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Arb.Appl.No.362 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2023

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THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

Arbitration Application No.362 of 2023

M/s.Tata Capital Financial Services Limited,  
11<sup>th</sup> floor, Tower A,  
Lower Parel, Mumbai – 400 013.

.. Applicant

-vs-

Sreekanth KS

... Respondent

Petition under Section 9 of the Arbitration and Conciliation Act, 1996, has been filed seeking to appoint an advocate commissioner to seize the Asset SKODA – RAPID AMBITION 1.5 MT (81KW TD) Car bearing Registration No.KL-11-BH-1775, Engine No.CWX173494, Chassis No.TMBBVHNA0HG107238 available with the respondent's premises.

For Applicant : Ms.Narmadha  
for M/s.M.Arunachalam

For Respondent : No Appearance  
Mr.K.Sundaramurthy, Advocate Commissioner

### ORDER

As directed by this Court, the Advocate Commissioner has seized the vehicle and a report to that effect has also been filed by the Advocate



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Commissioner. Along with the report, he has also filed a Memo dated 26.07.2023 seeking for additional remuneration.

2. The learned Advocate Commissioner states that he has spent 3 days in Kerala for executing the Warrant of Commission. He was initially paid a remuneration of Rs.15,000/- by the applicant and now, he seeks for an additional remuneration of Rs.30,000/-.

3. Considering the days spent by the Advocate Commissioner, this Court is of the considered view that an additional remuneration of Rs.20,000/- can be paid to the Advocate Commissioner, instead of Rs.30,000/- claimed by him.

4. As seen from the affidavit of service filed by the learned counsel for the applicant, the notice sent to the respondent has been returned with endorsement “unclaimed”. Therefore, it is clear that the respondent has refused to receive the notice. The name of the respondent is also printed in the cause list today.



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5. Since the prayer sought for in this application, namely, to seize the vehicle by the Advocate Commissioner, has been achieved by the applicant and the respondent has been duly served and no one has entered appearance on his behalf till date, no further directions are required to be passed by this Court.

6. Accordingly, this application is disposed of by directing the applicant to pay an additional remuneration of Rs.20,000/- to the Advocate Commissioner within a period of one week from the date of receipt of a copy of this order. Since the custody of the vehicle has been handed over to the applicant by the Advocate Commissioner pursuant to the directions given by this court, in case, the applicant requires permission to sell the repossessed vehicle, the applicant is granted liberty to file an application under Section 17 of the Arbitration and Conciliation Act, 1996, before the arbitral tribunal.

**01.08.2023**

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**ABDUL QUDDHOSE, J.**

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