



Arb.Appln.No.238 of 2024

WEB COPY **C.V.KARTHIKEYAN, J.**

This application has been filed under Section 9 of the Arbitration Act, seeking appointment of Advocate Commissioner to seize and deliver the Maruti Swift Dzire, Variant ZDI bearing Engine No.D13A1950388, Chasis No.MA3FSEB1S00446369JC bearing Registration No.KL46 G5016 which is now at Athampanakuzhiyil, Kudungoor, Vazhoor, Kottayam, Kerala 686 504.

2. The applicant had sanctioned a loan of Rs.3,33,442/- for purchase of the said vehicle to the respondents. The same has to be paid in 66 equated monthly installments. The monthly installment of Rs.8760/- commences from 02.06.2019 and run till 02.11.2024. It is stated that the respondents had defaulted in payment of the equated monthly installments. After knowing that the respondents would secure away the vehicle to the disadvantage of the applicant and by placing reliance of the clause indicating the referral of the arbitration that any dispute that arises between the parties, this application has been filed seeking to appoint an Advocate



Commissioner to seize and deliver the vehicle.

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3. Notice has been directed to the respondents and affidavit of service has been filed indicating that the notice has been served. The names and address of the respondents were also printed in the causelist. It is clear that the respondents had taken a conscious decision not to appear before this Court and they are enjoying the vehicle and at the same time, not effecting payment for such enjoyment. The balance of convenience is in favour of the applicant and the amount due and payable would also be increasing and also there would be a corresponding wear and tear of the vehicle. The amount that can be recovered on sale of the vehicle would not cover the amount due as on date. Under such circumstances, the learned counsel argued that it is imperative to appoint a Commissioner to go to the place where the vehicle is available as on date and seize the vehicle by the order of this Court.

4. Taking into consideration the facts and circumstances of the case and also the submission of the learned counsel for the applicant, this application is allowed and **Mr.K.Sundaramoorthy, Advocate Commissioner of Oaths, having office at M.H.A.A., High Court**



Building, 1st Floor, Chennai 600 104, Mobile Number : 99626 98679, is appointed as Advocate Commissioner to seize and deliver the Maruti Swift Dzire, Variant ZDI bearing Engine No.D13A1950388, Chasis No.MA3FSEB1S00446369JC bearing Registration No.KL46 G5016.

5. The initial remuneration of Rs.30,000/- (Rupees Thirty Thousand Only) shall be paid to the Advocate Commissioner by the applicant. The Advocate Commissioner may hand over the vehicle to the applicant with proper acknowledgment and undertaking to obtain leave of this Court before the vehicle is dealt with by the applicant. If the Advocate Commissioner is of the opinion that police protection is required, then he may approach the jurisdictional police station. The Station Officer of the jurisdictional police station is directed to effect necessary police protection to the Advocate Commissioner to seize the vehicle.

6. Call again on 07.08.2024.

04.07.2024

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NOTE : The Registry to issue warrant to the Advocate Commissioner.



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