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Arb.Appln.No.865 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Arbitration Application No.865 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.

Nanma Manufactured Sand,
Xv 504 A 504 B Valakkadu,
Attingal, Thiruvananthapuram,
Kerala Pin code – 695 103.

...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 vehicle
ASSET CATEGORY JAW CRUSHER, MANUFACTURER
PUZZOLANA MACHINERY FABRICATORS (HYDERABAD) LLP,
PUZZOLANA 250TPH PJC11076 JAW, ENGINE NUMBER 392, CHASIS
No.392 with all accessories fitted to the Vehicle Lying at Xv 504 A 504 B



Valakkadu, Attingal, Thiruvananthapuram, Kerala Pin code – 695 103 or wherever it is found more fully described hereunder, with police aid or break open the premises or from wherever found and handover the same to the applicant.

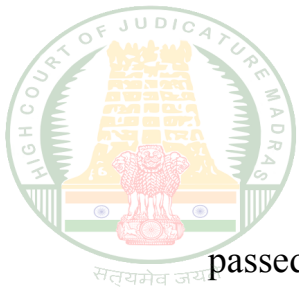
SCHEDULE

Crusher Plant Machinery ASSET CATEGORY JAW CRUSHER, MANUFACTURER PUZZOLANA MACHINERY FABRICATORS (HYDERABAD) LLP, PUZZOLANA 250TPH PJC11076 JAW, ENGINE NUMBER 392, CHASIS No.392 with all accessories fitted to the Vehicle Lying at Xv 504 A 504 B Valakkadu, Attingal, Thiruvananthapuram, Kerala Landmark – Vallakadu, Pin code – 695 103.

For Applicant	:	Mr.N.K.Vanan
For Respondent	:	No appearance

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 equipment in possession of the respondent.



2. When the application came up for hearing on 02.07.2025, this Court

passed the following order:

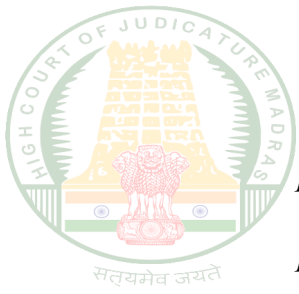
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"This application has been filed under Section 9 of the Arbitration and Conciliation Act, seeking for appointment of an advocate commissioner to repossess the equipment from the respondent or wherever available.

2. The applicant is a non banking financial institution. They lent money to the respondent under an agreement for loan cum hypothecation dated 24.04.2023. The respondent has committed default in the repayment of the loan as per the said agreement. The applicant has also recalled the loan through their loan recall notice dated 15.12.2023. They have also filed a statement of accounts dated 03.06.2025. As seen from the same, Rs.29,75,806/- is due and payable by the respondent to the applicant. The said amount includes the future installments, penal interest and other incidental charges. However, as on date, the respondent is in arrears of installments, which amounts to Rs.10,36,191/-.

3. Under the agreement for loan cum hypothecation dated 24.04.2023, the applicant is empowered to repossess the equipment from the respondent in case they commit default in the repayment of the loan. The applicant has expressed its difficulties to repossess the equipment on their own. Under those circumstances, they have filed this application, seeking for appointment of an advocate commissioner to repossess the equipment. The applicant has also undertaken to initiate arbitration in accordance with clause 13 of the agreement for loan cum hypothecation dated 24.04.2023.

4. This Court, after giving due consideration to the averments contained in the affidavit filed in support of this application and after giving due consideration to the documents filed along with this application, is of the considered view that since the respondent is a defaulter in the repayment of loan, this Court is inclined to appoint an advocate commissioner as prayed for in this application. However, in order to enable the respondent to run the equipment even after repossession by the advocate commissioner, this Court is putting the respondent on terms. According to the applicant, a sum of Rs.10,36,191/- is due and



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payable by the respondent to the applicant towards arrears of installments i.e., more than four installments have not been paid by the respondent to the applicant till date.

5. For the foregoing reasons, this Court issues the following directions:

a) Mr. Gentley Rathnaraj Advocate having address at Old No.152, New No.315, 1st Floor, Thambu Chetty Street, Chennai - 600 001 (Mob. No.98840 41435) is appointed as the advocate commissioner to re-posses the equipment morefully described in the schedule to the Judges Summons from the respondent from their premises or wherever available;

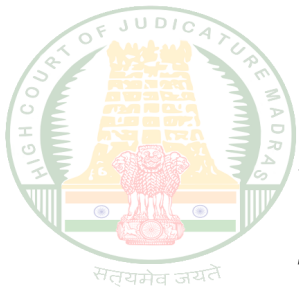
b) The advocate commissioner after re-possessing the equipment, shall handover interim custody of the same to the applicant, who shall keep it in their safe custody;

*c) The advocate commissioner, immediately after re-possessing the subject equipment, 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 works out to **Rs.10,36,191/-**;*

*d) The respondent on payment of **Rs.10,36,191/-** to the applicant within a period of one week from the date when the subject equipment was re-possessed, is entitled for return of the seized equipment, provided an undertaking is given by the respondent that they shall pay the future installments on the due dates, without any default. On receipt of the sum of **Rs.10,36,191/-** within the stipulated time as stated supra, the applicant shall redeliver the subject equipment 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-possessed equipment 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 respondent or by any third party,



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while re-possessing the equipment, 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 equipment 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 equipment;

*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.*

6. Notice to the respondent, returnable by 06.08.2025. Private Notice is also permitted."

3. Pursuant to the above order, learned Advocate Commissioner has attempted to execute the warrant but however, learned Advocate Commissioner was not able to trace the equipment.

4. When the application came up for hearing on 04.09.2025, a learned Advocate undertook to file vakalatnama for the respondent, however, till date no vakalatnama has been filed. The name of the respondent is printed in the cause list but there is no representation for the respondent either in person or through counsel.

5. In view of the above, this Court appoints Mr.Athin Roy, Legal



Officer, Tata Capital Limited, 1st Floor, Puturan Plaza, KPCC Junction,
M.G.Road, Cochin, Kerala - 682011, Phone No.9207586591, as Court

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Receiver to seize the equipment from the respondent wherever it is found, if
required with police aid. The applicant shall also initiate the process of
arbitration since the trigger notice has already been issued.

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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