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IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 08-10-2025**

CORAM

**THE HONOURABLE MR JUSTICE N. ANAND VENKATESH**

**Arb Appln No. 1054 of 2025**

M/s. Smart Credit India Finance  
Limited rep.by its Authorized Signatory  
Mr.K.Jamal Basha  
Having office at 5/26, Nachiyar Towers  
E.V.R.Salai, K.K.Nagar, Trichy 620 021

Applicant

Vs

T.Prem Anand  
S/o Thambusamy  
No.4560, East 4<sup>th</sup> Street  
Pudukkottai 622 001

Respondent

**PRAYER**

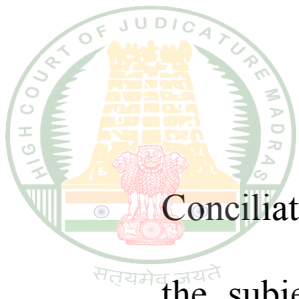
To pass an order of appointment of an Advocate Commissioner to seize and deliver the vehicle/machine NISSAN Motor India Pvt.Ltd. NISSAN Magnite MT XL bearing Vehicle Registration No.TN49CW1668, Vehicle Engine No.B4DA417E073776 and Vehicle Chassis No.MDHFBADD0M5015385 to the custody of the Applicant, 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:: Mrs.Meera Gnanasekar

For Respondent: Mr.C.Kathirudayan  
Advocate Commissioner

**ORDER**

This application has been filed under Section 9 of the Arbitration and



Conciliation Act, 1996 for appointment of an Advocate Commissioner to seize the subject vehicle/machine which is in the custody of the respondent or wherever found, if necessary, with police protection and by breaking open the premises and deliver the same to the applicant.

2. When this application came up for hearing on 05.08.2025, this Court passed the following order:-

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

2. The applicant is a non banking financial institution. They lent money to the respondent under an agreement for loan dated 17.05.2023. 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 28.12.2024. They have also filed a statement of accounts dated 14.07.2025. As seen from the same, Rs.6,69,798 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.2,77,563/-.

3. Under the agreement for loan dated 17.05.2023, 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 22 of the agreement for loan dated 17.05.2023.

4. This Court, after giving due consideration to the



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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.2,77,563/- is due and payable by the respondent to the applicant towards arrears of installments i.e., 13 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) C. Kathirudayan, Advocate having address at No.350, New Addl. Law Chamber, High Court, Madras - 600 104 (Mob. No.98419 24643) is appointed as the advocate commissioner to re-posses the vehicle morefully described in the schedule to the Judges Summons from the respondent from his 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.2,77,563/-;
- d) The respondent on payment of Rs.2,77,563/- to the applicant within a period of three days from the date when the subject vehicle was repossessed, 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.2,77,563/- within the stipulated time as stated supra, the applicant shall redeliver the



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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, 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.

6. Notice to the respondent, returnable by 09.09.2025. Private Notice is also permitted. ”

3. Notice has been served on the respondent and affidavit of service has also been filed. Even though notice has been served on the respondent, there is no appearance either in person or through counsel.



4. It is brought to the notice of this Court that the Advocate Commissioner has seized the vehicle/machine and it has been handed over to the official of the applicant company.

5. In the light of the above development, since the learned Advocate Commissioner has already seized the vehicle/machine and handed over to the applicant and that the respondent has not chosen to appear before this Court, no further orders are required to be passed in this application.

6. There shall be a direction to the applicant to pay a sum of Rs.15,000/- towards additional remuneration to the learned Advocate Commissioner.

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

**08-10-2025**

SS

To

T.Prem Anand  
S/o Thambusamy



No.4560, East 4<sup>th</sup> Street  
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**N.ANAND  
VENKATESH J.**

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