



Arb Appln.No.343 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 BB HDT 2523C 16 Cum, bearing Engine No.400952D0084184, Chassis No.MEC2416BCKP083387 and registered No.KA01AL4356 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's father for purchase of the vehicle BB HDT 2523C 16 Cum, bearing Engine No.400952D0084184, Chassis No.MEC2416BCKP083387 and registered No.KA01AL4356 by virtue of loan agreement dated



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20.12.2019. Since the borrower/respondent's father died, the applicant understands that the respondent herein, who is the co-borrower and legal heir of the deceased borrower, is liable to pay the amount due under the loan agreement. 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 (legal heir of the deceased borrower)
4.	Date of Loan Agreement	20.12.2019
5.	Loan Amount	Rs.44,39,497.00/-
6.	No.of installments	52 monthly installments
7.	First installment	18.01.2020
8.	Last installment	18.04.2024
9.	No.of installments paid as on 27.06.2023	25 installments
10.	Notice	17.08.2021
11.	Reply to the notice	No
13.	Amount claimed	Rs.27,43,382.67/-
14.	Arbitration proceedings initiated	Initiated and pending in Arbitration case (DFS) No.50 of 2022

3. The learned counsel for the applicant further submits that the respondent, having availed the loan, failed to repay the same and



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defaulted from 26th EMI. 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 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.J.Mary Sarah, Advocate, No.62, 1st Floor, Perambur Barracks Road, Pursawalkam, Chennai 600 007, Mobile No.9841229219**, is appointed as the Advocate Commissioner to seize the vehicle, viz., BB HDT 2523C 16 Cum, bearing Engine

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No.400952D0084184, Chassis No.MEC2416BCKP083387 and registered No.KA01AL4356, lying at the respondent 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). 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 towards 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 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



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vehicle is to be handed over to the applicant or to their representative,
after taking inventories.

6. Accordingly, this Application is disposed of.

7. List the matter on 24.07.2023 for filing report of the Advocate
Commissioner.

28.06.2023

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