



WEB COPY

Arb Appln No. 753 of 202



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-09-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 753 of 2025

M/s Mercedes-Benz Financial Services
India Private Limited
5th Floor, Plot 8, Baashyam Willow
Square 9 and 10, First Street, Thiru Vi
Ka Industrial Estate, Guindy, Chennai
600 032 rep by its Authorised Signatory

Applicant(s)

Vs

M/s Geburt Plast Private Limited
A 56 Sector 83, Phase-2, Noida,
Gautam Buddha Nagar, Uttar Pradesh
201 305.

Respondent(s)

PRAYER

To appoint the Advocate Commissioner to seize and take possession of the Vehicle which is more fully described in the schedule to the Judges Summons which is lying in the custody of Respondent or Respondent's men, agents, servants from respondent premises or wherever found with Police aid and break



open the premises if necessary.

For Applicant(s): Mr.D.Pradeep Kumar

For Respondent(s): Mr. R.M.Pradeepan
Advocate Commissioner
Report D.No. 34662, Dt.
02/09/2025

ORDER

When this application came up for hearing on 18.06.2025, 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 repossess the vehicle from the respondent or wherever available.

2. The respondent is a defaulter in the repayment of the loan to the applicant. The Loan cum Hypothecation Agreement, dated 28.12.2023 contains an arbitration clause. In case of default, the applicant is empowered to repossess the vehicle from the respondent or wherever available. As on date, only 14 instalments have been paid by the respondent out of 17 instalments payable. The respondent is in arrears of 3 instalments and the same works out to Rs.2,87,620/-. The applicant has already recalled the loan through their loan recall notice, dated 19.02.2025. The statement of account has also been filed along with this application, which discloses that a sum of Rs.66,48,102.83 is due and payable by the respondent, which includes the arrears of instalments, future instalments payable by the respondent, penal interest and other charges as per the terms and conditions of the Loan cum Hypothecation Agreement dated 28.12.2023. The applicant has also expressed



WEB COPY

its willingness to go for arbitration in accordance with the arbitration clause contained in the contract, which is the subject matter of the dispute between the parties.

3. The applicant has made out a prima facie case for the appointment of an Advocate Commissioner by this Court to repossess the vehicle from the respondent or wherever available. The balance of convenience and irreparable hardship have also been established. Once the vehicle is repossessed by the Advocate Commissioner, to enable the respondent to use the vehicle once again, they must be put on terms for getting back the vehicle from the applicant after re-possession. In order to strike a balance, the following order is passed by this Court:

a) Mr. R.M. Pradeepan, Advocate having office at No.143, Law Chambers, Madras High Court Buildings, Chennai - 600 104 (Mobile No.9840971997) is appointed as the Advocate Commissioner to re-possess the vehicle morefully described in the schedule to the Judges Summons from the respondent or wherever 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 vehicle is kept in a locked premises in the presence of the police after taking proper inventory.

c) On repossession of the subject vehicle, the Advocate Commissioner shall send a Communication to the respondent intimating that a sum of Rs.2,87,620/- is due and payable by the respondent to the applicant in respect of the aforesaid loan agreement.

d) On receipt of such intimation, the respondent shall pay the aforesaid amount within a period of three days from the date of



WEB COPY

receipt of a communication from the Advocate Commissioner and on payment of such sum, the applicant shall handover the vehicle back to the respondent and the Advocate Commissioner shall co-operate with the applicant for the same.

e)The applicant shall initiate arbitration in accordance with the arbitration agreement contained in the contract within a period of 90 days from the date of receipt of a copy of this order. In case, the applicant fails to initiate arbitration within the stipulated time, the order passed by this Court today shall stand automatically vacated and the re-possessed vehicle shall also be redelivered back to the respondent by the applicant unconditionally;

f) The Advocate Commissioner shall be paid an initial remuneration of Rs.25,000/- by the applicant, within a period of one week from the date of receipt of a copy of this order. All the boarding, lodging and travelling expenses for the Advocate Commissioner shall be borne by the applicant.

4. Notice to the respondent, returnable by 23.07.2025. Private notice is also permitted.

5. Post the matter on 23.07.2025.”

2. The matter was once again listed for hearing on 30.07.2025 and the following order came to be passed by this Court:-

“The Advocate Commissioner appointed by this Court has filed a Memo dated 30.07.2025, seeking for a further direction from this Court to enable the Advocate Commissioner to execute the warrant of commission.



WEB COPY



2. The Advocate Commissioner has already made efforts by visiting the respondent premises for the purpose of executing the warrant of commission. However, he has expressed difficulty in executing the warrant of commission since the Station House Officer-cum-Inspector of Police, Knowledge Park Police Station, Greater Noida, Uttar Pradesh has refused to cooperate with the Advocate Commissioner to enable him to execute the warrant of commission.

3. In view of the same, the Advocate Commissioner is seeking for a direction from this Court to the Commissioner of Police, Greater Noida, Uttar Pradesh to render all assistance for the Advocate Commissioner to execute the warrant of commission.

4. As requested by the Advocate Commissioner, this Court directs the Commissioner of Police, Greater Noida, Uttar Pradesh to render all assistance to the Advocate Commissioner to execute the warrant of commission, issued to him pursuant to the order passed by this Court on 18.06.2025 in Arb.Appln.No.753 of 2025.

5. Notice sent to the respondent has been duly received by the respondent as seen from the delivery report filed along with Affidavit of Service. The name of the respondent has also been printed in the Cause List today i.e., on 30.07.2025. However, the respondent remains unrepresented. Hence, the respondent is set ex parte by this Court.

6. Time is extended for the Advocate Commissioner to execute the warrant of commission till the next hearing date.

7. Post the matter “for reporting compliance” on 03.09.2025.”



3. When the matter was taken up for hearing today, the Advocate Commissioner has filed the report along with typed set of papers. The relevant portion in the report is extracted hereunder:-

“8. Thus, the vehicle viz., Mercedes-Benz E200, bearing Engine No.26492080339579, Chassis No.W1KZG8ABXPL058794 and registered as UP16EB7100 was seized by me and I served the Letter to Mr.Prince Walia, Team Manager, Mercedes-Benz Financial Services India Private Limited for handing over the custody of the vehicle on 23.08.2025 and he acknowledged the same. The Inventory List, Photograph and the Letter for handing over the custody of the vehicle with applicant acknowledgement have been enclosed herewith.”

4. The respondent has been served in this case and they were set ex parte even during the previous hearing.

5. The learned Advocate Commissioner has filed a memo seeking for additional remuneration. Considering the fact that the seizure had taken place at Uttar Pradesh and considering the efforts taken by the Advocate Commissioner, this Court is inclined to grant an additional remuneration of Rs.25,000/- to the learned Advocate Commissioner payable by the applicant.

6. Recording the above developments, this arbitration application is disposed of.

03-09-2025

SS



WEB COPY

Arb Appln No. 753 of 202



**N.ANAND
VENKATESH J.**

SS

**Arb Appln No. 753 of
2025**

03-09-2025