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Arb.Appln.No.52 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **10.01.2025**

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THE HONOURABLE **MR.JUSTICE P.B.BALAJI**

Arb. Appln. No.52 of 2025

M/s. IndusInd Bank Ltd.,
Rep. by its Assistant Vice President,
A.Ganesh Kumar,
Having office at: Consumer Finance Division,
No.34, G.N. Chetty Road, T.Nagar, Chennai 600 017.

... Applicant

vs.

M/s. GKR Infracon India Private Limited,
H. No. 8-3-833, P. No. 253,
Phase II, Kamlapuri Colony,
Srinagar Colony,
Hyderabad – 500 034.

Also At - H. No. 8-2-293/82/J III/43/N,
Opp. Jubilee Hills Public School,
Road No. - 71, Jubilee Hills,
Hyderabad, Telangana – 500 033.

... Respondent

PRAYER: This Arbitration Application filed under ORDER XIV RULE 8 OF O.S. RULES READ WITH SEC 9 (II) (d) & (e) OF ARBITRATION ACT 1996, the petitioner prays for appointment of an Advocate Commissioner to seize and deliver the Vehicle/Machinery



Hydraulic Excavator, Kobelco Model SK520 XDLC 10 bearing Vehicle Engine No. P11CWF20283 and Machine Serial No. YS14505131 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.

For Applicant : Ms.Meera Gnanasekar

ORDER

This Application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 seeking to appoint an Advocate Commissioner to seize and deliver the Vehicle/Machinery Hydraulic Excavator, Kobelco Model SK520 XDLC 10 bearing Vehicle Engine No. P11CWF20283 and Machine Serial No. YS14505131 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 respondent entered into a loan agreement dated 28.02.2022 for purchase of the Vehicle/Machinery, morefully described in the schedule to the Judges Summons. Under the loan agreement, the total



loan amount was repayable by the respondent to the applicant in 47 monthly installments commencing from 21.03.2022.

3. As seen from the statement of accounts, which are supported by the averments contained in the affidavit filed in support of the application, the respondent is irregular in making payments of EMI and as such, the over due amount was Rs.9,99,549/- as on 06.01.2025. There is an Arbitration Clause available in the loan agreement, which is the subject matter of dispute. The applicant has initiated the arbitration proceedings in accordance with the Arbitration Clause. Under the loan agreement, the applicant is entitled to repossess the Vehicle/Machinery, morefully described in the schedule to the Judges Summons in case the respondent commits default in repayment of the loan. The applicant has expressed its difficulty to repossess the Vehicle/Machinery on its own.

4. Only under the aforementioned circumstances, this application has been filed under Section 9 of the Arbitration and Conciliation Act seeking for appointment of an Advocate Commissioner to repossess the Vehicle/Machinery, which is morefully described in the schedule to the Judges Summons and therefore, the Applicant has made out a prima facie case, for invoking Section 9 of the Act. In the interest of justice, I



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proceed to appoint an Advocate Commissioner.

5. Accordingly, this Application is ordered with the following directions:

a) **Mr.Karthik Selvaraj, Advocate, having Office at 1/76, 1st block, 5th Street, Mogappair East, Chennai – 600 037, Cell : 99418 19944, E.Mail. advkarthikselvaraj@gmail.com.** is appointed as an Advocate Commissioner to repossess the Vehicle/Machinery, which is more fully described in the schedule to the Judges Summons from the respondent or wherever it is available and handover the same to the applicant by way of interim custody;

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

c) 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.

d) If the Advocate Commissioner finds any difficulty with the



jurisdictional police, he is at liberty to approach Superintendent of Police, who shall provide all necessary assistance to him at the time of seizure of the Vehicle/Machinery.

e) The Advocate Commissioner shall be paid his initial remuneration of Rs.30,000/- (Rupees Thirty Thousand only) within a period of six weeks 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;

6. Notice to the respondent returnable by 12.02.2025. Private Notice is also permitted.

7. Post the matter **on 12.02.2025 'for reporting compliance'**.

10.01.2025

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Index : Yes / No

Internet : Yes / No



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