



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 1089 of 2025

M/s Mercedes-Benz Financial Services
India Pvt.Ltd., (formerly known as M/s
Daimler Financial Services India
Pvt.Ltd.)
5th Floor, Plot 8, Baashyam Willow
Square, 9&10, First Street, Thiru Vi Ka
Industrial Estate, Guindy, Chennai 600
032 Tamil Nadu, India represented by
its Authorised Signatory

Applicant

Vs

1. Kyasaram Praveen Kumar
H No.3-8-35/9/B/1
Fayaz Nagar, Sadasivapet
Medak 502 291

2. Kyasaram Varalaxmi
H No.3-8-35/9/B/1
Fayaz Nagar, Sadasivapet
Medak 502 291

Respondents

PRAYER

To pass an order of appointment of an Advocate Commissioner to seize and deliver the Asset Mercedes-Benz GLC220 D4MATIC BSVI Car bearing Registration No.TS-15-FG-9029, Engine No.65492081408308 and Chassis No.W1N2539156L048249 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



For Respondents: Mrs.V.Nalini
Advocate Commissioner

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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 which is in the custody of the respondents 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 11.08.2025, 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 from the respondents or wherever available.

2.The respondents are defaulters in the repayment of loan to the applicant. As on date, a sum of Rs.41,44,943.87 is due and payable by the respondents to the applicant. As seen from the statement of account dated 30.07.2025 filed along with this application, the said amount includes arrears of installments, penalty and additional interest payable by the respondents to the applicant. The period of the loan contract has already come to an end. Despite the same, as seen from the documents filed along with this application, the respondents have failed to pay 35th and 36th installments, which amount to Rs.40,29,376/- as detailed hereunder:

1 x 29,376	=	29,376/-
1 x 40,00,000	=	40,00,000/-



Total 40,29,376/-

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3.The applicant has already recalled the loan through its loan recall notice dated 12.04.2024. The applicant has already initiated arbitration in accordance with the arbitration clause, contained in the loan contract by filing a petition under Section 11 of the Arbitration and Conciliation Act before this Court in Arb.O.P. (Com.Div.) No.324 of 2025 and the said petition is pending before this Court.

4.According to the applicant, only now the vehicle, which is the subject matter of the loan agreement dated 16.07.2022 and which is the subject matter of this application, is traceable. According to the applicant, despite the period of the loan contract having come to an end and despite the fact that the respondents are defaulters as the respondents have not surrendered the vehicle to the applicant, this application has been filed by the applicant seeking for the appointment of an Advocate Commissioner by this Court.

5.Earlier, the applicant had approached this Court by filing a similar application in Arb.Appln. No.396 of 2025. Since the vehicle was not located, the said application was closed. Even though at the first instance this Court had appointed Ms.V.Nalini, Advocate as the Advocate Commissioner, while closing the application, this Court had also made an observation that if a fresh application is filed, this Court shall consider retaining the very same Advocate Commissioner since the applicant had already paid the initial remuneration to the Advocate Commissioner.

6.This Court, after giving due consideration to the contents of the affidavit filed in support of this application as well as the documents filed along with this application, is the considered view that a prima facie has been made out by the applicant for the appointment of an Advocate Commissioner. The balance of convenience and irreparable



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hardship have also been established by the applicant.

7. Accordingly, the following directions are issued by this Court:

a) Ms. V. Nalini, Advocate, having office at No. 7-A, Sunkurama Street, III Floor, Chennai - 600 001 (Mob. No. 98402 42832) is appointed as the Advocate Commissioner to re-possess the vehicle morefully described in the schedule to the Judges Summons from the respondents from their premises or wherever available;

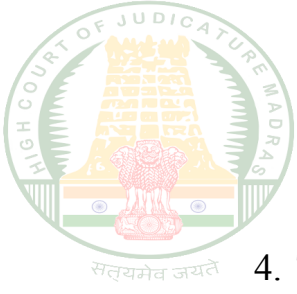
b) The Advocate Commissioner after re-possessing the vehicle, shall handover interim custody of the same to the applicant, who shall keep it in their safe custody;

c) 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 are located, is required, the Advocate Commissioner shall break open the premises in the presence of the police and take an inventory and thereafter re-possess the vehicle;

d) 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 15.09.2025. Private Notice is also permitted.”

3. The private notice sent to the respondents has been returned with an endorsement “no such person” and affidavit of service has also been filed.



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4. The learned Advocate Commissioner has filed the report along with the relevant documents. It is seen from the report that the vehicle has been seized and it has been handed over to the official of the applicant company. The learned Advocate Commissioner has also sought for additional remuneration.

5. In the light of the above development, since the learned Advocate Commissioner has already seized the vehicle and handed over the same to the official of the applicant company, 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.25,000/- towards additional remuneration to the learned Advocate Commissioner.

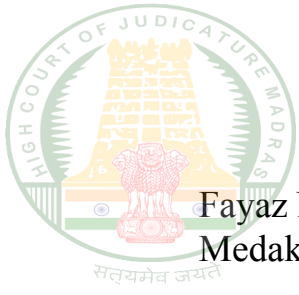
7. This application stands disposed of in the above terms.

08-10-2025

SS

To

1. Kyasaram Praveen Kumar
H No.3-8-35/9/B/1



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2. Kyasaram Varalaxmi
H No.3-8-35/9/B/1
Fayaz Nagar, Sadasivapet
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**N.ANAND
VENKATESH J.**

SS

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