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Arb.Appln.No.1206 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.1206 of 2025

Tata Capital Limited
Tower A, 11th Floor, Peninsula Business Park
Ganpatrao Kadam Marg, Lower Parel,
Mumbai - 400013,
having one of the Branch Office at
Centennial Square, 1st Floor
No.6A, Dr.Ambedkar Salai
Kodambakkam, Chennai-600 024
Represented by its Authorised Signatory
Mr.Kamalakkannan

... Applicant

Vs.

Viju Sagar
Ezhuvar Parambil House,
Kizhupullikara Thrissur,
Kerala 680 702.
Also at Viju Sagar,
Vegetable Exports Near Bus Stop,
Thrissure, Kerala 680 702.

...Respondents

Prayer: Arbitration Application filed under Order XIV Rule 8 of O.S. Rules read with Section 9(ii)(d) & (e) of the Arbitration Act, 1996, to appoint an Advocate Commissioner to seize and deliver the Asset used Car HYUNDAI EON ERA (M) PETROL vehicle bearing Reg.No.KL 48 J 9680



Engine G3HAGM447564 Chassis No.MALA251ALGM492086 available at the Respondent 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

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 25.08.2025, 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 respondent or wherever available.

2.The applicant is a Non-banking Financial Institution. They have entered into a Loan Agreement dated 26.08.2024 with the respondent. Under the said loan agreement, the respondent has availed loan from the applicant for the purchase of the vehicle, morefully described in the schedule to the judges summons. According to the applicant, the respondent has committed default in re-payment of the loan. The applicant has recalled the loan granted to the respondent through their loan recall notice dated 05.04.2025. No reply has



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been received to the same. The agreement dated 26.08.2024 contains an arbitration clause. The applicant has already initiated arbitration in accordance with the arbitration clause by issuing notice to the respondent to comply with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996.

3. According to them, the respondent has paid only 6 installments out of the total 60 installments payable by them. As on date, they are in arrears of 5 installments. The arrears of installments alone work out to a total sum of Rs.1,19,550/-. The applicant has also filed statement of account dated 07.08.2025 along with this application, which reveals that a sum of Rs.10,28,212/- is due and payable by the respondent to the applicant. The applicant is empowered to repossess the vehicle from the respondent, as per the terms of the loan agreements, in case, the respondent commits default in repayment of the loans. The applicant claims that they are having difficulties in re-possessing the vehicle on their own. Only under those circumstances, they have filed this application seeking for the appointment of an Advocate Commissioner to re-possess the vehicle from the respondent or wherever available.

4. This Court is of the considered view that a prima facie case has been made out by the applicant for appointment of an Advocate Commissioner. Once the vehicle is re-possessed by the Advocate Commissioner, to enable the respondent to use the vehicle once again, they must be put on terms for getting back the vehicle from the applicant after re-possession. In order to strike a balance, the following order is passed by this Court:

a) Mr. T.J. Kulasekar, Advocate, having office at Vedaram Complex, No.7/13, Sunkurama Street, Chennai - 600 001 (Mob. No.98404 00890) is appointed as the Advocate Commissioner to re-possess the vehicle morefully described in the schedule to the Judges Summons from the respondent's 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) The Advocate Commissioner, immediately after re-



possessing the subject vehicle, shall intimate the respondent either through Registered Post with Acknowledgment Due (RPAD) or by hand delivery through a written communication that the arrears of installments works out to Rs.1,19,550/-;

d)The respondent, on payment of Rs.1,19,550/- to the applicant within a period of three days from the date when the subject vehicle was re-possessed, is entitled for return of the seized vehicle. On receipt of the sum of Rs.1,19,550/- within the stipulated time as stated supra, the applicant shall re-deliver the subject vehicle back to the respondent 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 respondent 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 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 vehicle;

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 respondent returnable by 06.10.2025.
Private Notice is also permitted."*

3. Today, when the matter was taken up for hearing, learned counsel for the applicant submitted the private notice sent to the respondent has been served and affidavit of service has also been filed. However, there is no representation for the respondent either in person or through counsel.



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4. In view of the above, Mr.Krishnaprasad, 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.

This application is disposed of in the above terms.

15.10.2025

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Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No



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