



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 996 of 2025

IndusInd Bank Ltd.,
Consumer Finance Division
rep by its Legal Executive
Mr.Vasantha Rooban Abishek, I.J.
No.34, G.N.Chetty Road
T.Nagar, Chennai 600 017

Applicant

Vs

1. Mr.Kaushik R
2. Mrs.K.Sweta
Flat G2, Block-B, Plot No.38,
The Hive, Sabari Nagar Extension
Samanthi Street, Medavakkam
Chennai 600 100

Respondents

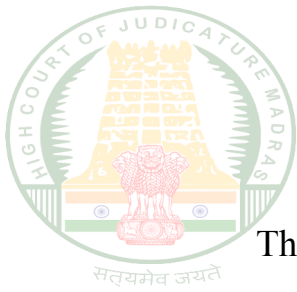
PRAYER

To pass an order of appointment of an Advocate Commissioner to seize and deliver Motor Car with Chassis No.MEXBRLPBXNG022097; Engine No.DUMA26914, Registration No.TN14AD5056 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

For Respondents : Mr.P.Arumugavel
Advocate Commissioner

ORDER



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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 respondents, if necessary, with police protection and by breaking open the premises.

2. When this application came up for hearing on 28.07.2025, 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 by this Court to repossess the vehicle, morefully described in the schedule to the judges summon from the respondents or wherever available.

2.The respondents are defaulters in re-payment of the loan to the applicant. The respondents had availed loan for the purchase of vehicle. The respondents have paid only 22 installments out of 47 instalments. As on date, 25 installments are in arrears, which amount to Rs.10,08,000/- The applicant has already recalled the loan by issuing notice to the respondents. Under the loan agreement, the applicant is empowered to re-possess the vehicle from the respondents in case the respondents commit default. The applicant has expressed its difficulty in re-possessing the vehicle on their own. Only under the said circumstances, the applicant has filed this application seeking for appointment of an Advocate Commissioner by this Court. In the loan agreement, there exists an arbitration clause. The applicant has expressed its willingness to go for arbitration in accordance with the arbitration clause.

3.Supporting documents have been filed by the applicant in support of this application. 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



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an Advocate Commissioner as prayed for in this application. To enable the respondents to take back possession of the vehicle from the Advocate Commissioner, they 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:

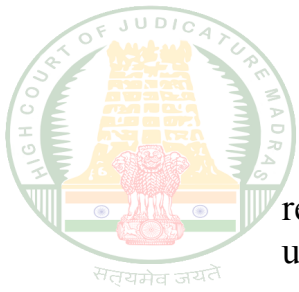
a)Mr.P.Arumugavel, Advocate, having office at No.336, Old No.166, 3rd Floor, Shaw Wallace Building, Thambu Chetty Street, Parrys, Chennai - 600 001 (Mob. No.99413 18067) is appointed as the Advocate Commissioner to re-posses the vehicle, morefully described in the schedule to the Judges Summons from the respondents' 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 respondents 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.10,08,000/-;

d)The respondents, on payment of Rs.10,08,000/- to the applicant within a period of three days from the date when the subject vehicle was repossessed, are entitled for return of the seized vehicle. On receipt of the sum of Rs.10,08,000/- within the stipulated time as stated supra, the applicant shall re-deliver the subject vehicle 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 re-possessed vehicle shall also be



redelivered back to the respondents by the applicant unconditionally;

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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 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, 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 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.

Notice to the respondents returnable by 28.08.2025. Private Notice is also permitted. ”

3. The private notice that was sent to the respondents has been returned with an endorsement “door locked”. Hence the apprehension of the applicant that the respondents are attempting to secret the vehicle is prima facie established.

4. The learned counsel for applicant submitted that the initial remuneration has been paid to the learned Advocate Commissioner.



5. In view of the above, in the place of the Advocate Commissioner, Mr.Vasantha Rooban Abishek I.J., Legal Executive is appointed as Receiver for seizing the subject vehicle from the respondents or wherever it is found and by breaking open the premises, if required, with police aid.

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

08-10-2025

SS

To

1. Mr.Kaushik R
2. Mrs.K.Sweta
Flat G2, Block-B, Plot No.38,
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Samanthi Street, Medavakkam
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**N.ANAND
VENKATESH J.**

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