



Arb.Appln.No.461 of 2023

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WEB C C **C.SARAVANAN, J.**

This Arbitration Application has been filed under Order XIV Rule 8 of the Original Side Rules read with Section 9(1)(ii)(c) and (e) of the Arbitration and Conciliation Act, 1996, praying for appointment of an Advocate Commissioner to visit the respondent premises, other areas which is occupied by the respondent and any other premises of the respondent along with local police protection to break open if necessary and to seize and take custody of the vehicle hypothecated with the applicant being Motor Car (LMV) bearing Vehicle No.Un Registered, Model-C200 specifically described in the schedule to the Judge's Summons and hand them over to the applicant pending final adjudication of the disputes between parties through arbitration.

2. Earlier, an Advocate Commissioner was appointed by this Court by an order dated 08.09.2023. Pursuant to the aforesaid order, the applicant had also made arrangements for the Advocate Commissioner to visit Hyderabad to seize the vehicle from the custody of the respondent on 04.10.2023. However, the Advocate Commissioner was unable to seize the vehicle as the vehicle was hidden in the bush and that the applicant did



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not have a duplicate key to retrieve the same. Thereafter, once again this case was listed and the same Advocate Commissioner was requested to execute the warrant. In this connection, an Order came to be passed by this Court on 27.11.2023.

3. At this stage, the Advocate Commissioner was asked to be paid a further sum of Rs.30,000/- over and above Rs.20,000/- that was earlier ordered by an order dated 08.09.2023. In all, the learned Advocate Commissioner has received Rs.50,000/- as Initial Remuneration and Additional Remuneration.

4. It appears that the learned Advocate Commissioner visited and stayed in Hyderabad between 18.12.2023 and 20.12.2023. He is requested for Additional Remuneration of Rs.50,000/-.

5. The learned counsel for the applicant strongly opposes the prayer stating that the Advocate Commissioner travelled from Chennai to Hyderabad and was given suitable accommodation to meet out his comforts and therefore no further amounts should be ordered.



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6. It is further submitted that the Advocate Commissioner has created lot of issues during the execution of warrant and therefore no further remuneration should be ordered.

7. I have considered the arguments advanced by the learned counsel for the applicant. I have perused the affidavit filed in support of the Judge's Summons.

8. The amount that has been paid so far, for Rs.50,000/- is insufficient as the learned Advocate Commissioner has spent 4 days in Hyderabad, on 04.10.2023 and thereafter during second spell between 18.12.2023 and 20.12.2023.

9. Considering the fact that the Advocate Commissioner has spent about 3 days in Hyderabad, the request of the Advocate Commissioner to execute the warrant deserves to be considered.



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10. At the same time, request for Additional Remuneration of Rs.50,000/- appears to be disproportionate for the work executed by the learned Advocate Commissioner.

11. To balance the interest of the parties, Court is inclined to order another sum of Rs.25,000/- as an Additional Remuneration to be paid to the learned Advocate Commissioner. This amount shall be paid within a period of thirty days from the date of receipt of a copy of this order.

12. The learned counsel for the applicant is directed to ensure the Additional Remuneration is paid to the learned Advocate Commissioner within a period of thirty days from today. The learned Advocate Commissioner shall return the warrant to the Registry.

13. It is made clear that the seized vehicle shall not be disposed or alienated or transferred or sold by the applicant as no Award has been passed so far.



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14. Any alienation or transfer or sale shall be subject to such application as may be moved before the Arbitral Tribunal in accordance with the Loan Agreement dated 10.05.2022.

15. It is made clear that the applicant shall invoke arbitration clause within a period of three months from the date of receipt of a copy of this order.

16. In case, no arbitration proceedings will be initiated by the applicant, the vehicle shall be returned forthwith to the respondent.

17. It is also made clear that such continuance of the possession of the vehicle thereafter will be interfered unless the possession is allowed to be continued by the Arbitral Tribunal.

18. With the above observations, this Arbitration Application stands disposed of.

29.01.2024



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