



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 1115 of 2025

IndusInd Bank Ltd.,
rep.by its Authorised Representative
Mr.K.Senthil
having its Consumer Finance Division
at No.34, G.N.Chetty Road
T.Nagar, Chennai 600 017

Applicant

Vs

1. Mr.M.Rayappan
S/o G.Michael
No.67, 12th Street Ambethkar Nagar
Ozhalur, Chengalpattu
Tamil Nadu 603 111

2. S.Santhiya
No.67, 12th Street Ambethkar Nagar
Ozhalur, Chengalpattu
Tamil Nadu 603 111

Respondents

PRAYER

To appoint an Advocate Commissioner to seize and deliver the vehicle/machine of the make ASHOK LEYLAND model name BADA DOST I3 LS BS VI with Engine No.HPH036146P Chassis No.MB1AA42EOPRHK6458 bearing registration number TN19AV3661 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 Applicant: Mr.K.Moorthy



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For Respondents: Ms.C.R.Rose Radhi Jijo
Advocate Commissioner

ORDER

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 for appointment of an Advocate Commissioner for seizing the vehicle in the custody of the respondents, if necessary, with police protection and by breaking open the premises.

2. When this application came up for hearing on 19.08.2025, 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 scheduled bank and they have lent money to the respondents for the purpose of purchasing a vehicle under the loan agreement dated 23.08.2023. The respondents have 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 notice dated 02.06.2025. As seen from the statement of account dated 08.08.2025 filed by the applicant, 6 installments are in arrears, which the respondents have not paid to the applicant. The total value of the 6 installments works out to Rs.1,37,836/-.

3. Under the loan agreement dated 23.08.2023, the applicant is empowered to repossess the vehicle in case the respondents commit default in the repayment of the loan. There exists an arbitration clause in the loan agreement dated 23.08.2023. The applicant has expressed its



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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 appointment of an Advocate Commissioner, this Court is inclined to appoint an Advocate Commissioner for the purpose of repossessing the vehicle from the respondents 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 respondents to take back the vehicle from the applicant once a sum of Rs.1,37,836/- is paid within a period of three days from the date of seizure of the said vehicle from the respondents.

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

(a) Ms.C.R.Rose Radhi Jijo, Advocate, having office at No.404, New Addl Law Chamber, High Court Buildings, Chennai-104, Mobile No.8056217550, is appointed as Advocate Commissioner to repossess the vehicle morefully described in the schedule to the Judges Summons from the respondents 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 respondents intimating that a sum of Rs.1,37,836/- is due and payable towards the arrears of installment by the respondents to the applicant, in respect of the aforesaid loan agreement.

(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 vehicle back to the respondents and the



Advocate Commissioner shall cooperate with the applicant for the same.

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(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 respondents 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.

(g) Notice to the respondents through Court as well as privately returnable by 23.09.2025. ”

3. The private notice sent to the respondents has been duly served and affidavit of service has also been filed. Though the names of the respondents have printed in the cause list, there is no appearance either in person or through counsel.

4. In view of the above, in the place of the Advocate Commissioner, Mr.Balaji.M, Chief Manager, Employee No.R26991 is appointed as Receiver for seizing the subject vehicle from the respondents or wherever it is found and by breaking open the premises, if required, with police aid.

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



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**N.ANAND
VENKATESH J.**

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