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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 12TH DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE E N. SATHISH KUMAR

A. No.2459 of 2013

A. No.2459 of 2013

In the matter of Arbitration &
Conciliation Act, 1996

and

In the matter of dispute between the
Applicant and the Respondents in
respect of Loan Agreement No.
TFE719801 dated 28.08.2010.

M/s.Kotak Mahindra Bank Limited,
Rep. by its Manager-Legal/Authorised Signatory
Mr.S.Karthikeyan,
2nd Floor, No.3, Dass India Tower,
2nd Line Beach, Parrys, Chennai-600 001.

... Applicant

-Versus-

1.V.Radhakrishnan Vaithiyanathan,
O.No.5125, N.No.342, Mariyamman Koiltheru,
Thiruvankadu Sirkali,
Nagapattinam-609 102.

2.R.Minavathy,
O.No.5-125, N.No.3-142,
Mariyamman Koil Street,
Thiruvankadu PO, Sirkali TK.
Nagapattinam 609 102.

3.S.Ramamoorthy,
D.No.2-34, North West Madaviaga M.Thiruvankadu PO,
Sirkali Tk, Nagapattinam-609 102.

... Respondents



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Application praying that this Hon'ble Court be pleased to pass an order for appointment of an Advocate Commissioner to seize the security vehicle, Tractor-Mahindra 575 OBP with Registration Number TN 51P 7398 bearing Engine No.NABO 1194 and Chassis No.NABO 1194 lying at address of the Respondents 1 to 3 or wherever and to handover to the Applicant in as is where is condition.

This application coming on this day before this court for hearing through video conference in the presence of Mr.K.K.Muralitharan, Advocate for the applicant herein and Mr.D.Gubendragunabalan, advocate for the 1st and 2nd respondents herein and upon reading the order herein dated 23.07.2013, and obtained interim order, it has not been informed as to whether the arbitration has been invoked or not and therefore, in the absence of any intention to refer the matter for arbitration, this court cannot wait years together without any arbitration, and this court is of the view that no further adjudication is required in this matter, It is ordered as follows:-

That the interim order granted as per order dated 23.07.2013 made in A.No.2459 of 2013, appointing the Advocate Commissioner therein, to
<https://hcservices.ecourts.gov.in/hcservices/>
seize and possess the vehicle and hand it over to the applicant therein be and



is hereby vacated.

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2. That the A.No.2459 of 2013 do stand closed.

3. That there shall be no costs of this application.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
12th DAY OF AUGUST 2021.

Sd/-

ASSISTANT REGISTRAR (COMM.CASES)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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16.12.2021

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A. No.2459 of 2013

ORDER

DATED: 12.08.2021

THE HON'BLE MR.JUSTICE
N.SATHISH KUMAR

FOR APPROVAL: 27.12.2021

APPROVED ON: 06.01.2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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DATE: 12.08.2021

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**A. No.2459 of 2013**

M/s.Kotak Mahindra Bank Limited,
rep. by its Manager-Legal/Authorised
Signatory Mr.S.Karthikeyan

... Applicant

Vs.

1. V.Radhakrishnan Vaithiyanathan

2. R.Minavathy

3. S.Ramamoorthy

... Respondents

Prayer: Application filed under Order XIV Rule 8 of Original Side Rules read with Section 9 (2)(e) of the Arbitration and Conciliation Act, 1996, praying to pass an order for appointment of an Advocate Commissioner to seize the security vehicle, Tractor Mahindra 575 OBP with Registration No.TN-51 P7398 bearing Engine No.NABO 1194 and Chassis No.NABO 1194 lying at address of the respondents 1 to 3 or wherever and to hand over to the applicant in as is where is condition.

For Applicant : Mr.K.K.Murralitharan

For Respondents : Mr.D.Gubendragunabalan
for R1 and R2

**ORDER**

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(This case has been heard through video conference)

This application has been filed seeking for appointment of an Advocate Commissioner filed in the year 2013 and this Court by an order dated 23.07.2013 appointed the advocate commissioner. Having obtained interim order, it has not been informed as to whether the arbitration has been invoked or not. Therefore, in the absence of any intention to refer the matter for arbitration, this Court cannot wait years together without any arbitration.

2. In such view of the matter, no further adjudication is required in this matter. Accordingly, this application is closed. Interim order is vacated. No costs.

Sd./-N.S.K.J.
12.08.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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