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Arb Appln No. 1105 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-10-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arbitration Application Nos. 1105, 1106 and 1107 of 2025

Arb Appln No. 1105 of 2025

M/s Kotak Mahindra Bank Ltd
M/s. Kotak Mahindra Bank Ltd.,
Rep. by its Authorized Signatory,
Having Regional Office At - No. 141,
TVH Agnitio Park, 8th Floor, Old
Mahabalipuram Road, Kandanchavadi,
Chennai - 600096.

Appellant(s)

Vs

1. AK Infra Engineering Pvt Ltd
No.SF 90 3B, Indian Bank Building,
Rep.by its Managing Director, Main
Road, Vallam Nattarmangalam Gingee,
Villupuram, Tamil Nadu 604 206.

2.Jeeva S
Jeeva S. No. 1, Mariyamman Koil
Street, Kizhimampattu Post,
Kalladikuppam Gingee,
Villupuram - 605651, Tamil Nadu.



Respondent(s)

PRAYER

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To pass an order of appointment of an Advocate Commissioner to seize and deliver the vehicle/machinery Daimler India Commercial Vehicles Pvt Ltd., BHARATHBENZ 2823C 6X4 BSVI N3G-4 (Tipper) bearing Vehicle Registration No.TN16U2828 Vehicle Engine No.926956D0140673 and Chassis No.MEC841EBBPP135088 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.

Arb Appln No. 1106 of 2025

1. M/s Kotak Mahindra Bank Ltd
M/s. Kotak Mahindra Bank Ltd., Rep.
by its Authorized Signatory, Having
Regional Office At - No. 141, TVH
Agnitio Park, 8th Floor, Old
Mahabalipuram Road,
Kandanchavadi, Chennai - 600096.

Appellant(s)

Vs

1. AK Infra Engineering Pvt Ltd
No.SF 90 3B, Indian Bank Building,
Rep.by its Managing Director, Main
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Villupuram, Tamil Nadu 604 206.



2.Jeeva S

Jeeva S. No. 1, Mariyamman Koil
Street, Kizhimampattu Post,
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605651, Tamil Nadu.

Respondent(s)

PRAYER

To pass an order of appointment of an Advocate Commissioner to seize and deliver the vehicle/machinery Daimler India Commercial Vehicles Pvt Ltd., BHARATHBENZ 2823C 6X4 BSVI N3G-4 (Tipper) bearing Vehicle Registration No.TN16U2889 Vehicle Engine No.926956D0140642 and Chassis No.MEC841EBBPP135054 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.

Arb Appln No. 1107 of 2025

1. M/s Kotak Mahindra Bank Ltd
M/s. Kotak Mahindra Bank Ltd., Rep.
by its Authorized Signatory, Having
Regional Office At - No. 141, TVH
Agnitio Park, 8th Floor, Old
Mahabalipuram Road, Kandanchavadi,
Chennai - 600096.

Appellant(s)

.Vs.



1. AK Infra Engineering Pvt Ltd
No.SF 90 3B, Indian Bank Building,
Rep.by its Managing Director, Main
Road, Vallam Nattarmangalam Gingee,
Villupuram, Tamil Nadu 604 206.

2.Jeeva S
Jeeva S. No. 1, Mariyamman Koil
Street, Kizhimampattu Post,
Kalladikuppam Gingee, Villupuram -
605651, Tamil Nadu.

Respondent(s)

PRAYER

To pass an order of appointment of an Advocate Commissioner to seize and deliver the vehicle/machinery Daimler India Commercial Vehicles Pvt Ltd., BHARATHBENZ 2823C 6X4 BSVI N3G-4 (Tipper) bearing Vehicle Registration No.TN16U2840 Vehicle Engine No.926956D0135103 and Chassis No.MEC841EBBPP133511 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 Appellant(s): Ms. Meera Gnanasekar



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COMMON ORDER

These applications have been filed under Section 9 of the Arbitration and Conciliation Act, 1996, for repossessing the vehicles from the respondents and to hand over the same to the applicant Bank.

2. These applications came up for hearing on 12.8.2025, this Court passed the following order:

These applications have been filed under Section 9 of the Arbitration and Conciliation Act, 1996, seeking for appointment of an Advocate Commissioner to repossess the vehicles morefully described in the schedule to the Judges Summons.

2. The applicant is a scheduled bank and they have lent money to the respondents for the purpose of purchasing vehicles under the loan agreements dated 17.03.2023. The respondents have committed default in the repayment of the loan as per the terms and conditions of the loan agreements. The applicant has also recalled the loan through its notice dated 09.05.2024. As seen from the statement of accounts dated 15.07.2025 and 10.07.2025 filed by the applicant, more than 16 installments are in arrears, which the respondents have not paid to the applicant. The total value of the 16 installments in all these applications works out to



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Rs.19,36,970/-, Rs.19,62,911/- and Rs.20,61,904/- respectively.

3. Under the loan agreements dated 17.03.2023, the applicant is empowered to repossess the vehicles in case the respondents commit default in the repayment of the loan. There exist an arbitration clause in the loan agreements dated 17.03.2023. 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 vehicles on its own. Since the applicant has made out a prima-facie case for appointment of an Advocate Commissioner, this Court is inclined to appoint an Advocate Commissioner for the purpose of repossessing the vehicles from the respondents or wherever they are found. Eventhough this Court is inclined to appoint an Advocate Commissioner to repossess the vehicles morefully described in the schedule to the Judges Summons, an opportunity must be given to the respondents to take back the vehicles from the applicant once a sum of Rs.19,36,970/-, Rs.19,62,911/- and Rs.20,61,904/- respectively is paid within a period of three days from the date of seizure of the said vehicles from the respondents.

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

(a) Mr.P.Velmurugan, having office at No.75, West Madha Church Road, Royapuram, Chennai-13, Mobile No.9092541000, is appointed as Advocate Commissioner to repossess the vehicles morefully described in the schedule to



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the Judges Summons from the respondents or wherever they are available.

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

(c) On repossession of the subject vehicles, the Advocate Commissioner shall send a communication to the respondents intimating that a sum of Rs.19,36,970/-, Rs.19,62,911/- and Rs.20,61,904/- respectively is due and payable towards the arrears of installment by the respondents to the applicant, in respect of the aforesaid loan agreements.

(d) On receipt of such intimation, the respondents 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 vehicles back to the respondents and the 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 vehicles



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shall also be redelivered back to the respondents by the applicant unconditionally.

(f) The Advocate Commissioner shall be paid an initial remuneration of Rs.50,000/- 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. (g) Notice to the respondents through Court as well as privately returnable by 16.09.2025.

3. Pursuant to the above order, the Advocate Commissioner has filed a report. In the said report, the Advocate Commissioner has stated that the vehicles which is the subject matter in A.Nos.1106 and 1107 of 2025 was seized and handed over to the applicant. However, it is not in a working condition. Insofar as the vehicle which is the subject matter in A.No.1105 of 2025, the same was not able to be seized.

4. The affidavit of service has been filed in all the three applications and it is seen that the notice that was sent to the respondents has been returned with an endorsement 'refused'. Hence, there is a deemed service of notice.



5. In the light of the above development, insofar as Arbitration Application Nos. 1106 and 1107 of 2025, since the vehicles have been repossessed and handed over to the applicant, no further orders are required to be passed. However, there shall be a direction to the applicant Bank to pay a sum of Rs. 15,000/- to the Advocate Commissioner as an additional remuneration in each application.

6. Insofar as Arbitration Application No. 1105 of 2025, this Court is inclined to substitute the Advocate Commissioner with a Receiver. Hence, this Court appoints Mr. V. Shythanya, Assistant Manager, Employee Code: KMBL349106, as the Receiver to seize the vehicle.

Arbitration Application Nos. 1105, 1106 and 1007, are disposed of in the above terms. No costs.

28-10-2025

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Arb Appln No. 1105 of 20



N. ANAND VENKATESH J.,

kp

To

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