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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. 857 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.Chandana P M
No.30, 1st Cross, Eshwari Nagar
Hosakerehalli Banashankari 3rd Stage
Landmark – Eshwari English School
South Bangalore
Karnataka 560 085

Respondent

PRAYER

To pass an order appointing an Advocate Commissioner to seize and deliver the vehicle MAHINDRA & MAHINDRA LIMITED – MAHINDRA XUV300 W8 0 DS BS6 MT Model, bearing Engine No.EULZC95071, Chassis No.MA1NM2EU1L2C56710 bearing registration No.KA41MC7557 with all accessories fitted to the Vehicle lying at No.30, 1st Cross, Eshwari Nagar, Hosakerehalli Banashankari 3rd Stage, Landmark – Eshwari English School, South Bangalore, Karnataka 560 085 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: Mr.D.Varunraj
Advocate Commissioner

ORDER



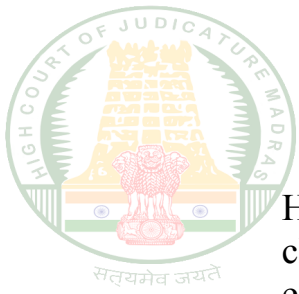
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This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 for appointment of an Advocate Commissioner to seize the subject vehicle in the custody of the respondent or wherever found, if necessary, with police protection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

2. When this application came up for hearing on 01.07.2025, 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 to seize and take possession of the equipment/asset morefully 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 cum Hypothecation Agreement, dated 27.10.2024. The respondent is a defaulter in the repayment of the loan to the applicant. The Loan cum Hypothecation Agreement, dated 27.10.2024 contains an arbitration clause. In case of default, the applicant is empowered to repossess the equipment/asset from the respondent or wherever available. As on date, the respondent is in arrears of three (3) instalments, which works out to Rs.1,39,502/-. The applicant has also recalled the loan granted to the respondent through their loan recall notice, dated 06.05.2025. The statement of account has also been filed along with this application, which discloses that a sum of Rs.19,64,596/- 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



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Hypothecation Agreement dated 27.10.2024. The applicant claims that they are having difficulty in repossessing the equipment/asset on their own. Only under those circumstances, they have filed this application seeking for appointment of an Advocate Commissioner to repossess the equipment/asset from the respondent or wherever available. The applicant has also expressed 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.

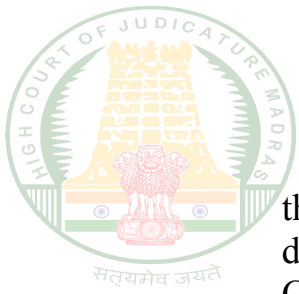
3. The applicant has made out a prima facie case for the appointment of an Advocate Commissioner by this Court to repossess the equipment/asset from the respondent or wherever available. The balance of convenience and irreparable hardship have also been established. Once the equipment/asset is repossessed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

a) Mr.D.Varunraj, Advocate who is having office at No.73/94, 2nd Floor, Venkatadri Street, Kosapet, Chennai 600 012 (Mobile No.9894858477) is appointed as the Advocate Commissioner to repossess the equipment/asset 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 equipment/asset is kept in a locked premises in the presence of the police after taking proper inventory.

c) On repossession of the subject equipment/asset, the Advocate Commissioner shall send a Communication to the respondent intimating that a sum of Rs.1,39,502/- 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



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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 equipment/asset 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 equipment/asset 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 05.08.2025. Private Notice is also permitted. Post the matter on 05.08.2025.”

3. When the matter came up for hearing on 05.08.2025, this Court, taking note of the fact that the notice sent to the respondent had been duly served and there was no representation either in person or through counsel, set the respondent ex parte 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 Advocate Commissioner is not able to seize the vehicle and the applicant is in the process of finding out the whereabouts of the



vehicle.

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5. It is clear from the above that the apprehension raised on the side of the applicant that the respondent is trying to secret the vehicle is prima facie established.

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

Ms.Chandana P M
No.30, 1st Cross, Eshwari Nagar
Hosakerehalli Banashankari 3rd Stage
Landmark – Eshwari English School
South Bangalore
Karnataka 560 085



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**N.ANAND
VENKATESH J.**

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