



Arb Appln.No.169 of 2023

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

This application has been filed seeking for a direction to appoint employee of the applicant viz., Mr.Sabu K, BA, LLB, Area Legal Manager, as Receiver to seize and take possession of the vehicle which is morefully described in the schedule to the Judges summons which is lying in the custody of respondent or respondents' men, agents, servants, from respondent premises or wherever found with police aid and break open of premises if necessary.

2. The learned counsel appearing for the applicant would submit that the applicant provided loan to the respondent for purchase of the vehicle viz., Eicher Pro 2080 bearing Engine No.E446CDMC016966, Chassis No.MC2EMDRC0MC488892 and Registration No.KL-84-8147 Thereupon, the respondent has entered into Loan Agreement dated 31.08.2021 with the applicant. The brief details in nutshell are as



Arb Appln.No.169 of 2023

follows:

S.No.	Particulars	Remarks
1.	Name of the lender	The applicant
2.	Name of the borrower	The respondent
3.	Date of Loan Agreement	31.08.2021
4.	Loan Amount	Rs.22,79,886/-
5.	No.of installments	58 monthly installments
6.	First installment	28.09.2021
7.	Last installment	28.06.2026
8.	So far installment paid	15
9.	Notice	04.03.2023
10.	Reply to the notice	No
11.	Amount claimed	Rs.14,98,862.94
12.	Arbitration proceedings initiated	Undertaking to initiate

3. The learned counsel for the applicant further submits that the respondent, having availed the loan, failed to repay the same and defaulted from 16th installment. 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



Arb Appln.No.169 of 2023

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 vehicle in public auction after following due process of law.

4. After the filing of this application, both Court notice and private notice was ordered to the respondent. Despite the service of notice to the respondent and printing of name of the respondent in the cause list, none appeared on behalf of the respondent, which shows that he has no interest in contesting this matter.

5. Upon considering the facts and circumstances of the case and the submissions made by the learned counsel for the applicant, this Court is satisfied that the applicant has made out a case in its favour and accordingly, Ms.S.Manjula, Advocate, No.333, II Phase, II Floor, New Addl.Law Chambers, High Court, Chennai 600 104, Mobile No.9841031719, is appointed as the Advocate Commissioner to seize the



Arb Appln.No.169 of 2023

vehicle, viz., Eicher Pro 2080 bearing Engine No.E446CDMC016966, Chassis No.MC2EMDRC0MC488892 and Registration No.KL-84-8147, lying at the respondent's premises or wherever found and hand over the same to the custody of the applicant. She shall be paid her initial remuneration of Rs.30,000/- (Rupees Thirty Thousand only) in advance. The expenses toward her travel and stay shall be defrayed by the applicant. The said initial remuneration shall be paid to the Advocate Commissioner within a period of two weeks from the date of receipt of communication from her.

6. 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 lock is required, the Advocate Commissioner shall do so in the presence of the police personnel who will counter-sign the record evidencing the



Arb Appln.No.169 of 2023

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.

7. Accordingly, this Application is disposed of.

8. List the matter on 10.07.2023 for filing report of the Advocate Commissioner.

05.06.2023

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Arb Appln.No.169 of 2023

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05.06.2023