



Arb Appln.No.231 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 KOMATSU INDIA PVT LTD L & T KOMATSU HYDRAULIC EXCAVATOR MODEL PC 130-7 bearing MACHINE SERIAL NO. N 500078 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 KOMATSU INDIA PVT LTD L & T KOMATSU HYDRAULIC EXCAVATOR MODEL PC 130-7 bearing MACHINE SERIAL NO. N 500078. Thereupon, the respondent has entered into



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Loan Agreement dated 17.01.2022 with the applicant. The brief details

in nutshell are as follows:

S.No.	Particulars	Remarks
1.	Name of the lender	The applicant
2.	Name of the borrower	The respondent
4.	Date of Loan Agreement	17.01.2022
5.	Loan Amount	Rs.13,00,000/-
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	4 installments
10.	Notice	03.03.2023
11.	Reply to the notice	No
13.	Amount claimed	Rs.42,60,178.43
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 4 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, 3rd Floor, Singapore Plaza, Linghi Chetty Street, Parrys, Chennai 600 001, Mobile No.9786412033, is appointed as the Advocate Commissioner to seize the vehicle, viz., KOMATSU INDIA PVT LTD L & T KOMATSU HYDRAULIC EXCAVATOR MODEL PC 130-7 bearing MACHINE SERIAL NO. N 500078, 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 of Rs.30,000/-

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(Rupees Thirty 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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