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Arb.Appln.Nos.909, 911 and 912 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Arbitration Application Nos.909, 911 and 912 of 2025

M/s IndusInd Bank Ltd
Rep. by its Deputy Manager Legal,
I. J. Vasantha Rooban Abishek
Having office at - Consumer Finance Division,
No. 34, G N Chetty Road, T Nagar,
Chennai 600017.

... Applicant
in all Applns.

Vs.

Mohan P
S/o.Purushothaman,
No.3/300, Bajanai Kovil,
Vengadesapuram, Arakkonam,
Perumuchi, Palanipet, Vellore,
Arokonam, Vellore, Tamil Nadu 631 002.

...Respondents
in all Applns.

Prayer:

Arbitration Application No.909 of 2025 filed under Order XIV Rule 8 of O.S. Rules read with Section 9(1)(2)(a)(b)(d) & (e) of the Arbitration Act, 1996, to appoint an Advocate Commissioner to seize and deliver the vehicle/Machinery KUN Commercial Vehicles Pvt Ltd, BharathBenz



2826C, 6x4 4275 WS BSVI bearing Vehicle Registration No.TN73BZ8383, Vehicle Engine No.926956D0169329 and Vehicle Chassis No.MEC841KBCRP161451 to the custody of the Applicant, available at the Respondent 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.

Arbitration Application No.911 of 2025 filed under Order XIV Rule 8 of O.S. Rules read with Section 9(1)(2)(a)(b)(d) & (e) of the Arbitration Act, 1996, to appoint an Advocate Commissioner to seize and deliver the vehicle/Machinery Ashok Leyland UE2820 6x4 RMC 3900 MM WB Chassis fitted with H Series (BS VI) diesel engine day cabin and 7 cum transit mixer 3 nos 295/95D20 8 nos 295/5C20 bearing Vehicle Reg.No.TN73AV7474 Vehicle Engine No.PKBZ410903 and Vehicle Chassis No.MB1H3LHDXPRKH9213 to the custody of the Applicant, available at the Respondent 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.

Arbitration Application No.912 of 2025 filed under Order XIV Rule 8 of O.S. Rules read with Section 9(1)(2)(a)(b)(d) & (e) of the Arbitration Act, 1996, to appoint an Advocate Commissioner to seize and deliver the vehicle/Machinery KOBELCO Hydraulia Excavator Kobelco Model SK 220-10 bearing Vehicle Engine No.YN155058610 and Vehicle Chassis NO.YN15505861 to the custody of the Applicant, available at the



Respondent 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 in all applns. : Ms.Meera Gnanasekar

COMMON ORDER

These applications have 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 Vehicles more fully described in the schedule to the Judges Summons.

2. When these applications came up for hearing on 15.07.2025, this Court passed the following common order:-

"These applications have been filed under Section 9 of the Arbitration and Conciliation Act, seeking for the appointment of an Advocate Commissioner by this Court to repossess the vehicles, morefully described in the schedule to the judges summons from the respondent or wherever available.

2.The respondent is a defaulter in re-payment of the loan to the applicant. The respondent had availed loan for the purchase of vehicles. The applicant has already recalled the loan by issuing notice to the respondent. Under the respective loan agreements, the applicant is empowered to re-possess the vehicles from the respondent in case the respondent commits default. The applicant has expressed its difficulty in re-possessing the vehicles on their own. Only under the said



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circumstances, the applicant has filed these applications seeking for appointment of an Advocate Commissioner by this Court. In the loan agreements, there exist an arbitration clause. The applicant has expressed its willingness to go for arbitration in accordance with the arbitration clause, contained in the respective contracts. In all the contracts, which are the subject matter of these applications, the respondent is in arrears of the payment of installments. The details of the amount due and payable by the respondent to the applicant under the loan contracts, which are the subject matters of these applications, are as follows:

Arb. Appln. Nos.	Agreements Date	Arrears of installments (Rs.)
909/2025	06.06.2024	4,19,337/-
911/2025	13.06.2023	1,83,806/-
912/2025	22.03.2024	2,03,338/-

3.Supporting documents have been filed by the applicant in support of these applications. Since a prima facie case has been made out by the applicant for the appointment of an Advocate Commissioner, this Court is inclined to appoint an Advocate Commissioner. To enable the respondent to take back possession of the vehicles from the Advocate Commissioner, they must be put on terms for getting back the vehicles from the applicant after re-possession. In order to strike a balance, the following order is passed by this Court:

a)Mr.J.Aakash Clinton, Advocate, having office at Flat No.2, Rams Flats, Door No.95/42, Gandhi Nagar, 2nd Main Road, Adyar, Chennai - 600 020 (Mob. No.73388 45054) is appointed as the Advocate Commissioner to re-posses the vehicles, morefully described in the schedule to the Judges Summons from the respondent's premises or wherever available;

b)The Advocate Commissioner, after re-possessing the vehicles, 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 vehicles, 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 work out to Rs.4,19,337/-, Rs.1,83,806/- and Rs.2,03,338/- respectively;*

d) *The respondent, on payment of Rs.4,19,337/-, Rs.1,83,806/- and Rs.2,03,338/- respectively to the applicant within a period of three days from the date when the subject vehicles were re-possessed, is entitled for return of the seized vehicles. On receipt of the sum of Rs.4,19,337/-, Rs.1,83,806/- and Rs.2,03,338/- respectively within the stipulated time as stated supra, the applicant shall re-deliver the subject vehicles 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 vehicles 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 respondents or by any third party, while re-possessing the vehicles, 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 vehicles are 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 vehicles;*

g) *The Advocate Commissioner shall be paid an initial remuneration of Rs.40,000/- 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 Commissioners shall be borne by the applicant.*

Notice to the respondent returnable by 19.08.2025. Private Notice is also permitted."



These applications are disposed of in the above terms.

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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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