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Arbitration Application No.997 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2025

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Arbitration Application No.997 of 2025

Axis Bank Ltd.,
Rep by its Deputy Manager Selvaraj
No.31, 2nd Floor, South Mada Street
Mylapore, Chennai – 600 004.

...Petitioner

Vs.

Palash Chandra Kundu

...Respondent

PRAYER: Arbitration Application filed under Order XIV Rule 8 of O.S.Rules read with Section 9(ii)(a)(b) and (e) of the Arbitration and Conciliation Act, 1996, praying to appoint an Advocate Commissioner to take custody of the vehicle being KIA MOTORS CAT CPrestige bearing Chassis No.-MZBGC814LPN116476G fitted with Engine No.: -G4FLPV587632 and registered as -TS09GD6262 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.



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For Petitioner : M/s.Uma Vijayan M.R.

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 equipment 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 24.07.2025, this Court passed the following order:-

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

2. The applicant is a scheduled bank. They lent money to the respondent under an agreement for loan dated 14.09.2023. 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 24.03.2025. They have also filed a statement of accounts dated 25.02.2025. As seen from the same, Rs.10,52,001.04 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.94,381/-.

3. Under the agreement for loan dated 14.09.2023, the applicant is empowered to repossess the vehicle from the respondent in case they commit default in the repayment of the loan. The applicant has expressed its difficulties to repossess the vehicle on their own. Under those circumstances, they have filed this application, seeking for appointment of an advocate commissioner to repossess the vehicle. The applicant has also undertaken to initiate arbitration in accordance with clause 11 of the agreement for loan dated 14.09.2023.

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 vehicle even after repossession by the advocate commissioner, this Court is putting the respondent on terms. According to the applicant, a sum of Rs.94,381/- is due and payable by the respondent to the applicant towards arrears of installments i.e., 5 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. R. Chellappandiyan, Advocate, having address at



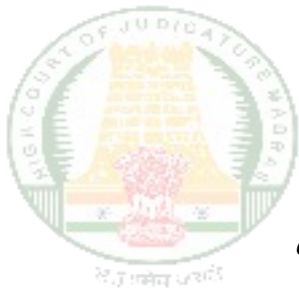
No.31-C, Avvai Nagar, 2nd Street, Burma Colony, Selaiyur, Chennai - 600 073 (Mob. No.98422 85451) is appointed as the Advocate Commissioner to re-posses the vehicle morefully described in the schedule to the Judges Summons from the respondent's premises or wherever available;

b) The Advocate Commissioner after re-possessing the vehicle, 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 vehicle, 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.94,381/-;

d) The respondent, on payment of Rs.94,381/- to the applicant within a period of three days from the date when the subject vehicle was re-possessed, is entitled for return of the seized vehicle, provided an undertaking is given by the respondent that the respondent shall pay the future installments on the due dates, without any default. On receipt of the sum of Rs.94,381/- within the stipulated time as stated supra, the applicant shall re-deliver the subject vehicle 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 vehicle 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, while re-possessing the vehicle, 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 vehicle is located, if required, the Advocate Commissioner shall break open the premises in the presence of the police and take an inventory and thereafter re-posses the vehicle;

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 26.08.2025. Private Notice is also permitted. ”

3. The private notice sent to the respondent has been returned with an endorsement “Insufficient address” and affidavit of service have also been filed. Hence the apprehension raised on the side of the applicant that the



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respondent is trying to secret the equipment is *prima facie* established.

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4. In view of the above, in the place of the Advocate Commissioner, Mr.Kona Manikanta, Senior Manager [Ph.No.93999-44404] is appointed as Receiver for seizing the subject equipment from the respondent or wherever it is found and by breaking open the premises, if required, with police aid.

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

13.11.2025

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N.ANAND VENKATESH, J.,

ds

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