



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-10-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 939 of 2025

1. Axis Bank Ltd
Rep. By its Deputy Manager
Mr.Selvaraj
No. 31, 2nd Floor, South Mada
Street, Mylapore, Chennai

Applicant(s)

Vs

1. Abdul Kareem
H.No.4 2 24 1 Singtham Street,
Zahirabad Medak, Sangareddy,
Telangana 502 220 India.

Respondent(s)

PRAYER

To appoint an Advocate Commissioner to take custody of the vehicle bearing MARUTI CAT BSWIFT VXI bearing Chassis No.MBHCZCB3S849868 fitted with K12NP1099444 and Registered as TS15FC8009 from the Respondent or wherever it is found and deliver it to the applicant with liberty to sell and to permit the Advocate Commissioner to obtain Police aid and to break open the premises within which the said vehicle is lying and pass orders.

For Applicant(s): M/s.Uma Vijayan M.R.
For Ms. R. Reka Of M/s. D.R.
Respondent(s): Law Chambers, Advocate



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Commissioner
Court Notice Await Services

ORDER

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 for appointment of an Advocate Commissioner for seizing the vehicle in the custody of the respondent, if necessary, with police protection and by breaking open the premises.

2. When this application came up for hearing on 16.07.2025, 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 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 05.08.2021. The respondent is a defaulter in the repayment of the loan to the applicant. The Loan Agreement, dated 05.08.2021 contains an arbitration clause. In case of



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default, the applicant is empowered to repossess the vehicle from the respondent or wherever available. As on date, the respondent is in arrears of five (5) installments, which works out to Rs.64,765/-. The applicant has also recalled the loan granted to the respondent through their loan recall notice, dated 24.03.2025. The statement of account has also been filed along with this application, which discloses that a sum of Rs.2,56,623/- is due and payable by the respondent, which includes the arrears of installments, future installments payable by the respondent, penal interest and other charges as per the terms and conditions of the Loan Agreement dated 05.08.2021. 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 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 vehicle from the respondent or wherever available.



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The balance of convenience and irreparable hardship have also been established. 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) Ms.R.Reka of M/s.D.R. Law Chambers, Advocate, who is having office at Sigma 202, Raheja Towers, Anna Salai, Chennai – 600 002, (Mobile No.8637634231) is appointed as the Advocate Commissioner to re-posses the vehicle 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 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.64,765/- 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 the aforesaid amount within a period of three days from the date of



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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 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-possessioned 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, lodging and travelling expenses for the Advocate Commissioner shall be borne by the applicant.

4. Notice to the respondent, returnable by 20.08.2025.

Private Notice is also permitted.

Post the matter on 20.08.2025.

3. The private notice sent to the respondent has been served and the affidavit of service has also been filed. There is no



representation either in person or through counsel. Hence, the apprehension raised on the side of the applicant that the respondent is trying to secret the construction equipment is *prima facie* established.

4. In view of the above, in the place of the Advocate Commissioner, Mr.Hadi Mohammad, Deputy Manager, is appointed as the Court receiver and the Court receiver is permitted to seize the vehicle from the respondent or wherever it is found and by breaking open the premises, if required with police assistance.

5. This application stands disposed of in the above terms.

28-10-2025

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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No



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To

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N.ANAND VENKATESH J.
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