



Arb Appln.No.276 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 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, Tata Hitachi Hydraulic Excavator EX210LC Super plus GP BKT, bearing Chassis No.SP21-47064 and Engine No.12E84946176, Dawn Glow Colour. Thereupon, the respondents have entered into Loan Cum Hypothecation Agreement dated 01.09.2021 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	M/s.GSP Builders, Rep by its Prop-Priyanka



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S.No.	Particulars	Remarks
		Govindasamy
3.	Name of the Guarantor	Mr.Suryaraj S
4.	Date of Loan Agreement	01.09.2021
5.	Loan Amount	Rs.52,50,137/-
6.	No.of installments	46 monthly installments
7.	First installment	07.11.2021
8.	Last installment	07.08.2025
9.	Sofar installments paid till	7
10.	Notice	10.04.2023
11.	Reply to the notice	No
12.	Rate of interest	11.03% p.a.
13.	Amount claimed	Rs.54,77,684/-
14.	Arbitration proceedings initiated	Applicant undertakes to initiate arbitral proceedings within 90 days

3.The learned counsel for the applicant further submits that the respondents, having availed the loan, failed to repay the same and committed default from 8th 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 this Court to appoint an Advocate Commissioner to seize and handover the vehicle to the applicant bank morefully described

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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, **Ms.M.Priya, Advocate, Enrol.No.Ms.4544/2022, residing at No.1916, MA.PO.SI.Street, Taramani, Chennai 600113 and Contact No.7395995990,** is appointed as the Advocate Commissioner to seize the vehicle, viz., Tata Hitachi Hydraulic Excavator EX210LC Super plus GP BKT, bearing Chassis No.SP21-47064 and Engine No.12E84946176, Dawn Glow Colour, lying at the respondents' premises or wherever found and hand over the same to the custody of the applicant. She shall be paid an initial remuneration of sum of Rs.30,000/- (Rupees Thirty Thousand Only), in advance within



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one week 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.

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.



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6. Accordingly, this Application is disposed of.

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7. List the matter on 30.06.2023 for filing report of the Advocate
Commissioner.

06.06.2023

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Note: Issue Order Copy on 08.06.2023.



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