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Arb.Appln.No.1169 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.1169 of 2025

HDB Financial Services Limited
Having one of its Branch Office at
4th Floor, Loyal Towers,
No.68/2, Greams Road,
Chennai-600 006
Rep. by its Authorised Signatory
Mr.Saravanan P

... Applicant

Vs.

...Respondents

Prayer: Arbitration Application filed under Order XIV Rule 8 of O.S. Rules read with Section 9(ii)(d)& (e) of Arbitration Act, 1996, to appoint an Advocate Commissioner to seize and deliver the Asset AL 2518 Construction Equipments bearing Reg.No.AP-07-TM-4422, Chassis No.MB1HTLHD8JRAY9067 and Engine No.JFHZ409742 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



ORDER

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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 the application came up for hearing on 21.08.2025, 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 repossess the equipment, morefully described in the schedule to the judges summon from the respondents or wherever available.

2.The respondents are defaulters in re-payment of the loan to the applicant. The respondents had availed loan for the purchase of the equipment. The respondents have paid only 17 installments out of 35 instalments. As on date, they are in arrears of 7 installments. The arrears of installments alone work out to a total sum of Rs.3,85,700/-. The applicant has already recalled the loan by issuing notice to the respondents. Under the loan agreement, the applicant is empowered to re-possess the equipment from the respondents in case the respondents commit default. The applicant has expressed its difficulty in re-possessing the equipment on their own. Only under the said circumstances, the applicant has filed this application seeking for the appointment of an Advocate Commissioner by this Court. In the loan agreement, there exists an arbitration clause. The applicant has already initiated arbitration in accordance with the arbitration clause and the arbitration is still in progress.



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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 respondents to take back possession of the equipment from the Advocate Commissioner, they must be put on terms for getting back the equipment from the applicant after re-possession. In order to strike a balance, the following order is passed by this Court:

a)Ms.K.Mallika, Advocate, having office at No.20, EVR Street, Meenambakkam, Chennai - 600 027 (Mob. No.95977 23014) is appointed as the Advocate Commissioner to re-posses the equipment, morefully described in the schedule to the Judges Summons from the respondents' premises or wherever available;

b)The Advocate Commissioner, after re-possessing the equipment, 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 equipment, shall intimate the respondents 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.3,85,700/-;

d)The respondents, on payment of Rs.3,85,700/- to the applicant within a period of three days from the date when the subject equipment was re-possessed, are entitled for return of the seized equipment. On receipt of the sum of Rs.3,85,700/- within the stipulated time as stated supra, the applicant shall re-deliver the subject equipment back to the respondents with proper acknowledgment and the Advocate Commissioner shall also render proper assistance for the same;

e)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 equipment, the Advocate Commissioner is at liberty to seek police assistance from the concerned police station and the police department shall



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grant police protection accordingly. In case, break open of the premises, where the equipment 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 equipment;

f)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 25.09.2025.

Private Notice is also permitted."

3. The private notice sent to the respondent has been returned with an endorsement "party left without instructions" and affidavit of service has also been filed. The notice has been sent only to the address shown in the agreement dated 26.07.2023. Hence the apprehension raised on the side of the applicant that the respondent is trying to secret the equipment is *prima facie* established.

4. In view of the above, Mr.Malla Chandrasekaran, 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.

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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