Arb.Appln.No.659 of 2023

C.SARAVANAN, J.

The Court had appointed an Advocate Commissioner by its Order dated 21.12.2023. In the said Order, it was stated that Advocate Commissioner shall call upon the respondents to clear the arrears as on date of seizure within such time. The Advocate Commissioner was also permitted to release the seized vehicle after seizure, if the respondents clears the outstanding after obtaining an undertaking from the respondents that the respondents will regularly pay the future installments. The second respondent is physically present before this Court.

2. The learned Advocate Commissioner has filed a detailed report dated 23.01.2024. In Paragraph 6 of the report dated 23.01.2024, the learned Advocate Commissioner has stated that the second respondent who is physically present before this Court had threatened to commit suicide, if the warrant is executed and did not made any payments and

therefore the vehicle was seized. The respondents represented by their counsel, now submits that the respondents are willing to pay the amounts without any default in future. They have indeed paid the outstanding dues as of January, 2024.

3. To that effect, an affidavit has been filed enclosing a Bank Challan transfer of Rs.1,68,765/-. The loan itself was availed by the respondents on 28.03.2023. A sum of Rs.33,045/- was to be repaid towards EMI over a period of 35 months and the last EMI for the 36th was of Rs.40,32,000/-.

4. Since the respondents have regularized the default, I see no reason why the seized car shall not be released to the respondents.

5. The second respondent has also filed an affidavit dated 31.01.2024 undertaking to pay rest of the installments on due date without fail. The statement in the affidavit filed by the second

respondent is taken on record. Para 5 and 6 of the said Affidavit reads as under:

> "5.I also provide an unequivocal undertaking that I shall dutifully pay the future EMIs on a timely basis.
>
> 6.I further state that while I attempted to repossess the vehicle after the payment of the outstanding EMIs, the officials of the Applicant were not cooperating with me and have gone to the extent of blocking my number. In the light of the above, it is submitted that this Court may be pleased to permit the applicant to repossess the vehicle i.e, Mercedes-Benz C 300 D bearing Registration No.KA 03 NQ 1624, which is in the custody of the applicant."

6. Since, the vehicle was possessed, from the respondents pursuant to execution of warrant by the Advocate Commissioner, I direct the applicant to release subject vehicle to the respondents subject to the respondents depositing further sum of Rs.2,00,000/- with the applicant to cover the expenses incurred by the applicant for effecting seizure of the hypothecated vehicle. The respondent shall also pay the EMI dues for the month of February, 2024. Subject to above the seized vehicle shall be released to the respondent forthwith by the applicant.

7. Liberty is however given to the respondents to take further steps in accordance with the loan agreement in case of any defaults by the respondents. The applicant is directed to pay additional remuneration of Rs.30,000/- to the learned Advocate Commissioner.

8. This Arbitration Application stands closed with the above observations.

9. List this case for Reporting Compliance on 19.02.2024.

31.01.2024

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C.SARAVANAN, J.

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31.01.2024