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Arb.Appln.No.1060 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Arbitration Application No.1060 of 2025

Tata Capital Ltd
1st Floor Centennial Square,
6A Dr Ambedkar Salai,
Kodambakkam, Chennai 600 024

... Applicant

Vs.

Jayachandran .C
G2 and 139 9th Cross 10th Street,
Pattabiram, Chennai 600 072.

...Respondent

Prayer: Arbitration Application filed under Order XIV Rule 8 of O.S. Rules read with Section 9(ii)(b)(d) & (e) of the Arbitration Act, 1996, to appoint an Advocate Commissioner to seize and deliver the asset Hyundai Creta (2018-2019) CRDI 1.4 EPLUS bearing Engine No.D4FCFM372836, Chassis No.MALC281RLFM015860, Reg.No.TN01AY7085 with all accessories fitted to the Vehicle lying No.G2 139, 9th Cross 10th Street, Pattabiram, Chennai 600 072 or morefully described hereunder with police aid or break open the premises or from wherever found and handover the same to the applicant.



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For Applicant : Mr.N.K.Vanan

ORDER

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 (Act No.26 of 1996) for appointment of an Advocate Commissioner to seize and deliver the Asset more fully described in the schedule to the Judges Summons.

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 re-possess 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 40 installments out of 60 instalments. As on 18.07.2025, 8 installments are in arrears, which amounts to Rs.2,59,993/-. 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 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



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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) Mr. S. Krishna Moorthy, Advocate, having office at Madras High Court Advocate Association, High Court Buildings, Chennai - 600 104 (Mob. No. 97908 13537) is appointed as the Advocate Commissioner to re-possess 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. 2,59,993/-;

d) The respondent, on payment of Rs. 2,59,993/- 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. 2,59,993/- 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



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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. Today, when the matter was taken up for hearing, learned counsel for applicant submitted that notice sent to the respondent has been returned with an endorsement "Left" and affidavit of service has been filed before this Court. There is no representation for the respondent either in person or counsel. Hence, the apprehension raised on the side of the applicant that the respondent is trying to secret the Asset is *prima facie* established.

4. In view of the above, in the place of Advocate Commissioner, Mr.Abish D.J, Senior Manager (Legal) is appointed as Receiver for seizing the subject Asset from the respondent or wherever it is found and by



breaking open the premises, if required, with police aid.

WEB COPY This application is disposed of in the above terms.

15.10.2025

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Index: Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation Case : Yes/No



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N.ANAND VENKATESH, J.

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