



Arb Appln.No.160 of 2023

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

This application has been filed to appoint employee of the Applicant viz Ms.Sreena P.B., BA., LLB, Junior Legal Executive, 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 respondent's men, agents, servants, from respondent premises or wherever found with police aid and break open of premises if necessary.

2. The learned counsel for the applicant submits that the applicant provided loan to the respondent for purchase of vehicle, viz., Toyota Innova, bearing Engine No.2KDU008894, Chassis No.MBJ11JV40073267520412 and Registration No.KL-60-E-7 Thereupon, the respondent has entered into loan agreement dated 10.04.2019 with the applicant. The brief details in nutshell are as follows:



Arb Appln.No.160 of 2023

S.No.	Particulars	Remarks
1.	Name of the lender	The applicant
2.	Name of the borrower	The Respondent
3.	Date of Loan Agreement	10.04.2019
4.	Loan Amount	Rs.13,47,020/-
5.	No.of installments	61 monthly installments
6.	First installment	10.05.2019
7.	Last installment	10.05.2024
8.	So far installments paid	36
9.	Notice	06.07.2022
10.	Reply to the notice	No
11.	Amount claimed	Rs.5,74,951.33
12.	Arbitration proceedings initiated	Undertakes to initiate

3. Learned counsel for the applicant further submits that the respondent, having availed the loan, failed to repay the same and committed default from 37th installment onwards and inspite of repeated demands, the respondent has not come forward to settle the due. He further submits that the hypothecated equipment 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 urges this Court to appoint a Receiver to seize



Arb Appln.No.160 of 2023

and handover the asset to the applicant bank morefully described in the schedule to the Judges summons available at the respondent's premises, in order to make the security effective and the money in dispute in arbitration is fully secured by way of sale of the asset in public auction after following due process of law.

4. After the filing of this petition, both Court notice and private notice had been ordered to the respondent. The Court notice was served to the wife of the respondent and the private notice was returned with an endorsement “Addressee left India”. Despite service of Court notice and printing the name of the respondent, no one has entered appearance on behalf of the respondent. It clearly shows that the respondent is not interest in contesting the matter.

5. Mr.D.Pradeep Kumar, learned counsel appearing for the applicant submits that in the present case, the vehicle is small and amount due is around Rupee Six Lakhs only, and if any Receiver is



Arb Appln.No.160 of 2023

appointed from here to seize the vehicle there, he would have to travel to and fro and stay there, which would cost more, which would be a burden to the applicant initially and subsequently, it would be transferred to the respondent and therefore, he requests this Court for appointment of Receiver from the applicant/company, who would be a legal person without having any criminal cases or disciplinary proceedings pending against him. The applicant has filed an affidavit stating that Ms.Sreena P.B., BA., LLB, Junior Legal Executive, of the applicant/company, who is a law graduate and has legal background, dated 27.03.2023 stating as follows:-

“11. I state that the employee who is sought to be appointed as Receiver is Ms.Sreena P.B., LLB., LLM., Junior Legal Executive and there is no complaint pending against the employee in police station or Bar council. I state that the applicant undertakes not to sell the subject vehicle without any further orders from this Hon'ble Court or the Arbitral Tribunal in the event of the subject vehicle being seize and possession handed over to the applicant by the Receiver to be appointed by the Hon'ble



Arb Appln.No.160 of 2023

High Court.”

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6. Upon considering the facts and circumstances of the case, particularly value of the vehicle and expenses to be rendered towards seizure of the vehicle and the submissions made by the learned counsel for the applicant and the affidavit filed by Ms.Sreena P.B., BA., LLB, Junior Legal Executive, of the applicant/company, this Court is satisfied that the applicant has made out a case in its favour and accordingly, Ms.Sreena P.B., BA., LLB, Junior Legal Executive of the applicant/company is appointed as the Receiver to seize the vehicle, viz., Toyota Innova, bearing Engine No.2KDU008894, Chassis No.MBJ11JV40073267520412 and Registration No.KL-60-E-7 lying at the respondent's premises or wherever found and hand over the same to the custody of the applicant.



Arb Appln.No.160 of 2023

7. It is hereby made clear that if police help is required, the Receiver 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 provide suitable police protection to the Receiver to seize the vehicle. If break open of a lock is required, the Receiver shall do so in the presence of the Station House Officer who will counter-sign the record evidencing the break open of the lock and re-lock of the premises. It is made clear that shall not use any physical force while seizing the vehicle.

8. 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/Arbitrator.

9. Accordingly, this Application is disposed of and no further



Arb Appln.No.160 of 2023

order is required in this application.

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Arb Appln.No.160 of 2023

KRISHNAN RAMASAMY, J.,

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Arb Appln.No.160 of 2023

05.06.2023