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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-12-2024

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THE HONOURABLE MR JUSTICE P.B. BALAJI

Arb Appln NO. 898 of 2024

Equitas Small Finance Bank Limited Phase II
4th Floor Spencer Plaza,
No 769 Anna Salai, Chennai
Phase II, 4th Floor 769, Mount Road,
Anna Salai, Chennai.

Appellant(s)

Vs

M/s.Parveen Travels Private Limited
Represented By its Managing Director
phase II 4th Floor 769 Mount Road Anna Salai
Chennai A B Towers, Door No.148, Perambur
Barracks Road, Purasawalkam, Chennai 600
007.

Respondent(s)

For Appellant(s): Mr.S.Suresh

For Respondent(s):

ORDER

The applicant has filed the present application under Section 9 of the Arbitration and Conciliation Act, 1996 to seek to appoint an Advocate Commissioner to seize the vehicles which were secured in favour of the applicant in respect of the loan agreement under which the applicant has lent amounts to the respondent.



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2.I have Mr.S.Suresh, learned counsel appearing for the applicant.

I have also gone through the affidavit filed in support of the application as well as the documents filed by way of typed set of papers.

3.The respondent, in and by a loan agreement with the applicant, has availed loan facilities by way of over draft, working capital term loan as well as term loan for vehicles. The applicant has lend a total sum of Rs.96,00,00,000/-, out of which, Rs.44,00,00,000/- was in respect over draft and Rs.12,00,00,000/- was in respect of working capital term loan and Rs.40,00,00,000/- was in respect of term loan.

4.According to the applicant, the respondent has committed default in payment of the amounts due to the applicant and in fact, the applicant has also not paid the statutory dues to the Regional Provident Fund Commissioner to the tune of Rs.4,85,56,597/- alone, out of the total amount due and payable by the respondent. The applicant has also issued a termination notice on 08.10.2024, recalling the facilities and calling upon the respondent to settle the outstanding amounts. The facility



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agreement entered between the applicant and respondent empowers the applicant to take the custody of the vehicles in the event of default committed by the respondent.

5.It is also seen that as on 08.11.2024, a sum of Rs.33,20,99,444.31/- was due and payable by the respondent, jointly or severally with the guarantors. In order to secure the claim of the applicant, the present application has been filed to appoint an Advocate Commissioner to seize the vehicles with accessories.

6.I am satisfied with the reasons assigned by the applicant seeking appointment of an Advocate Commissioner and the applicant has made out a prima facie case for appointment of Advocate Commissioner as prayed for, especially considering the huge amounts due and payable by the respondent as well as the default committed in spite of the termination notice issued by the applicant, I am inclined to appoint the following Advocate Commissioners:



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7. Accordingly, this Application is ordered with the following directions:

a) **Mr.T.S.Rajagopal, Advocate, No.40, Law Chambers, High Court Buildings, Chennai – 600 104, Ph.No.9884775780**, is appointed as an Advocate Commissioner to repossess the assets viz., EICHER 20.15 N LPO CWC BUS, Chassis No.MC2R3NRT0JB061289, Engine No.E624CDJD207811, Registration No.TN-87-A-2341; EICHER 20.15 N CWC BUS, Chassis No.MC2R3NRT0JD061996, Engine No.E624CDJC199680, Registration No.TN-87-A-2302 and BHARATBENZ 917 BSIV 5300MM WB, Chassis No.MEC0054ECJP028217, Engine No.400928D0015939, Registration No.TN-87-A-0544 and **Mr.S.Yogaraja Sekar, Advocate, No.29/2, Ramaswamy Street (Near Abhiramapuram Police Station), Abhiramapuram, Alwarpet, Chennai – 600 018**, is appointed as an Advocate Commissioner to repossess the assets viz., BHARATBENZ 917 BSIV 5300 MM WB, Chassis No.MEC0054ECJP028256, Engine No.400928D0015959, Registration No.TN-87-A-0511; BHARATBENZ 917 BSIV 5300 MM WB, Chassis No.MEC0054ECJP028170, Engine No.400928D0015917, Registration No.TN-87-A-0506; BHARATBENZ



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917 BSIV 5300 MM WB, Chassis No.MEC0054ECJP028172, Engine No.400928D0015876, Registration No.TN-87-A-0541 and **Mr.S.Karthik, Advocate, No.8, 3rd Floor, Sunkurama Street, Parrys, Chennai – 600 001, Ph.No.9790857803**, is appointed as an Advocate Commissioner to repossess the assets viz., BHARATBENZ 917 BSIV BUS - 11, Chassis No.MEC0054EEJP029637, Engine No.400928D0017082, Registration No.TN-19-AJ-0397; BHARATBENZ 917 BSIV BUS - 11, Chassis No.MEC0054EEJP029698, Engine No.400928D0017181, Registration No.TN-19-AJ-0346 and BHARATBENZ 917 BSIV BUS - 11, Chassis No.MEC0054EEJP029716, Engine No.400928D0017182, Registration No.TN-19-AJ-0327 and **Mrs.G.Gomathi, Advocate, No.8/10, Bharathiyar Street, Saligramam, Chennai – 600 093, Mob.Nos.9283711957 / 9080102293**, as an Advocate Commissioner to repossess the assets viz., BHARATBENZ 917 BSIV BUS - 11, Chassis No.MEC0054EEJP029717, Engine No.400928D0017184, Registration No.TN-19-AJ-0319 and BHARATBENZ 917 BSIV BUS - 11, Chassis No.MEC0054EEJP029626, Engine No.400928D0017103, Registration No.TN-19-AJ-0337, from the respondent or wherever it is available and



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handover the same to the applicant by way of interim custody. Registry is directed to issue warrant to the Advocate Commissioners.

b) The Advocate Commissioners are permitted to obtain police aid and break open of the premises in case the seized vehicle is kept in a locked premises in the presence of the Police, after taking proper inventory;

c) If break open of a lock is required, the Advocate Commissioners 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.

d) If the Advocate Commissioners find any difficulty with the jurisdictional police, he is at liberty to approach Superintendent of Police, who shall provide all necessary assistance to him at the time of seizure of the vehicle.

e) The first three Advocate Commissioners viz., **Mr.T.S.Rajagopal, Mr.S.Yogaraja Sekar, Mr.S.Karthik**, shall be paid their initial remuneration of Rs.50,000/- (Rupees Fifty Thousand only) each, and in respect of the fourth Advocate Commissioner, **Mrs.G.Gomathi**, Rs.40,000/- (Rupees Forty Thousand only) shall be



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paid, within a period of six weeks from the date of receipt of a copy of this order or before the Advocate Commissioners execute the Warrant of Commission in accordance with the directions given by this Court.

6. Notice to the respondent returnable by 24.01.2025. Private Notice is also permitted.

7. Post the matter on 24.01.2025 under the caption 'for reporting compliance'.

20.12.2024

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P.B.BALAJI, J.

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Arb.Appln.No.898 of 2024

20.12.2024