



Arb. Appln.No.908 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.908 of 2025

M/s.Profectus Capital Private Limited .. Applicant

vs

M/s.Sri Sathya Agency and others .. Respondents

Prayer: To pass an order of appointing an Advocate Commissioner to seize and deliver the Assets as detailed hereunder is available at Respondents premises or wherever found and permit the advocate commissioner to obtain police aid and to break open the premises and hand over the same to the Applicant.

For applicant : Mr.V.Balasubramani

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 assets available with the respondents.

2.When the matter came up for hearing on 15.07.2025, this Court



Arb. Appln.No.908 of 2025

passed the following order:

WEB COPY

'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, morefully described in the schedule to the judges summon from the respondents or wherever available.

2.The respondents are the defaulters in re-payment of the loan to the applicant. As on date, the respondents are in arrears of five installments due and payable to the applicant, which works out to Rs.15,23,300/-. As per the terms and conditions of the loan agreement, which is the subject matter of this application, the total outstanding amount payable by the respondents to the applicant is Rs.1,13,76,977/-. The statement of account dated 14.07.2025 discloses the same. Under the loan contract, the applicant is empowered to repossess the equipments from the respondents, in case the respondents commit default in the repayment of loan. The applicant has expressed its difficulty in repossessing the equipments on their own and therefore, they approached this Court by filing this Application seeking for appointment of an Advocate Commissioner to re-possess the equipments from the respondents or wherever available. The applicant has expressed its willingness to go for arbitration in accordance with the arbitration clause contained in the loan contract.

3.This Court after giving due consideration to the documents



WEB COPY



Arb. Appln.No.908 of 2025

filed along with the application as well as the averments contained in the affidavit filed in support of this application is of the considered view that a prima facie case has been made out by the applicant for the appointment of an Advocate Commissioner as prayed for in this Application. The balance of convenience and irreparable hardship have also been established by the applicant. However in order to strike a balance to enable the respondents to get back possession of the equipments after the Advocate Commissioner re-possess the same, the respondents are directed to pay arrears of installments amounting to Rs.15,23,300/- to the applicant, within a period of three days from the date of re-possession by the Advocate Commissioner. Accordingly, the following order is passed by this Court:

a)Mr.R.A.Karimullah, Advocate having office at No.338, 2 nd Floor, New Additional Law Chambers, High Court Buildings, Chennai 600 104, (Mobile No.:98943 56643 / 81240 66191) (email : karimullah55advocate@gmail.com) is appointed as the Advocate Commissioner to re-posses the equipments, morefully described in the schedule to the Judges Summons from the respondents or wherever available;

b)The Advocate Commissioner, after re-possessing the equipments, 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 equipments, shall intimate the respondents either through Registered Post with Acknowledgment Due (RPAD)



WEB COPY



Arb. Appln.No.908 of 2025

or by hand delivery through a written communication that the arrears of installments work out to Rs.15,23,300/-;

d)The respondents, on payment of Rs.15,23,300/- to the applicant within a period of three days from the date when the subject equipments was repossessed, is entitled for return of the seized equipments. On receipt of the sum of Rs.15,23,300/- within the stipulated time as stated supra, the applicant shall re-deliver the subject equipments back to the respondents 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 repossessed equipments shall also be redelivered back to the respondents 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 respondents or by any third party, while re-possessing the equipments, 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



WEB COPY



Arb. Appln.No.908 of 2025

thereafter re-posses the equipments;

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.

4.Notice to the respondents returnable by 19.08.2025. Private Notice is also permitted. Post the matter on 19.08.2025.'

3.Pursuant to the above order, the Advocate Commissioner has seized the equipment and has also filed a report along with all the relevant documents. On going through the report, it is seen that the equipment was seized and it was handed over to the representative of the applicant.

4.The learned Advocate Commissioner has also filed a memo seeking for additional remuneration. The respondents have been served with notice and their names are also printed in the cause list and there is no appearance either in person or through counsel.

5.Taking into consideration the earlier order passed by this Court on 15.07.2025 and the equipment has already been seized and handed over to the applicant, no further orders are required to be passed in this application.



Arb. Appln.No.908 of 2025

N. ANAND VENKATESH, J.
vga

WEB COPY

6.Considering the memo filed by the learned Advocate Commissioner, there shall be a direction to the applicant to pay an additional remuneration of Rs.15,000/- to the learned Advocate Commissioner.

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

23.09.2025

vga

Arb. Appln.No.908 of 2025