



Arb Appln.No.63 of 2023

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WEB COURT **KRISHNAN RAMASAMY, J.,**

This application has been filed seeking for a direction to appoint an Advocate Commissioner to seize and deliver the Asset Mercedes-Benz GLS350D4M Passenger Car bearing Registration No.TN72BS7000, Engine No.64282642167733 and Chassis No.WDC1668236M022070 available at the respondents premises or wherever found and permits the Advocate Commissioner to obtain police aid and to break open the premises.

2. The learned counsel appearing for the applicant would submit that the applicant provided loan to the respondent for purchase of the commercial vehicle/Excavator, namely, Mercedes-Benz GLS350D4M Passenger Car bearing Registration No.TN72BS7000, Engine No.64282642167733 and Chassis No.WDC1668236M022070. Thereupon, the respondent has entered into Loan Agreement dated



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30.04.2021 with the applicant. The brief details in nutshell are as

follows:

S.No.	Particulars	Remarks
1.	Name of the lender	M/s.Mercedes-Benz Financial Services India Private Limited (formerly known as M/s.Daimler Financial Services India Private Limited)
2.	Name of the borrower	1 st respondent M.V.Varshini
3.	Name of the Co-borrower	2 nd respondent R.P.Manoharan
4.	Date of Loan Agreement	30.04.2021
5.	Loan Amount	Rs.53,00,000/-
6.	No.of installments	60 monthly installments
7.	First installment	04.06.2021
8.	Last installment	04.05.2026
9.	So far installments paid	16 installments
10.	Notice	30.01.2022
11.	Reply to the notice	No
12.	Rate of interest	10.75% p.a.
13.	Amount claimed	Rs.45,66,476.12
14.	Arbitration proceedings initiated	Yet to be initiated

3. The learned counsel for the applicant further submits that the respondent, having availed the loan, failed to repay the same and



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committed default from 17th instalment onwards. He would submit that the hypothecated vehicle is a movable asset and if it is kept in idle condition, it would get damaged and its value also gets deteriorated and hence he would urge this Court to appoint an Advocate Commissioner to seize and handover the vehicle to the applicant bank morefully described in the schedule to the Judges summons available at the respondents premises, in order to make the security effective and the money in dispute in arbitration is fully secured by way of sale of the vehicle in public auction after following due process of law.

4. Despite service of notice and printing the name of the respondent in the Cause List, none appeared on behalf of the respondent. which shows that the respondent is not interested to prosecute the application.

5. Upon considering the facts and circumstances of the case and the submissions made by the learned counsel for the applicant, this



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Court is satisfied that the applicant has made out a case in its favour and accordingly, Mr.C.P.Goutham, Advocate, Enrollment No.2348/2017, residing at No.36/14, M.G.Road, Shastri Nagar, Chennai 600 041, Mobile No.9843953555 is appointed as the Advocate Commissioner to seize the vehicle, viz., Mercedes-Benz GLS350D4M Passenger Car bearing Registration No.TN72BS7000, Engine No.64282642167733 and Chassis No.WDC1668236M022070, lying at the respondents' premises or wherever found and hand over the same to the custody of the applicant. He shall be paid his initial remuneration of Rs.30,000/- (Rupees Thirty Thousand only) in advance. The expenses toward his travel and stay shall be defrayed by the applicant.

7. It is hereby made clear that if police help is required, the Advocate Commissioner shall make a request to the local police station within whose jurisdiction the vehicle is found and on such request being made, the Station House Officer shall send the Police Personnel along with the Advocate Commissioner to seize the vehicle. If break open of a



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lock is required, the Advocate Commissioner shall do so in the presence of the police personnel who will counter-sign the record evidencing the break open of the lock and to re-lock the premises. After seizure, the vehicle is to be handed over to the applicant or to their representative, after taking inventories. It is made clear that after seizure of the vehicle, the applicant shall not sell away the vehicle without permission of this Court or Arbitrator, in the event of initiation of Arbitration proceedings.

8. Accordingly, this Application is disposed of.

9. List the matter on 02.03.2023 for filing report of the Advocate Commissioner.

16.02.2023

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16.02.2023