



Arb Appln No. 803 of 202



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 803 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

Mr.Ajith Kasaragod
IN3430975, Springale Apt, Chilimbi,
Ashok Nagar, Church Road, Dakshin
Kannada, Mangalore,
Landmark- Near Domonic Church,
Karnataka 575 006.

Respondent

PRAYER

To pass an order appointing an Advocate Commissioner to seize and deliver the vehicle MARUTI SUZUKI INDIA LIMITED - WAGON R ZX1 Model bearing Engine No.K12NN1003005 Chassis No.MA3JMTCSBPB849059 bearing registration No.KA19MN3874 with all accessories fitted to the Vehicle lying at IN3430975, Springale Apt, Chilimbi, Ashok Nagar, Church Road, Dakshin Kannada, Mangalore, Landmark- Near Domonic Church, Karnataka 575 006 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.Snekha A. Joshi
Advocate Commissioner

ORDER

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 for appointment of an Advocate Commissioner to seize the subject vehicle in the custody of the respondent or wherever found, if necessary, with police protection and by breaking open the premises and deliver the same to the applicant.

2. When this 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 60 instalments, which are due and payable to the applicant. As on 03.06.2025, a sum of Rs.79,095/- 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,



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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)Ms.Snekha A.Joshi, Advocate, having office at No.165/1, Seethakathi Salai, Pandur, Kannivakam, Guduvancheri - 603 202 (Mob. No.87544 95152) 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;



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c)The Advocate Commissioner, immediately after repossessing 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.79,095/-;

d)The respondent, on payment of Rs.79,095/- to the applicant within a period of three days from the date when the subject vehicle was repossessed, is entitled for return of the seized vehicle. On receipt of the sum of Rs.79,095/- within the stipulated time as stated supra, the applicant shall re-deliver the subject vehicle back to the respondent with 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-possessioned 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-possessioning 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



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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. When the matter came up for hearing on 30.07.2025, since the notice sent to the respondent was returned with an endorsement 'Addressee Left', this Court permitted the applicant to effect substituted service on the respondent and extended the time for execution of warrant.

4. When the matter was taken up for hearing today, the learned counsel for applicant submitted that the paper publication has been effected. It is brought to the notice of this Court that till date, the Advocate Commissioner is not able to seize the vehicle and the applicant is in the process of finding out the whereabouts of the vehicle.

5. It is clear from the above that the respondent has not chosen to appear before the Court and the whereabouts of the subject vehicle is also not able to be ascertained. Hence the apprehension raised on the side of the applicant that



the respondent is trying to secret the vehicle is prima facie established.

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6. In view of the above, in the place of the Advocate Commissioner, Ms.M.Renu, Legal Manager, Mobile No. 97421 66655, is appointed as Receiver for seizing the subject vehicle from the respondent or wherever it is found and by breaking open the premises, if required, with police aid.

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

08-10-2025

SS

To

Mr.Ajith Kasaragod
IN3430975, Springale Apt, Chilimbi,
Ashok Nagar, Church Road, Dakshin
Kannada, Mangalore
Landmark- Near Domonic Church,
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**N.ANAND
VENKATESH J.**

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