



Arb.Appln.No.1070 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 25.09.2025

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

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M/s.HDB Financial Services Limited
Having one of it branch office at
4th Floor, Loyal Towers, No.68/2
Greams Road, Chennai 600 006
Rep. by its Authorised Signatory P.Saravanan

.. Applicant

Vs.

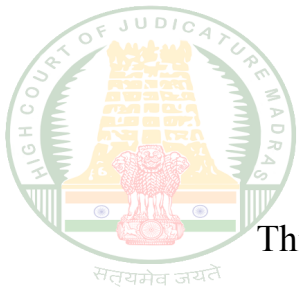
1.Kalaimani Venkatesan
2.Jeena Ananth Venkatesan

.. Respondents

Application filed under Order XIV Rule 8 of the Original Side Rules read with Section 9(ii)(d)&(e) of the Arbitration and Conciliation Act, 1996, to appoint an Advocate Commissioner to seize and deliver the asset “EICHER PRO 3018 PLUS MHSD” Commercial Vehicle bearing Registration No.TN 54 AB 2586 Engine No.E426CDRF481204 and Chassis No.MC2CBMRC0RF111513 available at the respondents premises or wherever found and permit the Advocate Commissioner to obtain police aid and to break open the premises.

For applicant : Mr.M.Arunachalam

ORDER



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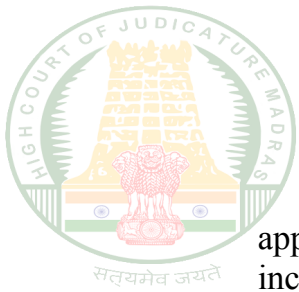
This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996, for appointment of an Advocate Commissioner to seize and deliver the vehicle from the respondents to the applicant.

2. When the matter 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 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 the vehicle. The respondents have paid only 4 installments out of 59 instalments. The arrears of installments alone works out to a total sum of Rs.5,31,353/-. 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 the 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 respondents 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



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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 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.D.Senthil Kumar, Advocate, having office at No.187, New Additional Law Chamber, Madras High Court Building, Chennai - 600 104 (Mob. No.94451 11101) is appointed as the Advocate Commissioner to reposses 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.5,31,353/-;

d)The respondents, on payment of Rs.5,31,353/- to the applicant within a period of three days from the date when the subject vehicle was re-possessed, are entitled for return of the seized vehicle. On receipt of the sum of Rs.5,31,353/- 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



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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 respondents returnable by 10.09.2025. Private Notice is also permitted.”

3. Pursuant to the above order, the learned Advocate Commissioner has seized the vehicle and has handed over the same to the representative of the applicant. A report has also been filed by the learned Advocate Commissioner in this regard.

4. The notices that were sent to the respondents have been returned with an endorsement “refused”. Hence, notices deemed to have been served on the



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respondents.

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5. Considering the fact that the vehicle has already been seized and handed over to the representative of the applicant by the learned Advocate Commissioner and the arbitration proceedings have also been initiated and it is pending, no further orders are required to be passed in this application.

6. The applicant is directed to pay additional remuneration of Rs.15,000/- to the learned Advocate Commissioner.

This application is disposed of in the above terms.

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N. ANAND VENKATESH, J.

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