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Arb Appln NO. 242 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-01-2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

Arb Appln NO. 242 of 2025

Ms International Asset Reconstruction Company
Pvt Ltd
Branch Office at No 1, 39, 9th Floor, Prashanth
Real Gold Tower, North Usman Road, T Nagar,
Chennai, Tamil Nadu, 600017.

Appellant(s)

Vs

Santhosh Khedage
S/o.Khedage Eshwar, NO.T1, 280, 9th Cross
Parddy Park, Vijaya Bank Layout, Bilekahalli,
Bannerghatta Road, Bangalore South KA 560
076.Branch Office at No 1, 39, 9th Floor,
Prashanth Real Gold Tower, North Usman Road,
T Nagar, Chennai, Tamil Nadu, 600017. and
another

Respondent(s)

For Appellant(s):

T.Sivakumar

ORDER

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 seeking for appointment of an Advocate Commissioner to visit the respondents premises, other areas which is occupied by the respondents and any other premises of the respondents



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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 bearing Vehicle No.KA 04 MR 9174 , Model No.Hyundai Creta 1.6 SX Plus Diesel Engine No.D4FBGM127398 and Chassis No.MALC381ULGM125950 specifically described in the schedule to the Judge's Summons and hand them over to the applicant pending final adjudication of the disputes between the parties through arbitration.

2.Heard Mr.T.Sivakumar learned counsel for the applicant.

3.The respondents entered into a loan agreement with the applicant on 30.12.2018 for purchase of the asset, more fully described in the schedule to the Judges Summons. Under the loan agreement, the total loan amount of Rs.11,12,750/- was repayable by the respondents to the applicant in 60 monthly installments at 18.5% interest, commencing from 07.02.2019 to 07.01.2024.

4.The applicant has expressed its difficulty to repossess the asset on its own. 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 asset, which is more fully described in the schedule to the Judges Summons. I am satisfied with the reasons assigned in the affidavit filed in support of the application for appointment of an Advocate Commissioner.

5.The learned counsel for the applicant further submits that the respondents, 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 more fully described in the schedule to the Judge's Summons, available at the respondents premises to the applicant Bank, in order to make the security effective and so that 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. He would further submit that Section 21 notice has also been served to the respondents.

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



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a) **Mrs.S.Sathya Gandhi, Advocate, No.320, New Additional Law Chamber, High Court Building, High Court, Chennai – 600 104, Mobile Nos.9094336813/7200022297**, is appointed as an Advocate Commissioner to repossess the asset viz., Motor Car bearing Vehicle No.KA 04 MR 9174 , Model No.Hyundai Creta 1.6 SX Plus Diesel Engine No.D4FBGM127398 and Chassis No.MALC381ULGM125950, which is more fully described in the schedule to the Judges Summons from the respondents or wherever it is available and handover the same to the applicant by way of interim custody. Registry is directed to issue warrant to the Advocate Commissioner;

b) The Advocate Commissioner is permitted to obtain police aid and break open of the premises in case the seized vehicle 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, she is at liberty to approach Superintendent of Police, who shall provide all necessary assistance to her at the time of seizure of the vehicle.



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e) The Advocate Commissioner shall be paid her 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;

7. Notice to the respondents returnable by 17.03.2025. Private Notice is also permitted.

8. Post the matter on 17.03.2025 under the caption 'for reporting compliance'.

30-01-2025

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To

1.Santhosh Khedage

S/o.Khedage Eshwar, NO.T1, 280, 9th Cross Padddy Park, Vijaya Bank Layout, Bilekahalli, Bannerghatta Road, Bangalore South KA 560 076.Branch Office at No 1, 39, 9th Floor, Prashanth Real Gold Tower, North Usman Road, T Nagar, Chennai, Tamil Nadu, 600017.

2. Mr.Basavaraju Khedage

S/o.Annappa

NO.T1, 280, 9th Cross Padddy Park, Vijaya Bank Layout, Bilekahalli, Bannerghatta Road, Bangalore South KA 560 076.Branch Office at No 1, 39, 9th Floor, Prashanth Real Gold Tower, North Usman Road, T Nagar, Chennai, Tamil Nadu, 600017.

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P.B. BALAJI, J.

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