

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2015

THE HON'BLE MR.JUSTICE R.MAHADEVAN

Application No.5604 of 2014

**P-1 M/S.L & T FINANCE LIMITED KGN TOWERS, V FLR, NO.62,
ETHIRAJ SALAI, EGMORE, CH - 105, REPBY CHARUMATI
MADHUSUDHAN .. PETITIONER**

VS.

**R-1 M/S.K.S.S.BLUE METALS PROPRIETOR, K.S.SELVARAJ,
GURUVAREDDIYUR MAIN ROAD, SANTHIKAL, BOOTHAPADDI,
BHAVANI, ERODE - 311 .. RESPONDENT**

R.MAHADEVAN,J.

This is an application filed under Section 9 of the Arbitration and Conciliation Act, 1996 seeking the appointment of an Advocate Commissioner to seize and possess the vehicle.

2. Heard Mr.T.Dhanyakumar, learned counsel for the applicant.
3. Under a loan agreement dated 10.11.2011, filed as doc.No.1, the applicant financed the purchase of the vehicle described in the schedule to the Judge's summons. The respondent availed the loan of Rs.43,55,000/-. As per

the agreement, a sum of Rs.50,46,000/- was repayable in 29 monthly instalments commencing from 05.01.2012 till 05.05.2014. The borrower committed default in paying the instalments. Therefore, a notice dated 16.07.2014, filed as doc.No.4, was issued. Even thereafter, there was no response. As on 16.07.2014, a sum of Rs.8,77,228.00 Ps is due.

4. The vehicle is hypothecated to the applicant and the agreement contains a clause for repossession. The applicant apprehends that the respondent may make the vehicle untraceable. Hence, a prima facie case is made out. The balance of convenience is also in favour of the applicant. Therefore, I am of the view that an Advocate Commissioner is to be appointed.

R.MAHADEVAN,J

cla/jvm

1. Hence, Ms.Malathi Raaje (Enrolment No.MS.767/2014) having residence at No.32, Pallavan Nagar Main Road, Maduravoyal, Chennai-600 095 (Mob.No.94894 81869) is appointed as Advocate Commissioner to seize and possess the excavator in question. He shall be paid an initial remuneration of Rs.10,000/- (Rupees ten thousand only). The expenses of his travel and stay shall be defrayed by the applicant. The Commissioner shall take the assistance of police, if necessary, to seize and possess the vehicle.

2.

6. Time for execution of warrant is six weeks from the date of receipt of a copy of this order. In view of the judgment passed in **Firm Ashok Traders and another etc., v. Gurumukh Das Saluja and others etc.**, reported in **2004 (2) CTC 208**, it is made clear that if the applicant herein fails to initiate the arbitration proceedings within a period of six weeks from the date of receipt of a copy of this order and produce proof of the same, order made in this Application would stand revoked, without further orders, in the application, if not already initiated.

18.02.2015

Office to Note :

Issue warrant of commission only after the applicant pays batta for issue of notice

A.No.5604 of 2014