



Arb Appln.No.235 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 L AND T EARTH MOVER EQUIPMENT L AND T CASE VIBRATORY COMPACTOR L AND T 752 bearing Chassis No.J09E2164, Engine No.04.2508/0900018 to the custody of the applicant, available at the respondent premises or wherever found and with whomsoever it is found and permit the Advocate Commissioner to obtain police aid and to break open the premises.

2. The learned counsel appearing for the applicant would submit that the applicant provided loan to the respondent for purchase of the vehicle L AND T EARTH MOVER EQUIPMENT L AND T CASE VIBRATORY COMPACTOR L AND T 752 bearing Chassis No.J09E2164, Engine No.04.2508/0900018. Thereupon, the respondent



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has entered into Loan Agreement dated 18.01.2022 with the applicant.

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| <b>S.No.</b> | <b>Particulars</b>                | <b>Remarks</b>                                         |
|--------------|-----------------------------------|--------------------------------------------------------|
| 1.           | Name of the lender                | The applicant                                          |
| 2.           | Name of the borrower              | The respondent                                         |
| 4.           | Date of Loan Agreement            | 18.01.2022                                             |
| 5.           | Loan Amount                       | Rs.5,00,000/-                                          |
| 6.           | No.of installments                | 24 monthly installments                                |
| 7.           | First installment                 | 21.02.2022                                             |
| 8.           | Last installment                  | 21.12.2023                                             |
| 9.           | Defaulted EMIs as on 01.03.2023   | 2 installments                                         |
| 10.          | Notice                            | 01.04.2023                                             |
| 11.          | Reply to the notice               | No                                                     |
| 13.          | Amount claimed                    | Rs.2,20,800.00.                                        |
| 14.          | Arbitration proceedings initiated | Applicant undertakes to initiate arbitral proceedings. |

3. The learned counsel for the applicant further submits that the respondent, having availed the loan, failed to repay the same and defaulted 2 EMIs as on 01.03.2023. 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



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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.R.Prem Chander, Advocate, Enrollment No.5292/2019, T-6, 3<sup>rd</sup> Floor, Singapore Plaza, Linghi Chenny Street, Parrys, Chennai 600 001, Mobile No.9786412033, is appointed as the Advocate Commissioner to seize the vehicle, viz., L AND T EARTH MOVER EQUIPMENT L AND T CASE VIBRATORY COMPACTOR L AND T 752 bearing Chassis No.J09E2164, Engine No.04.2508/0900018, lying at the respondents' premises or wherever found and hand over the same to the custody of the applicant. He shall be paid his initial remuneration

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of Rs.10,000/- (Rupees Ten Thousand only). The said remuneration shall be paid by the applicant within two weeks from the date of receipt of communication of the Advocate Commissioner. 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 break 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 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.

6. Accordingly, this Application is disposed of.



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7. List the matter on 19.06.2023 for filing report of the Advocate

Commissioner.

**25.04.2023**

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Note: Issue order copy on 27.04.2023



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**25.04.2023**