



Arb.Appln.No.428 of 2023

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**ABDUL QUDDHOSE, J.**

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M/s.Mercedes-Benz Financial Services  
India Private Limited,  
represented by its Authorised Signatory  
Sadam Hussain S.

.. Applicant

VS

Shivanna A.

.. Respondent

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996, seeking for appointment of an Advocate Commissioner to seize the vehicle, morefully, described in the schedule to the Judges Summons.

2.The respondent has been served through substituted service. The name of the respondent is also printed in the cause list today. Therefore, the respondent is set exparte by this Court.

3.The applicant is a Non-banking Financial Institution. The respondent has availed a financial facility for the purchase of a vehicle, morefully described in the schedule to the Judges Summons from the applicant and he has entered into a Loan Agreement. There arose disputes



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between them. Under the said Loan Agreement, the said dispute was referred to Arbitration in accordance with the Arbitration Clause contained in the Loan Agreement. The Arbitrator has also acted upon the reference and has passed an Arbitral Award dated 09.07.2021. Under the Arbitral Award, the respondent has been directed to pay a sum of Rs.26,27,115/- together with interest and costs to the applicant. Under the said loan agreement, the applicant is empowered to repossess the vehicle from the respondent in case he commits default in repayment of the loan.

4.Since an Arbitral Award has also been passed in favour of the applicant and till date, the applicant is unable to repossess the vehicle from the respondent, the prayer sought for in this application by the applicant has to be granted. The applicant has also expressed its difficulty to repossess the vehicle on its own from the respondent. The applicant has also stated that only now the vehicle is traceable. Therefore, this Court is of the view that a prima facie case, balance of convenience and irreparable loss have been established by the applicant in this application.

5.For the foregoing reasons, this Court issues the following



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directions:

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a)Mr.V.Veerapandian, Advocate, having Office at No.223, N.S.C. Bose Road, Y.M.C.A. Building, 3rd Floor, (Opp. High Court), Chennai - 600 001 (Mobile No.9710976311) is appointed as an Advocate Commissioner to repossess the vehicle morefully described in the schedule to the Judges summons.

b)The Advocate Commissioner is permitted to obtain police aid and break open of the premises in case the vehicle is kept in a locked premises, in the presence of the Police, after taking proper inventory.

c)The Advocate Commissioner shall be paid an initial remuneration of Rs.20,000/- and the same shall be paid within a period of one week from the date of receipt of a copy of this order or before the Advocate Commissioner executes the Warrant of Commission in accordance with the directions given by this Court. The Boarding, lodging and travel expenses shall be paid by the applicant to the Advocate Commissioner for executing the warrant of Commission.



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vga

6. Accordingly, this application stands disposed of. Post the matter on 06.11.2023 'for reporting compliance'.

vga

**29.09.2023**

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