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Arb Appln No. 746 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-09-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 746 of 2025

1. M/s Mercedes - Benz Financial
Services India Pvt Ltd.,
(formerly known as M /s Daimler
Financial Services India Private
Limited), 5th Floor, Plot 8, Baashyam
Willow Square, 9 and 10, First Street,
Thiruvika Industrial Estate, Guindy,
Chennai -600032,
Tamil Nadu, India.
Rep. by its Authorised Signatory.

Applicant(s)

Vs

1. VSPL ENERGY PVT LTD,
Rep by Mr.Vishal Anand
412 -A, Success Tower, Golf Course
Extention Road, Sector 65,
Gurgaon- 122 101.
2.Vishal Anand,
House No 294, Espace Nirwana
Country Section- 50, South City- 2,
Gurgaon- 122 018

.....Respondents



PRAYER

This petition has been filed seeking to appoint an Advocate Commissioner to seize and deliver the Asset Mercedes-Benz E 350 D Motor Vehicle bearing Registration No.HR98F2328, Engine No.65692980224623 and Chassis No.W1K2131226L049521 available at the respondents' premises or wherever found and permit the Advocate Commissioner to obtain police aid and to break open the premises.

For Appellant(s): M/s.M.Arunachalam

For Respondent(s): M/s. Aditya Sarangarajan

ORDER

This Application was filed for appointment of an Advocate Commissioner to seize and deliver the Asset being a motor vehicle available with the respondent, pursuant to the award passed by the Arbitral Tribunal dated 18.11.2024.

2.When the matter was taken up for hearing on 16.06.2025, this Court passed the following order:

“This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 seeking for appointment of an Advocate Commissioner by this Court to



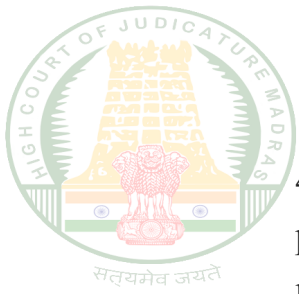
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repossess the asset/vehicle from the respondents or wherever available.

2. Earlier the applicant was having the benefit of an order passed by this Court, wherein an Advocate Commissioner was appointed to repossess the asset/vehicle from the respondents or wherever available. However, since the asset/vehicle could not be located, this Court had closed the application by granting liberty to the applicant to file a fresh application as and when the asset is found. The applicant now claims that the asset / vehicle has been traced and so, he has come forward with this application seeking for appointment of an Advocate Commissioner.

3. The applicant had paid the initial remuneration to the Advocate Commissioner while this Court had earlier appointed an Advocate Commissioner in the earlier application viz., Arb. Appln. No.904 of 2024 filed by the very same applicant. An Arbitral Award has also been passed in favour of the applicant/claimant against the respondents, dated 18.11.2024. Till date, the respondents have not settled the dues of the applicant as per the Arbitral Award. Under the Loan cum Hypothecation Agreement as well as under the Arbitral Award, the applicant is entitled to repossess the asset / vehicle from the respondents or wherever available. Since the respondents are defaulters in the repayment of the loan to the applicant and since the applicant is having the benefit of an Arbitral Award passed in their favour against the respondents, the prayer sought for in this application has to be granted. The applicant has also stated that the asset / vehicle is moving from place to place and therefore, through an Executing Court, the relief sought for in this application cannot be granted to secure the interest of the applicant.



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4. This Court is satisfied that the applicant has made out a prima facie case for appointing an Advocate Commissioner to repossess the asset / vehicle from the respondents or wherever available as prayed for in this application. The balance of convenience and irreparable hardship have also been established by the applicant. Accordingly, the following order is passed by this Court :

a) Appoints Mr.Ponram Rajaa, Advocate, having office at No.438, Additional New Law Chambers, High Court Campus, Chennai – 104 (Mobile No.9677245241), the very same Advocate Commissioner, who was appointed in the earlier application viz., Arb. Appln. No.904 of 2024 to repossess the asset/vehicle morefully described in the schedule to the Judges Summons from the respondents or wherever it is available;

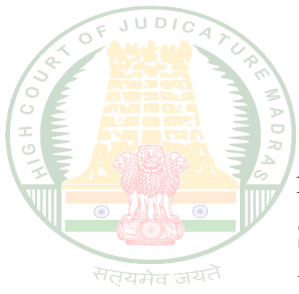
b)The Advocate Commissioner is permitted to obtain the police aid whenever required and he is also permitted to break open the premises in case the asset/vehicle is kept in a locked premises in the presence of the police after taking proper inventory.

5. Notice to the respondents, returnable by 21.07.2025. Private notice is also permitted.

6. Post the matter on 21.07.2025.”

3. When the case was once again listed for hearing on 21.07.2025, the following order came to be passed by this Court:

“The notices sent to the respondents have been returned “unserved”. The returned covers along with the delivery



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reports have also been filed along with the Affidavit of Service. However, the respondents are now represented by a learned counsel, who seeks time to file a counter in this application.

2. The Advocate Commissioner appointed by this Court in this application has repossessed the asset/vehicle from the respondents and

has handed over the custody of the same to the applicant. A report has also been filed by the Advocate Commissioner, dated 21.07.2025 to that effect. The Advocate Commissioner submits that he had spent two days time for executing the Warrant of Commission. The Advocate Commissioner was paid an initial remuneration of Rs.25,000/-.

3. The applicant is now directed to pay an additional remuneration of Rs.40,000/- (Rupees forty thousand only) to the Advocate Commissioner, within a period of two weeks from the date of receipt of a copy of this order.

4. Registry is directed to print the name of Mr.Aditya Sarangarajan as learned counsel for the respondents on the next hearing date.

5. Post the matter for counter and disposal on 12.08.2025.”

4. When the matter is taken up for hearing today, the learned counsel for the respondents submitted that a counter affidavit has been filed and seeks for some more time to argue this case.



5. In the considered view of this Court, pursuant to the order passed on 16.06.2025, the Advocate Commissioner has seized the car and it has been handed over to the applicant. Hence, there is nothing more to be adjudicated in this application.

6. The learned counsel for the respondents submitted that an ex-parte award was passed and it came to the knowledge of the respondents very recently and the respondents have already taken steps to challenge the same under Section 34 of the Act.

7. It is left open to the respondents to challenge the award in the manner known to law. It is also left open to the respondents to approach the applicant and seek for compromise, if so advised. Ultimately, the applicant has seized the car and it is kept in their custody in order to ensure that they are able to execute the award. Therefore, the respondents can always work out their remedy and it is not necessary for this Court to deal with the counter of the respondents to pass final orders in this application. In other words, the order



passed by this Court on 16.06.2025 is a *fait accompli* and thereafter, there was nothing more to deal with in this application.

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8. With the above observations, this Application is disposed of.

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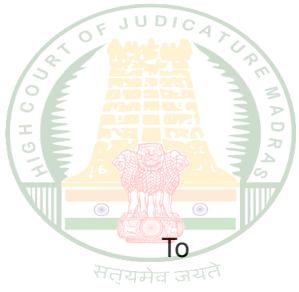
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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



To

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**N.ANAND VENKATESH, J.
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