



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2025

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CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Arbitration Application No.804 of 2025

Tata Capital Limited,
by its Associate Legal Remedial,
R.Kamalakkannan,
Having its office at
1st Floor, Centennial Square,
6A-Dr.Ambedkar Salai, Kodambakkam,
Chennai – 600 024.

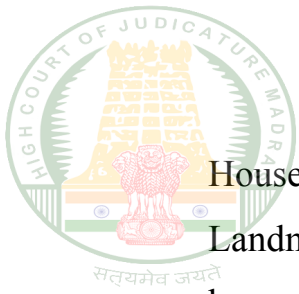
... Applicant

Vs.

Ms.Haneefa Hassan
Thikandi House, Puthan Peedika,
Urakam Malappuram, Oorakam,
Melmuri, Kerala,
Landmark – Alphonsa Church,
Pin code – 676 519.

...Respondent

Prayer: Arbitration Application filed under Order XIV Rule 8 of O.S.Rules read with Section 9(II) (b), (d) & (e) of Arbitration Act, 1996, to pass an order appointing an Advocate Commissioner to seize and deliver the TATA HITACHI CONSTRUCTION MACHINERY COMPANY PVT.LTD – CEQ TATA SHINRAI PRIME BS4 BHL Model, bearing Engine No.2MS2840, CHASIS No.THEWACDOPN0001282 bearing Registration No.KL10BH3959 with all accessories fitted to the vehicle lying at Thikandi



House, Puthan Peedika, Urakam Malappuram, Oorakam, Melmuri, Kerala,
Landmark – Alphonsa Church, Pin code – 676 519, or more fully 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 : set *ex parte* on 30.07.2025

Advocate Commissioner : Mr.S.K.Bharathmahan

ORDER

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 (Act No.26 of 1996) for appointment of an Advocate Commissioner to seize and deliver the vehicle from the respondent.

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, 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 5 installments out of 46 instalments, which are due and payable to the applicant. As on 03.06.2025, a sum of Rs.3,01,650/- is due and payable by the respondent to the applicant. The applicant has already recalled the loan by issuing notice to



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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 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)Mr.S.K.Bharthmahan, Advocate, having office at MHAA, 1st Floor, High Court Buildings, Chennai - 600 104 (Mob. Nos.94440 82126 & 97902 27113) 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.3,01,650/-;

d)The respondent, on payment of Rs.3,01,650/- 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.3,01,650/- within the stipulated time as stated supra, the applicant shall re-deliver the subject vehicle back to the respondent with



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proper acknowledgment and the 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.

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

3. Notice sent to the respondent was duly served and since the respondent did not choose to contest the case, the respondent was set *ex parte* by this Court by an order dated 30.07.2025.

4. When the matter was taken up for hearing today, the learned Advocate Commissioner filed a report and it is seen that the vehicle has been



seized at Calicut and it has been handed over to the official belonging to the applicant company. The learned Advocate Commissioner has sought for payment of additional remuneration.

5. The relief as sought for in the application has reached its logical end and hence, no further orders are required to be passed in this application.

6. There shall be a direction to the applicant to pay the learned Advocate Commissioner additional remuneration of Rs.20,000/- within a period of three weeks from today.

This application is disposed of in the above terms.

07.10.2025

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Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No



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N.ANAND VENKATESH, J.

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