



Arb.Appln.No.493 of 2024

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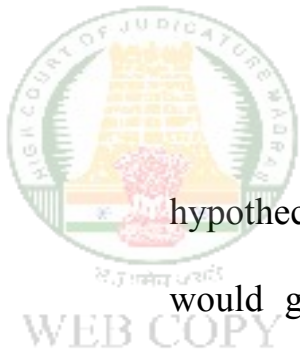
K.KUMARESH BABU,J.

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This application has been filed for an order of appointment of an Advocate Commissioner to seize and deliver the vehicle Mercedes-Benz EQS 580 4Matic, bearing Registration No. DD-01-C-8888, Engine No.78060020011619, Chassis No.W1K2971446L000214 with all accessories fitted to the Vehicle lying at respondent's premises or wherever found morefully described hereunder, with police aid or break open the premises of from wherever found and handover the same to the applicant.

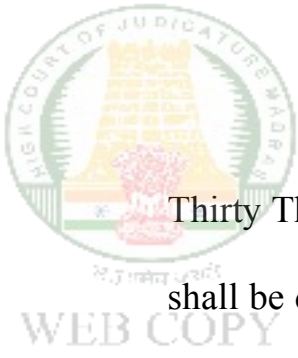
2. The learned counsel appearing for the applicant would submit that the respondents, having availed the loan, failed to repay the same and on that aspect an Award had been passed as against the respondents on the dispute that had arisen out of an Agreement, wherein, the respondents were held liable to pay a sum of Rs.1,58,37,226/-. The learned Arbitrator has also held that for recovery of the said amount, the applicant is entitled to enforce and realise the same by selling the said vehicle through public auction or private treaty. He would further content that the said Award came to be passed on 06.11.2023 and the respondents have not preferred an Appeal whatsoever against the same.

3. The learned counsel for the applicant further submits 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 since, the petitioner got an arbitral award in its favour it would urge this Court to appoint an Advocate Commissioner to seize and handover the vehicle morefully described in the schedule to the Judges summons available at the respondents' premises to the applicant Financial Service, 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 and hence, he had taken out this Application.

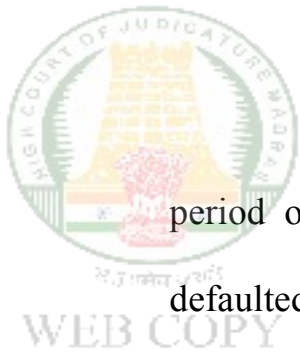
4. Upon considering the facts and circumstances of the case and the submissions made by the learned counsel for the applicant, this Court is satisfied that the applicant has made out a case in its favour and accordingly, **Mr.P.Navaneethakrishnan, Advocate, having Office at No.304, New Addl. Law Chambers, High Court Buildings, Chennai- 600 104** is appointed as the Advocate Commissioner to seize the vehicle Mercedes-Benz EQS 580 4Matic, bearing Registration No. DD-01-C-8888, Engine No.78060020011619, Chassis No.W1K2971446L000214 to the custody of the Applicant, available at the Respondents' premises or wherever found and with whomsoever it is 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 towards his 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 him.

5. 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 break open of the lock and to re-lock the premises. If the Advocate Commissioner finds any difficulty with the jurisdictional police, he is at liberty to approach Superintendent of Police, who shall provide all necessary assistance to the Advocate Commissioner at the time of seizure of the vehicle. After the seizure, the vehicle is to be handed over to the applicant or to their representative, after taking inventories.

6. Considering the fact that the respondents had taken a loan for the purchase of vehicle. The applicant shall grant the respondents a minimum



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period of four (4) weeks time to regularise the loan by payment of the defaulted amounts within the said period and if the respondents regularise their loan within the period expected by him, then the applicant shall return the vehicle to the respondents.

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7. List the case on 04.10.2024 for filling of the report of the Advocate Commissioner.

20.08.2024

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