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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31-01-2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

Arb Appln NO. 284 of 2025

HDB Financial Services Limited
4th Floor Loyal Towers No 68 2 Grems Road
Chennai 600 006

Applicant(s)

Vs

M Mani
4th Floor Loyal Towers No 68 2 Grems Road
Chennai 600 006S/o.Muthu, No.2/293,
Orappachiyur, Moongilmaduvu, Ajjanaalli,
Ajjampatty, Dharmपुर, Pennagaram 636 810
Tamil Nadu. and another

Respondent(s)

For Applicant(s):

M/s.M.Arunachalam

ORDER

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 seeking for appointment of an Advocate Commissioner to seize and deliver the asset viz., JCB 215 NXT/QM EXCAVATOR Construction Equipment bearing Engine No.84995481 and



Chassis No.PUNJD21AHN3190840, available at the respondents premises or wherever found and permit the Advocate Commissioner to obtain police aid and to break open the premises, if necessary.

2.Heard Mr.M.Arunachalam, learned counsel for the applicant.

3.The respondents entered into a loan agreement with the applicant on 20.01.2023 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.49,73,515/- was repayable by the respondents to the applicant in 52 monthly installments at 11.61% interest, commencing from 15.03.2023 to 15.06.2027.

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. He further



submits that Section 21 notice has also been issued to the respondent. 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:

- a) **Ms.S.Vidhyaasri, Advocate, No.42B, 9th Village Street,**



Sathankadu, Rajakadai, Thiruvottiur, Chennai – 600 019, Phone

Nos.7603938309 / 9884069948, is appointed as an Advocate Commissioner to repossess the asset viz., JCB 215 NXT/QM EXCAVATOR Construction Equipment bearing Engine No.84995481 and Chassis No.PUNJD21AHN3190840, 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 18.03.2025. Private Notice is also permitted.

8. Post the matter on 18.03.2025 under the caption 'for reporting compliance'.

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P.B.BALAJI,J.

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