

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 06TH DAY OF OCTOBER 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

Arb.Appln.No.138 of 2021

In the matter of Arbitration &
Conciliation Act, 1996

And

In the matter of Disputes between
M/s. Manapuram Finance Limited
and Mr.Vengatapathi B And
others Arising under Loan
Agreement Dated 28.01.2020
bearing Loan Agreement
MFTNEXLONS000005147590

M/s. Manapuram Finance Limited
No.400 (116/1) Dr.Natesan Road,
Triplicane, Chennai – 600 005.
Represented by its Authorised Signatory
Mr. Maniarasan (Emp.No.62566)

... Applicant

Vs.

1. Mr. B. Vengatapathi,
No.80/2, Badhmavadhi Nagar,
Anaicut, Pallikonda, North Arcot,
Tamil Nadu – 635 809.

... Borrower

2. Mrs. Suganya Vengatapathi,
No.80/2, Badhmavadhi Nagar,
Anaicut, Pallikonda, North Arcot,
Tamil Nadu – 635 809.

... Co-Borrower-1
... Respondents

Application praying that this Hon'ble Court be pleased to pass an order of Appointment of Advocate Commissioner as receiver to seize the vehicle more particularly described in the schedule to the Judges Summon wherever stationed in the premises of the respondents or wherever it is found and with whomsoever it is found with powers to break open the premises and grant permission to the advocate commissioner to obtain police aid from the concerned police officer.

This application coming on this day before this court for hearing in the presence of M/s.R.Meenakshi Devi, Advocate for the Applicant herein, and the Respondent herein not appearing in person or by Advocate and upon reading the Judge's Summons and the affidavit of Mr.M.Maniarasan filed herein, **it is ordered as follows:-**

That a warrant of Commission do issue herein out of and under the seal of this Court that Mr.C.P.Goutham, Mob:9843953555, Address: No.36/14, Mahathma Gandhi Road, Shastri Nagar, Chennai - 600 041 be and is hereby appointed as Advocate Commissioner to seize the vehicle morefully set out in the schedule hereunder, covered under the contract and this order shall operate only for a period of six (6) weeks from the date of receipt of a copy of this Order and thereafter, this Order shall stand automatically cancelled.

2. That the Advocate Commissioner appointed herein shall be entitled to seize and take possession of the vehicle from the respondent or their agents or any one in possession thereof.

3. That if necessary the Advocate Commissioner appointed herein, shall get police assistance and the Station House Officer of the Police Station concerned, within whose jurisdiction the vehicle is found, shall render requisite assistance for this purpose.

4. That the order appointing the Advocate Commissioner shall be served on the respondents by the applicant before the Advocate Commissioner takes any action on the basis of this order.

5. That the remuneration of the Advocate Commissioner appointed herein is fixed as Rs.25,000/- (Rupees Twenty Five Thousand only) and the same shall be paid by the applicant herein.

4. That the Arb. Appln. 138 of 2021 do stand closed.

SCHEDULE

A 2015 Force Motors Ltd bearing Chassis No.MCIE4CAA4FPO31699 and fitted with Engine No.D63010601 and bearing registration No. TN 23 BL 8933.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS
THE 06TH DAY OF OCTOBER 2021.

Sd/-
ASSISTANT REGISTRAR (Comm. Cases)

//Certified to be true copy//
Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)
From 25th Day of September 2008 the Registry is issuing certified
copies of the Orders/Judgments/Decrees in this format.

ED
26/10/2021

Arb. Appln. No.138 of 2021

ORDER

DATED : 06.10.2021

THE HON'BLE MR. JUSTICE
V.PARTHIBAN

FOR APPROVAL: 26.10.2021

APPROVED ON: 27.10.2021

Copy to:-

Mr.C.P. Goutham
Advocate Commissioner,
No.36/14, Mahatma Gandhi Road,
Shastri Nagar,
Chennai – 600 041.
Mobile :-9843953555.

Correspondence to Note:-

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 06TH DAY OF OCTOBER 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

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Anaicut, Pallikonda, North Arcot,
Tamil Nadu – 635 809.

... Co-Borrower-1
... Respondents

To,
Mr.C.P.Goutham,
Mob:9843953555,
No.36/14, Mahathma Gandhi Road,
Shastri Nagar, Chennai - 600 041
(Mobile No.9600136665)

WHEREAS the above Application is filed by the applicant praying that to pass an order of Appointment of Advocate Commissioner as receiver to seize the vehicle more particularly described in the schedule to the Judges Summon wherever stationed in the premises of the respondents or wherever it is found and with whomsoever it is found with powers to break open the premises and grant permission to the advocate commissioner to obtain police aid from the concerned police officer.

WHEREAS in and by an order dated 06/10/2021 made in Arb. Appln. 138 of 2021, you have been appointed as commissioner.

You as the commissioner, are hereby directed to seize the vehicle morefully set out in the schedule hereunder, covered under the contract and this order shall operate only for a period of six (6) weeks from the date of receipt of a copy of this Order and thereafter, this Order shall stand automatically cancelled.

You as the commissioner, are hereby entitled to seize and take possession of the vehicle from the respondent or their agents or any one in possession thereof.

You as the commissioner, are hereby directed that you shall get police assistance and the Station House Officer of the Police Station concerned, within whose jurisdiction the vehicle is found, shall render requisite assistance for this purpose.

You as the commissioner, are hereby informed that this order of appointment shall be served on the respondents by the applicant before you take any action on the basis of this order.

You as the commissioner, are hereby informed that your initial remuneration is fixed as Rs.25,000/- (Rupees Twenty Five Thousand only) and the same shall be paid by the applicant herein.

SCHEDULE

A 2015 Force Motors Ltd bearing Chassis No.MCIE4CAA4FPO31699 and fitted with Engine No.D63010601 and bearing registration No. TN 23 BL 8933.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS
THE 06TH DAY OF OCTOBER 2021.

ASSISTANT REGISTRAR (Comm. Cases)

ED
26/10/2021

Arb. Appln. No.138 of 2021

WARRANT OF COMMISSION

THE HON'BLE MR. JUSTICE
V.PARTHIBAN

Copy to:

Mr.C.P.Goutham,
Mob:9843953555,
No.36/14, Mahathma Gandhi Road,
Shastri Nagar, Chennai - 600 041

Correspondence to note:-

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... Respondents

Application praying that this Hon'ble Court be pleased to pass an order of Appointment of Advocate Commissioner as receiver to seize the vehicle more particularly described in the schedule to the Judges Summon wherever stationed in the premises of the respondents or wherever it is found and with whomsoever it is found with powers to break open the premises and grant permission to the advocate commissioner to obtain police aid from the concerned police officer.

This Application coming on this day before this court for hearing,
the court made the following order:-

This application is filed seeking permission to appoint an Advocate Commissioner as receiver to seize the vehicle more particularly described in the schedule to the Judges Summon wherever stationed in the premises of the respondents or wherever it is found and with whomsoever it is found with powers to break open the premises and grant permission to the Advocate Commissioner to obtain police aid from the concerned police Officer.

2.It is the case of the applicant that as per the loan agreement dated 28.01.2020, the respondent has availed a loan amount of Rs.9,19,600/-. As the respondent committed default, it is the contention of the applicant that unless a receiver is appointed, to take charge of the vehicle, there will be irreparable injury and the vehicle will be sold by the other side.

Hence, it is prayed for appointment of an Advocate Commissioner as Receiver.

3.In such view of the matter, if the vehicle is allowed to be sold by the respondent, the very right of the applicant will be defeated.

4.The learned counsel for the applicant submitted that service has been completed on the respondent. From the court records, it is seen that the respondents have been served notice and despite their names appeared in the cause list today, there is no appearance by them or anyone on their behalf.

5.Taking into consideration that the applicant has made out a prima facie case and balance of convenience is in favour of the applicant, Mr.C.P.Goutham, Mob:9843953555, Address: No.36/14, Mahathma Gandhi Road, Shastri Nagar, Chennai - 600 041 is appointed as Advocate Commissioner to seize the vehicle covered under the contract. This Order shall operate only for a period of six weeks from the date of receipt of a copy of this Order and thereafter, this Order shall stand automatically cancelled.

6.The Advocate Commissioner will be entitled to seize and take possession of the vehicle from the respondent or their agents or any one in possession thereof. If necessary, the Advocate Commissioner shall get police assistance and the Station House Officer of the Police Station

concerned, within whose jurisdiction the vehicle is found, will render requisite assistance for this purpose.

7.This Order of appointment shall be served on the respondent by the applicant before the Advocate Commissioner takes any action on the basis of this Order.

8.The Advocate Commissioner shall be paid by the applicant, a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as remuneration.

9.Accordingly, this Application stands closed.

Sd./-V.P.N.J.
06.10.2021

//Certified to be true copy//
Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)
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