594 and 20141595
dated- 07.01.2019.

M/s. Daimler Financial Services India Pvt. Ltd.
Represented by its Authorised Signatory
Campus 3A, 2nd Floor, RMZ Millennia Business,
Park II, No. 143, Dr. M.G.R. Road,
Perungudi, Chennai – 600096,
Tamil Nadu.

... Applicant

Vs.

Thirunavukkarasu P R
4, Muthuvallppan Street,
Gobichettipalayam, Erode -638 455,
Tamil Nadu.

... Respondent

Application praying that this Hon'ble Court be pleased to appoint
a receiver namely Mr.Yogavinayakamurthy of the applicant to seize and
deliver the vehicle 2 BharatBenze BB HDT 2523C 16 Cum Commercial
vehicles details as mentioned below:

<i>SL NO</i>	<i>CONTRACT NO.</i>	<i>ENGINE NO.</i>	<i>CHASSIS NO.</i>	<i>REG. NO.</i>
1	20141594	400952D0076458	MEC2416BLJP076295	TN36AF 9979
1	20141595	400952D0075654	MEC2416BLJP075717	TN36AF 9959

The above said vehicles are available at the Respondent's premises or wherever found and permit the receiver namely Mr.Yogavinayakamurthy of the applicant to obtain Police aid and to break open the premises.

This application coming on this day before this court for hearing in the presence of Mr.M. Arunachalam, Advocate for the Applicant herein, and the Respondent herein not appearing in person or by Advocate and upon reading the Judge's Summons and the affidavit of Mr. Rakesh Dawny Kokkattu filed herein, it is ordered as follows:-

That Mr.Yogavinayakamurthy, employee of the applicant's company be and is hereby appointed as the receiver to seize the vehicles morefully setout in the schedule hereunder, covered under the contract and this order shall operate only for a period of three (3) weeks from the date of receipt of a copy of this Order and thereafter, this Order shall stand automatically cancelled.

2. That the receiver appointed herein shall be entitled to take possession of the vehicle from the respondent or their agents or any one in possession thereof.

3. That if necessary the Receiver appointed herein, shall get police assistance and the Station House Officer of the concerned Police Station, within whose jurisdiction the vehicle is found, shall render requisite assistance for this purpose.

4. That the order of appointment shall be served on the respondent

by the applicant before the Receiver takes any action on the basis of this order.

5. That the Arb. Appln. No.39 of 2021 do stand closed.

SCHEDULE

2 BharatBenze BB HDT 2523C 16 Cum vehicles details as mentioned below:

<i>SL NO</i>	<i>CONTRACT NO.</i>	<i>ENGINE NO.</i>	<i>CHASSIS NO.</i>	<i>REG. NO.</i>
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WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS
THE 10TH DAY OF AUGUST 2021.

Sd/-

ASSISTANT REGISTRAR (Comm. Cases)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

EVK
18/08/2021

Arb. Appln. No.39 of 2021

ORDER

DATED : 10.08.2021

THE HON'BLE MR. JUSTICE
N.SATHISH KUMAR

FOR APPROVAL: 19/08/2021

APPROVED ON: 25/08/2021

Copy to:-

Mr.Yogavinayakamurthy,
Receiver,
M/s. Daimler Financial Services
India Pvt. Ltd.
Campus 3A, 2nd Floor, RMZ
Millennia Business, Park II, No.
143, Dr. M.G.R. Road,
Perungudi, Chennai – 600096,
Tamil Nadu.

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1	20141595	400952D0075654	MEC2416BLJP075717	TN36AF 9959

The above said vehicles are available at the Respondent's premises or wherever found and permit the receiver namely Mr.Yogavinayakamurthy of the applicant to obtain Police aid and to break open the premises.

This Application coming on this day before this court for hearing, the court made the following order:-

This application has been filed for interim measure for appointing a receiver to seize the vehicle.

2. It is the case of the applicant that as per the loan agreement dated 07.01.2019, the respondent has availed loan from the applicant. As the respondent committed default, it is the contention of the applicant that unless a receiver is appointed to take charge of the vehicle, there will be irreparable injury and the vehicle will be sold by the other side. Hence, it is prayed for appointment of a receiver.

3. In such view of the matter, if the vehicle is allowed to be sold

by the respondents, the very right of the applicant will be defeated.

4. Taking into consideration that the applicant has made out a prima facie case and balance of convenience is in favour of the applicant, Mr.Yogavinayakamurthy of the applicant company is appointed as a receiver to seize the vehicle covered under the contract. This Order shall operate only for a period of three weeks from the date of receipt of a copy of this Order and thereafter, this Order shall stand automatically cancelled.

5. The receiver will be entitled to take possession of the vehicle 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 vehicle is found, will render requisite assistance for this purpose.

6. This Order of appointment shall be served on the respondents by the applicant before the receiver takes any action on the basis of this Order.

7. Accordingly, this application is closed.

Sd./-N.S.K.J.
10.08.2021

//Certified to be true copy//
Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)
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