



WEB COPY



1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2025

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Arb.Appln. No.841 of 2025

M/s.IndusInd Bank Ltd.,
Rep. by its Deputy Manager Legal,
I.J.Vasantha Rooban Abishek
Having Office at-
Consumer Finance Division
No.34, G.N.Chetty Road
T.Nagar, Chennai 600 017.

..Applicant

.Vs.

Dhanabal Shanmugam alias S.Dhanabal
S/o.Shanmugam
No.2/283, New Colony
Attupakkam, Attupakkam
Vellore, Tamil Nadu-631051.

..Respondent

For Applicant : M/s.Meera Gnanasekar

ORDER

This application has been filed for appointment of an Advocate Commissioner to seize and deliver the vehicle to the applicant from the respondent.

2.When the application came up for hearing on 30.06.2025, this Court passed the following order:



WEB COPY



This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996, seeking for appointment of an Advocate Commissioner to repossess the vehicle more fully described in the schedule to the Judges Summons from the respondent or wherever it is available.

2. The applicant is a non-banking financial institution. The applicant has lent money to the respondent under the Loan Agreement, dated 03.11.2023. The respondent had availed loan from the applicant for the purchase of vehicle more fully described in the schedule to the Judges Summons.

3. The respondent is a defaulter in the repayment of the loan to the applicant. Supporting documents have been filed by the applicant to substantiate the same. As on date, the respondent is in arrears of three (3) installments, which works out to Rs.3,08,843/-. The applicant has also recalled the loan granted to the respondent through their loan recall notice dated 04.04.2025. As seen from the Statement of Account, a sum of Rs.28,51,479/- is due and payable by the respondent to the applicant which includes future installments, arrears of installments, penal interest and other charges payable as per the terms and conditions of the contract. The applicant is empowered to repossess the vehicle from the respondent, as per the terms of the said loan agreement, in case, he commits default in the repayment of the loan. The applicant claims that they are having difficulty in repossessing the vehicle on their own. Only under those circumstances, they have filed this application seeking for appointment of an Advocate Commissioner to repossess the vehicle from the respondent or wherever available. The Loan Agreement, dated 03.11.2023 contains an arbitration clause. The applicant has expressed its willingness to go for arbitration in accordance with the arbitration clause.



WEB COPY



4.This Court is of the considered view that a prima facie case has been made out by the applicant for appointment of an Advocate Commissioner. Once the vehicle is repossessed by the Advocate Commissioner, to enable the respondent to use the vehicle once again, he 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.Elaiyaraja, Advocate, having his office at No.265, New Additional Law Chamber, High Court Building, Chennai – 600104, Mobile No.90425- 14583, is appointed as Advocate Commissioner to repossess the vehicle more fully described in the schedule to the Judges Summons from the respondent 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 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.3,08,843/- is due and payable towards the arrears of installment 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 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 cooperate with the applicant for the same.



WEB COPY



(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 and lodging expenses shall be borne by the applicant.

(g) Notice to the respondent through Court as well as privately returnable by 04.08.2025.

3. When the matter was taken up for hearing today, it was brought to the notice of this Court that the Advocate Commissioner was not able to seize the vehicle. A report has also been filed by the Advocate Commissioner in this regard.

4. The Advocate Commissioner stated that the respondent paid a sum of Rs.3,00,000/- to the applicant on 02.08.2025. This fact was also confirmed by the learned counsel for the applicant. However, the learned counsel for the applicant submitted that the amount payable by the respondent accumulated and there are dues payable by the respondent to the applicant as on date.



WEB COPY

5. Taking into consideration the fact that the respondent has paid a sum of Rs.3,00,000/- the applicant, the same is in substantial compliance with the earlier order passed by this Court on 30.06.2025.

6. If the respondent has committed any subsequent default, it is left open to the applicant to proceed further to recover the amount by initiating arbitration proceedings.

7. The Advocate Commissioner has filed a memo seeking for additional remuneration. Considering the report submitted by the Advocate Commissioner, there shall be a direction to the applicant to pay additional remuneration of Rs.10,000/- to the Advocate Commissioner.

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

01.09.2025

kp

N. ANAND VENKATESH, J.

KP



WEB COPY



Arb.Appln. No.841 of 2025

01.09.2025