



Arb Appln.No.247 of 2023

WEB CO **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 MARUTI SWIFT VDI. Thereupon, the respondents have entered into Loan Cum Hypothecation Agreement dated 17.02.2021 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	Muhammed Shuhaim PK
3.	Name of the Co-Borrower	Abdul Azeez
4.	Date of Loan Agreement	17/02/2021



<i>S.No.</i>	<i>Particulars</i>	<i>Remarks</i>
5.	Loan Amount	Rs.10,05,373/-
6.	No.of installments	60 monthly installments
7.	First installment	03.'04.2021
8.	Last installment	030326
9.	Sofar installments paid	17 installments
10.	Notice	15.'07.2022
11.	Reply to the notice	No
12.	Rate of interest	16.50% p.a.
13.	Amount claimed	Rs.9,71,374/-
14.	Arbitration proceedings initiated	Applicant undertakes to initiate arbitral proceedings within 90 days

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 18th 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 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



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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, **Ms.L.Arivukkarasi, Advocate, residing at No.10/5, Mariamman Koil Street, Menambedu, Ambattur, Chennai – 600 053 and contact Mobile No.9841163845 and Enrollment No.Ms.396/2003** is appointed as the Advocate Commissioner to seize the vehicle, viz., MARUTI SWIFT VDI, lying at the respondents' premises or wherever found and hand over the same to the custody of the applicant. She shall be paid her initial remuneration of Rs.30,000/- (Rupees Thirty Thousand Only), within two weeks from the date of receipt of the communication from the Advocate Commissioner. The expenses toward her travel and stay shall be defrayed by the applicant.



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

6. Accordingly, this Application is disposed of.



7. List the matter on 19.06.2023 under the caption “For Reporting Compliance”.

28.04.2023

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Note: Issue Order Copy on 04.05.2023

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