



Arb. Appln.No.843 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2025

CORAM

THE HON'BLE Mr. JUSTICE N. ANAND VENKATESH

Arb. Appln.No.843 of 2025

IndusInd Bank Ltd.

.. Applicant

vs

M/s.Excell Engineering Works and another

.. Respondents

Prayer: To pass an Order of appointment of an Advocate Commissioner to seize and deliver the Motor Car Chassis No. MA3BNC72SNG505305 Engine No. K15CN9057259, Registration No. TN22DX0136 to the custody of the Applicant, available at the Respondents premises or wherever found and with whomsoever it is found and permit the Advocate Commissioner to obtain Police aid and to break open the premises.

For applicant : Mr.RA.Gopinath

ORDER

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 for appointment of an Advocate Commissioner to seize and deliver the vehicle available with the respondent if required



through police aid and break open the premises.

WEB COPY

2. When the application came up for hearing on 30.06.2025, 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 repossess the vehicle 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 Agreement, dated 02.08.2022. The respondent had availed loan from the applicant for the purchase of vehicle morefully 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 seven (7) installments, which works out to Rs.1,78,500/-. The applicant has also recalled the loan granted to the respondent through their loan recall notice dated 08.05.2025. As seen from the Statement of Account, a sum of Rs.7,91,182/- is due and payable by the respondent to the applicant which includes future installments, arrears of



WEB COPY



Arb. Appln.No.843 of 2025

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, they commit 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 respondents or wherever available. The Loan Agreement, dated 02.08.2022 contains an arbitration clause. The applicant has expressed its willingness to go for arbitration in accordance with the arbitration clause.

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 respondents 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) Ms.C.S.Suriyakala, Advocate, having office at New No.224, Old No.209, Second Floor, Linghi Chetty Street, Room



WEB COPY



Arb. Appln.No.843 of 2025

No.4A, "Asian House", Parrys, Chennai-600 001, Mobile No.89394-52350, is appointed as Advocate Commissioner to repossess the vehicle morefully 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 she 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.1,78,500/- 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.

(e) The applicant shall initiate arbitration in accordance with the arbitration agreement contained in the contract within



WEB COPY



Arb. Appln.No.843 of 2025

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.Pursuant to the above order, the notice was taken on the respondents. It has been served and affidavit of service has also been filed and the names of the respondents are also printed in the cause list. There is no representation either in person or through counsel. The Advocate Commissioner who was appointed by this Court, is said to have seized the vehicle and handed over the same to the representative of the applicant bank.



WEB COPY



Arb. Appln.No.843 of 2025

N. ANAND VENKATESH, J.
vga

4.In the light of the above development and since the respondents have chosen not to contest this case, the earlier order passed by this Court on 30.06.2025 is made absolute and the fact that the vehicle has been seized and handed over to the applicant bank is recorded and this application is disposed of.

vga

23.09.2025

Arb. Appln.No.843 of 2025