



Arb. Appln. No. 209 of 2022

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WEB C KRISHNAN RAMASAMY, J.

This application has been filed seeking for appointment of Receiver to seize and take possession of the vehicle which is morefully described in the schedule to the Judges summons to the applicant, which is lying in the custody of the respondent or respondent's men, agents, servants from the respondent premises or wherever found with police aid and to 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 asset, viz., Mahindra Bolero bearing Engine No. GHC4H20650, Chassis No. C3J47037 and Registration No. GJ-09-BA-6173. Thereupon, the respondent has entered into loan agreement dated 20.11.2020 with the applicant. The brief details in nutshell are as follows:

S.No.	Particulars	Remarks
1.	Name of the lender	M/s. Cholamandalam Investment and Finance Company Limited
2.	Name of the borrower	Mr. Bhartkumar Ranachhodbhai Harijan
3.	Date of Loan Agreement	20.11.2020
4.	Loan Amount	Rs. 2,87,000/-



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S.No.	Particulars	Remarks
5.	No. of instalments	36 monthly instalments
6.	Date of first instalment	20.12.2020
7.	Date of last instalment	20.11.2023
8.	No. of instalments so far paid	10
9.	Rate of interest	21.50%
10.	Amount claimed	Rs.3,16,138.02
11.	Arbitration proceedings initiated	Initiated and pending in SRR/CMP. M68/2022

3. Learned counsel for the applicant further submits that the respondent, having availed the loan, failed to repay the same and committed default from 11th instalment 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 an Receiver to seize 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, notice had been ordered to the respondent and despite service of notice and printing the name of the respondent, no one has entered appearance on behalf of the respondent. It



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clearly shows that the respondent is not interest in contesting the matter.

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5. Mr. M.S.Krishnan, Learned Senior Counsel appearing for the applicant submits that in the present case, the vehicle is small and amount due is around Rupee Three Lakhs only, and if any Receiver is 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 also filed an affidavit from Mr. Vijay Ganeshbhai Chauhan, Area Legal Manager of the applicant/company, who is a law graduate and has legal background, dated 30.12.2022 stating as follows:-

“3. I state that I am the Area Legal Manager of the applicant and I state that there is no complaint pending against me in Bar Council or Police Station. I state that I may be appointed as Receiver to seize and take possession of the subject vehicle Mahindra Bolero bearing Engine No. GHC4H20650,



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Chassis No. C3J47037 and Registration No. GJ-09-BA-6173. I

state that the applicant hereby undertakes not to sell the subject vehicle Mahindra Bolero bearing Engine No. GHC4H20650, Chassis No. C3J47037 and Registration No. GJ-09-BA-6173 without any further orders from this Hon'ble Court or the Arbitral Tribunal in the event of the subject vehicle being seized and possession handed over to the applicant by the Receiver to be appointed by this Hon'ble High Court."

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 Mr. Vijay Ganeshbhai Chauhan, Area Legal Manager of the applicant/company, this Court is satisfied that the applicant has made out a case in its favour and accordingly, Mr. Vijay Ganeshbhai Chauhan, Advocate, III Floor, P.N. 2569, Eva, Opp. Gulista Ground, Bhavnagar, Gujarat – 364 002 is appointed as the Receiver to seize the asset, viz., Mahindra Bolero bearing Engine No. GHC4H20650, Chassis No. C3J47037 and Registration No. GJ-09-BA-6173, lying at the respondent's premises or wherever found and hand over the same to the custody of the applicant.



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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.

9. Accordingly, this Application is disposed of.

10. Post the matter on 07.02.2023, for filing the Report of the Receiver.



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05.01.2023

Note: Issue order copy on 11.01.2023.

Copy to

Mr. Vijay Ganeshbhai Chauhan,
Advocate,
III Floor, P.N. 2569, Eva,
Opp. Gullista Ground,
Bhavnagar,
Gujarat – 364 002.



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vjt

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