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Arb.Appln.No.1097 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.1097 of 2025

Mishri Finance
39, Kalathi Pillai Street,
Sowcarpet, Chennai
Represented by its Proprietor
K.Pramod Kumar Jain

... Applicant

Vs.

S Muthukumaran
S/o.Mr.V.Selvam,
No.14, Palvadi 2nd Street,
Rathinamangalam Melkottaiyur,
Chennai 600 127
Also at No.8A, Jeeva Nagar,
2nd Street, New Washermenpet,
Chennai 600 081.

...Respondent

Prayer: Arbitration Application filed under Order XIV Rule 8 of O.S. Rules read with Section 9(1)(ii)(a)& (e) of Arbitration Act, 1996, to pass an order of Appointment of an Advocate Commissioner to seize and deliver the tipper vehicle more fully described in the schedule hereunder available at the respondent's premises or wherever found and permit the Advocate Commissioner to obtain police aid and to break open the premises if



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necessary.

For Applicant : Mr.O.Padmaprakash

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 vehicle more fully described in the schedule to the Judges Summons.

2. When the 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, 1996, seeking for appointment of an Advocate Commissioner to repossess the vehicle morefully described in the schedule to the Judges Summons.

2. The applicant is a non-banking financial institute and they have lent money to the respondent for the purpose of purchasing a vehicle under the loan agreement dated 01.09.2023. The respondent has committed default in the repayment of the loan as per the terms and conditions of the loan agreement. The applicant has also recalled the loan through its notices dated 27.02.2024, 19.04.2024, 27.08.2024 and 25.10.2024. As seen from the statement of accounts filed by the applicant, 18 installments are in arrears, which the respondent has not paid to the applicant. The total value of the 18 installments works to Rs.5,04,000/-.



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3. Under the loan agreement dated 01.09.2023, the applicant is empowered to repossess the vehicle in case the respondent commits default in the repayment of the loan. There exists an arbitration clause in the loan agreement dated 01.09.2023. The applicant has expressed its willingness to go for arbitration in accordance with the said arbitration clause. The applicant has expressed its difficulty to repossess the vehicle on its own. Since the applicant has made out a prima-facie case for the appointment of an Advocate Commissioner, this Court is inclined to appoint an Advocate Commissioner for the purpose of repossessing the vehicle from the respondent or wherever it is found. Eventhough this Court is inclined to appoint an Advocate Commissioner to repossess the vehicle morefully described in the schedule to the Judges Summons, an opportunity must be given to the respondent to take back the vehicle from the applicant once a sum of Rs.5,04,000/- is paid within a period of three days from the date of seizure of the said vehicle from the respondent.

4. For the foregoing reasons, this Court is issuing the following directions:-

(a) Ms.K.Tamil Selvi, Advocate, having office at Advocate Association Hall, New Building 1st Floor, High Court, Chennai – 600 104, Mobile No.90430 76329, is appointed as Advocate Commissioner to repossess the vehicle morefully described in the schedule to the Judges Summons from the respondent or wherever it is available.

(b) The Advocate Commissioner is permitted to obtain the police aid whenever required and she is also permitted to break open the premises in case the vehicle is kept in a locked premises in the presence of the police after taking proper inventory.

(c) On repossession of the subject vehicle, the Advocate Commissioner shall send a communication to the respondent intimating that a sum of Rs.5,04,000/- is due and payable towards the arrears of installment by the respondent to the applicant, in respect of the aforesaid loan agreement.

(d) On receipt of such intimation, the respondent shall pay the aforesaid amount within a period of three days from the date of receipt of a communication from the Advocate Commissioner and on payment of such sum, the applicant shall handover the vehicle back to the respondent and the



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Advocate Commissioner shall cooperate with the applicant 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 the date of receipt of a copy of this order. 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 repossessed vehicle shall also be redelivered back to the respondent by the applicant unconditionally.

(f) The Advocate Commissioner shall be paid an initial remuneration of Rs.25,000/- by the applicant within a period of one week from the date of receipt of a copy of this order. All the boarding and lodging expenses shall be borne by the applicant.

5. Notice to the respondent, returnable by 15.09.2025. Private Notice is also permitted.

6. Post the matter on 15.09.2025."

3. Today, when the matter was taken up for hearing, learned counsel for the applicant submitted that notice has been served on the respondent and affidavit of service has been filed. There is no appearance for the respondent either in person or through counsel.

4. In view of the above, Mr.Rajendar Kothari, Manager, is appointed as Receiver for seizing the subject vehicle from the respondent or wherever it is found and by breaking open the premises, if required, with police aid.

This application is disposed of in the above terms. There shall be no



order as to costs.

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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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