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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. 1079 of 2025

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

Applicant(s)

Vs

1. Mohd Munshad Khan
16 9 529 Agriculture Office Road,
Malakpet, Amberpet Hyd Ts
Hyderabad Telangana 500 036
India

Respondent(s)

PRAYER

To appoint an Advocate Commissioner to take custody of the vehicle being MARUTI CAT B NEW SWIFT ZXI bearing Chassis No.MBHCZCB3SPFC64099, fitted with Engine No.K12NP1448234 and Registered as TS11FA1548 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.

For Applicant(s): M/s.Uma Vijayan M.R.



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For
Respondent(s): Ms. P.K.E. Kanmani,
Advocate Commissioner

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 06.08.2025, 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 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 vehicle. The respondent has paid only 23 installments out of 60 instalments. As on date, 1 installment is in arrears, which amounts to Rs.16,137/-. The applicant has already recalled the loan by issuing notice to the respondent. Under the loan agreement, the applicant is empowered to re-possess the vehicle from the respondent in case the respondent commits default. The applicant has expressed its difficulty in re-possessing the vehicle on their own. Only under the said circumstances, the applicant has filed



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this application seeking for appointment of an Advocate Commissioner by this Court. In the loan agreement, there exists an arbitration clause. The applicant has already initiated arbitration in accordance with the arbitration clause by issuing notice to the respondent to comply with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996. 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 an Advocate Commissioner as prayed for in this application. To enable the respondent 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)Ms.P.K.E.Kanmani, Advocate, having office at No.292, Additional Law Chamber, High Court Building, Chennai - 600 104 (Mob. No.99404 33358) 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 work out to Rs.16,137/-;



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d)The respondent, on payment of Rs.16,137/- 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. On receipt of the sum of Rs.16,137/- 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 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 respondent returnable by 10.09.2025. Private



Notice is also permitted.

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. Polamuri Madhu Sudhan, 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



To

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16 9 529 Agriculture Office Road,
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Hyderabad Telangana 500 036
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