



Arb Appln. No.138 of 2023

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WEB CO **KRISHNAN RAMASAMY, J.,**

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

2. The learned counsel appearing for the applicant would submit that the applicant provided loan to the respondent for purchase of the commercial vehicle viz., **Isuzu Dmax Cab Chase, bearing Engine No.AAA513 and Chassis No.M3GTFR546LBB00454 and Registration No.KL-11-BT-6945.** Thereupon, the respondent has entered into Loan Agreement dated **08.12.2020** with the applicant. The brief details in nutshell are as follows:

<i>S.No.</i>	<i>Particulars</i>	<i>Remarks</i>
1.	Name of the lender	The applicant
2.	Name of the borrower	Mr.Muhammed Ashraf P.K



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<i>S.No.</i>	<i>Particulars</i>	<i>Remarks</i>
3.	Name of the Co-borrower	Maimoona
4.	Date of Loan Agreement	08.12.2020
5.	Loan Amount	Rs.11,39,700/-
6.	No.of instalments	58 monthly installments
7.	First instalment	10.12.2020
8.	Last instalment	10.09.2025
9.	Sofar instalments paid as on 14.03.2023	21 instalments
10.	Notice	21.11.2022
11.	Reply to the notice	No
12.	Rate of interest	22.00% p.a.
13.	Amount claimed	Rs.6,83,070.48/-/-
14.	Arbitration proceedings initiated	Under initiation

3. The learned counsel for the applicant further submits that the respondent, having availed the loan, failed to repay the same and committed default from **22nd** 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 hence he would urge this Court to appoint an Advocate Commissioner to seize and handover the vehicle to the applicant company morefully



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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. Despite service of notice and printing the name of the respondent in the Cause List, none appeared on behalf of the respondent. which shows that the respondent is not interested to prosecute the application.

5. 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.S.K.Bharthmahan, Advocate, MHAA,1st Floor, High Court Buildings, Chennai – 600 104 and contact Mobile No 9444082126 and Enrollment No. MS 59/2008 is appointed as the Advocate Commissioner to seize the vehicle, viz., **Isuzu Dmax Cab**



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**Chase, bearing Engine No.AAA513 and Chassis
No.M3GTFR546LBB00454 and Registration No.KL-11-BT-6945,**

lying at the respondent's premises or wherever found and hand over the same to the custody of the applicant. He shall be paid his initial remuneration of Rs.15,000/- (Rupees Fifteen Thousand only) within one week from the date of receipt of communication from the Advocate Commissioner. The expenses toward his travel and stay shall be defrayed by the applicant.

6. 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



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representative, after taking inventories. It is made clear that after seizure of the vehicle, the applicant shall not sell away the vehicle without permission of this Court.

7. Accordingly, this Application is disposed of.

8. List the matter on 19.06.2023 for filing report of the Advocate Commissioner.

24.04.2023

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