

**Arbitration Application No. 500 of 2024****K.KUMARESH BABU, J.**

This application has been filed for an order of appointment of an Advocate Commissioner to seize and deliver the Asset Vehicle JCB JS 140 Hydraulic Excavator, Chassis No. PUNJD14AVL2944856 and Engine No. 84929697 with all accessories fitted to the Vehicle lying at first respondent's premises morefully described hereunder, with police aid or break open the premises or wherever found and handover the same to the applicant.

2. The learned counsel appearing for the applicant would submit that the applicant provided a loan to the first respondent for the purchase of the aforesaid vehicle and also a Loan Agreement had also been entered by the first respondent with the applicant on 18.01.2021. The brief details in nutshell are as follows:

S.No.	Particulars	Remarks
1	Name of the Lender	M/s.Hinduja Leyland Finance Limited
2	Name of the Borrower	Mr.C.Kannadichamy
3	Name of the Guarantor	Mr. Karikalan
4	Date of the Loan Agreement	18.01.2021
5	Loan amount	Rs.39,81,248/-
6	No. of installments	46 monthly installments



S.No.	Particulars	Remarks
7	First installment	Rs.1,06,282/-
8	Last installment	Rs.1,06,282/-
9	Notice	14.12.2023
10	Reply to the Notice	Nil
11	Rate of interest	10.43%
12	Amount claimed	Rs.17,73,041/- as on 11.12.2023
13	Arbitration proceedings initiated	Arbitration not yet invoked

3. The learned counsel for the applicant further submits that the first respondent, having availed the loan, failed to repay the same. 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 first respondent's 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, Mr.D.Sampath Kumar, Advocate, having office at No.320, New Law Chambers, II Floor, High Court, Chennai-600104, is appointed as the Advocate Commissioner to seize the Asset Vehicle JCB JS 140 Hydraulic Excavator, Chassis No. PUNJD14AVL2944856 and Engine No. 84929697 to the custody of the Applicant, available at the first respondent premises or wherever found and with whomsoever it is found and hand over the same to the custody of the applicant. He shall be paid his initial remuneration of Rs.30,000/- (Rupees Thirty Thousand Only) in advance. The expenses towards his travel and stay shall be defrayed by the applicant. The said initial remuneration shall be paid to the Advocate Commissioner within a period of two weeks from the date of receipt of communication from him.

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. If the Advocate Commissioner find any difficulty with the jurisdictional police, he is at liberty to approach Superintendent of Police, who shall provide all necessary assistance to the Advocate Commissioner at the time of seizure of the vehicle. After the seizure, the vehicle is to be handed over to the applicant or to their representative, after taking inventories.

6. Considering the fact that the first respondent had taken a loan for the purchase of vehicle to provide himself and his family. The applicant shall grant the first respondent a minimum period of four (4) weeks time to regularise the loan by payment of the defaulted amounts within the said period and if the first respondent regularised his loan within the period expected by him, then the applicant shall return the vehicle to the first respondent.

7. List the case on 04.10.2024 for filing of the report of the Advocate Commissioner.

21.08.2024

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