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Arb Appln.No.36 of 2023

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KRISHNAN RAMASAMY, J.,

This application has been filed seeking for a direction to appoint an Advocate Commissioner to seize and deliver the vehicle morefully described in the schedule to the Judges summons to the applicant.

2.The learned counsel appearing for the applicant would submit that the applicant provided loan to the respondents for purchase of the commercial vehicle, namely, Mahindra Marazzo M2 Vehicle bearing Registration No.TN68AH4459, Engine No.EVNZB96388 and Chassis No.MA1WA2EV1N2B29917. Thereupon, the respondents have entered into Loan Agreement dated 30.03.2022 with the applicant. The brief details in nutshell are as follows:



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<i>S.No.</i>	<i>Particulars</i>	<i>Remarks</i>
1.	Name of the lender	The applicant
2.	Name of the borrower	Suresh S
3.	Name of the Guarantor	Vanchinathan
4.	Date of Loan Agreement	30.03.2022
5.	Loan Amount	Rs.11,00,000/-
6.	No.of instalments	60 monthly installments
7.	First instalment	15.04.2022
8.	Last instalment	15.03.2027
9.	Sofar instalments paid	4 instalments
10.	Notice	11.01.2023
11.	Reply to the notice	No reply
12.	Rate of interest	12.95% p.a.
13.	Amount claimed	Rs.11,67,106
14.	Arbitration proceedings initiated	Applicant undertakes to initiate arbitral proceedings within 90 days

3.The learned counsel for the applicant further submits that the respondents, having availed the loan, failed to repay the same and committed default from 5th instalment onwards. He would submit that the hypothecated vehicle is a movable asset and if it is kept in idle condition, it would get damaged and its value also gets deteriorated and



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hence he would urge this Court to appoint an Advocate Commissioner to seize and handover the vehicle to the applicant bank morefully described in the schedule to the Judges summons available at the respondents premises, in order to make the security effective and the money in dispute in arbitration is fully secured by way of sale of the vehicle in public auction after following due process of law.

4.Upon considering the facts and circumstances of the case and the submissions made by the learned counsel for the applicant, this Court is satisfied that the applicant has made out a case in its favour and accordingly, **Mr.D.Sampath Kumar, Advocate, Residing at No.77, Mohanapuri, 5th Croos Street, Adambakkam, Chennai -600 088 (Contact No.6381127941)**, is appointed as the Advocate Commissioner to seize the vehicle, viz., Mahindra Marazzo M2 Vehicle bearing Registration No.TN68AH4459, Engine No.EVNZB96388 and Chassis No.MA1WA2EV1N2B29917, lying at the respondents' premises or wherever found and hand over the same to the custody of the applicant.



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He shall be paid an initial remuneration of Rs.30,000/- (Rupees Thirty Thousand Only) in advance. The expenses toward his travel and stay shall be defrayed by the applicant.

5.It is hereby made clear that if police help is required, the Advocate Commissioner shall make a request to the local police station within whose jurisdiction the vehicle is found and on such request being made, the Station House Officer shall send the Police Personnel along with the Advocate Commissioner to seize the vehicle. If breaking open of a lock is required, the Advocate Commissioner shall do so in the presence of the police personnel who will counter-sign the record evidencing the breaking open of the lock and re-locking of the premises. After seizure, the vehicle is to be handed over to the applicant or to their representative, after taking inventories.



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6. Accordingly, this Application is disposed of.

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7. Post the matter on 02.03.2023, for filing report of the Advocate
Commissioner.

10.02.2023

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