



Arb Appln.No.158 of 2023

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KRISHNAN RAMASAMY, J.,

This application has been filed seeking for a direction to appoint an Advocate Commissioner to visit the respondent premises, other areas which is occupied by the respondent and any other premises of the respondent along with Local Police protection to break open if necessary and to seize and take custody of the vehicle hypothecated with applicant being Motor Car (LMV) bearing No.MH12MR9881, Model Mercedes Benz GLA200CDI specifically described in the schedule to the Judges summons and hand them over to the applicant pending final adjudication of the dispute between the parties through arbitration.

2. The learned counsel appearing for the applicant would submit that the applicant provided loan to the respondent for purchase of the vehicle Motor Car (LMV) bearing No.MH12MR9881, Model Mercedes Benz GLA200CDI. Thereupon, the respondent has entered



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into Loan Agreement dated 22.03.2021 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	The respondent
3.	Date of Loan Agreement	22.03.2021
4.	Loan Amount	Rs.16,00,000/-
5.	No.of installments	58 monthly installments
6.	First installment	18.04.2021
7.	Last installment	18.01.2026
8.	So far installment paid	22
9.	Notice	13.03.2023
10.	Reply to the notice	No
11.	Rate of interest	10.5497% p.a.
12.	Amount claimed	Rs.11,68,022.44
13.	Arbitration proceedings initiated	Applicant undertakes to initiate arbitral proceedings within a period of 90 days.

3. The learned counsel for the applicant further submits that the respondent, having availed the loan, failed to repay the same and defaulted from 23rd installment. 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



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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 respondent's 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. After the filing of this application, both Court notice and private notice was ordered to the respondent. The Court notice was served and the private notice was returned as unclaimed. Despite the service of notice to the respondent and printing of name of the respondent in the cause list, none appeared on behalf of the respondent, which shows that he has no interest in contesting this matter.

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



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accordingly, Mr.T.M.Ramalingam, Advocate, No.163, Additional Law Chambers, High Court Campus, Chennai 600 104, Mobile No.9444211693, is appointed as the Advocate Commissioner to seize the vehicle, viz., Motor Car (LMV) bearing No.MH12MR9881, Model Mercedes Benz GLA200CDI, 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.30,000/- (Rupees Thirty Thousand only) in advance. The expenses toward his travel and stay shall be defrayed by the applicant. The said initial remuneration shall be paid to the Advocate Commissioner within a period of two weeks from the date of receipt of communication from him.

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 break open of a



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lock is required, the Advocate Commissioner shall do so in the presence of the police personnel who will counter-sign the record evidencing the break open of the lock and to re-lock the premises. After seizure, the vehicle is to be handed over to the applicant or to their representative, after taking inventories.

7. Accordingly, this Application is disposed of.

8. List the matter on 10.07.2023 for filing report of the Advocate Commissioner.

05.06.2023

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