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Arbitration Application No.805 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2025

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THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

Arbitration Application No.805 of 2025

Tata Capital Limited
By its Associate Legal Remedial
R.Kamalakkannan
Having its office at
I Floor, Centennial Square
6A, Dr.Ambedkar Salai
Kodambakkam
Chennai – 600 024.

.... Applicant

Vs

Kalaimurugan Ramasamy
3 77 Ayyar Street, Urappuli
Paramakudi, Ramanathapuram Dt.,
Landmark – Temple
Ramnad, Tamil Nadu
Pin code – 623 707.

..... Respondent

Prayer : Application filed under Order XIV Rule 8 of O.S.Rules read with Section 9(II)(b),(d) & (e) of Arbitration Act, 1996, praying to pass an order appointing an Advocate Commissioner to seize and deliver the TATA HITACHI CONSTRUCTION MACHINERY COMPANY PVT. LTD. - CEQ, TATA



SHINRAI PRIME 2WD BHL Model bearing Engine No.2PY3167, CHASIS No.THEWACD0VR0003223 bearing Registration No.TN65BU6332 with all accessories fitted to the vehicle lying at 3 77 Ayyar Street, Urappuli, Paramakudi, Ramanathapuram Dt, Landmark – Temple, Ramnad, Tamil Nadu, Pincode – 623 707 or wherever it is found morefully described hereunder with police aid or break open the premises or from wherever found and handover the same to the applicant.

For Applicant : Mr.N.K.Vanan

For Respondent : Ms.E.Kavipriya, Advocate Commissioner
Hence, respondent set exparte by this
Court by order dated 30.07.2025.

ORDER

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 for appointment of an Advocate Commissioner to repossess the vehicle from the respondent, whereever it is available.

2. When the application came up for hearing on 24.06.2025, this Court passed the following order :

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



WEB COPY



Arbitration Application No.805 of 2025

morefully described in the schedule to the judges summon from the respondent or wherever available.

2.The respondent is a defaulter in re-payment of the loan to the applicant. The respondent had availed loan for the purchase of vehicle. The respondent has paid only 6 installments out of 59 instalments, which are due and payable to the applicant. As on 03.06.2025, a sum of Rs.1,51,873/- is due and payable by the respondent to the applicant. The applicant has already recalled the loan by issuing notice to the respondent. Under the loan agreement, the applicant is empowered to re-possess the vehicle from the respondent in case the respondent commits default. The applicant has expressed its difficulty in re-possessing the vehicle on their own. Only under the said circumstances, the applicant has filed this application seeking for appointment of an Advocate Commissioner by this Court. In the loan agreement, there exists an arbitration clause. The applicant has expressed its willingness to go for arbitration in accordance with the arbitration clause.

3.Supporting documents have been filed by the applicant in support of this application. Since a prima facie case has been made out by the applicant for appointment of an Advocate Commissioner, this Court is inclined to appoint an Advocate Commissioner as prayed for in this application. To enable the respondent to take back possession of the vehicle from the



WEB COPY



Arbitration Application No.805 of 2025

Advocate Commissioner, 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) Ms.E.Kavipriya, Advocate, having office at No.282, New Additional Law Chamber, High Court Building, Parrys, Chennai - 600 104 (Mob. No.81900 24590) is appointed as the Advocate Commissioner to re-posses the vehicle, morefully described in the schedule to the Judges Summons from the respondent from his premises or wherever available;

b) The Advocate Commissioner, after re-possessing the vehicle, shall handover interim custody of the same to the applicant, who shall keep it in their safe custody;

c) The Advocate Commissioner, immediately after re-possessing the subject vehicle, shall intimate the respondent either through Registered Post with Acknowledgment Due (RPAD) or by hand delivery through a written communication that the arrears of installments work out to Rs.1,51,873/-;

d) The respondent, on payment of Rs.1,51,873/- to the applicant within a period of three days from the date when the subject vehicle was re-possessed, is entitled for return of the seized vehicle. On receipt of the sum of Rs.1,51,873/- within the stipulated time as stated supra, the applicant shall re-deliver the subject vehicle back to the respondent with proper acknowledgment and the



WEB COPY



Arbitration Application No.805 of 2025

advocate commissioner shall also render proper assistance 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 today. 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)In case, the Advocate Commissioner requires Police assistance due to any law and order problem or due to any obstruction caused by the respondents or by any third party, while re-possessing the vehicle, the advocate commissioner is at liberty to seek police assistance from the concerned police station and the police department shall grant police protection accordingly. In case, break open of the premises, where the vehicle is located, is required, the Advocate Commissioner shall break open the premises in the presence of the police and take an inventory and thereafter re-posses the vehicle;

g)The Advocate Commissioner shall be paid an initial remuneration of Rs.25,000/- and on receipt of the same, the advocate commissioner shall proceed to execute this order. All the boarding, lodging and travelling expenses for the Advocate Commissioner shall



be borne by the applicant.

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Notice to the respondent returnable by 30.07.2025. Private Notice is also permitted.”

3. Pursuant to the above order, notice was served on the respondent. Since the respondent remained unrepresented, the respondent was set exparte by this Court by an order dated 30.07.2025.

4. When the matter was taken up for hearing today, it was brought to the notice of the Court that the Advocate Commissioner was not able to trace the vehicle till date.

5. In view of the above, it is quite apparent that the respondent is attempting to secret the vehicle and that is the reason why the respondent is neither appearing before the Court nor the vehicle is able to be traced till date.

6. In the light of the above discussion, this Court is inclined to substitute Mr.R.Kamala Kannan, Associate Legal Remedial [Mobile No.99404-26006], as Court Receiver, in the place of the Advocate Commissioner, who can seize the subject vehicle from the respondent or wherever it is found, with the police aid.



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Arbitration Application No.805 of 2025

7. This application stands disposed of in the above terms.

14-10-2025

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Arbitration Application No.805 of 2025

N. ANAND VENKATESH., J

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Arbitration Application No.805 of 2025

14.10.2025