



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 1205 of 2025

M/s Tata Capital Limited
Registered Office at
Tower A, 11th Floor, Peninsula Business
Park, Ganpatrao Kadam Marg
Lower Parel, Mumbai 400 013
having one of the Branch Office at
Centennial Square, 1st Floor,
No.6 A, Dr.Ambedkar Salai
Kodambakkam, Chennai 600 024
represented by its Authorised Signatory
Mr.Kamalakkannan

Applicant

Vs

Abdul Azees MP
144 Kodatharanilam House Chevayoor
Near RTO Ground Chevayoor
Kozhikode RTO Ground
Kozhikode 673 017-Kerala

Respondent

PRAYER

To pass an order of appointment of an Advocate Commissioner to seize and deliver the Asset used car “HYUNDAI-VENUE 1.4 CRDI MT SX(O)” vehicle bearing Registration No.KL-11-BQ-1015, Engine No.D4FCKM797907, Chassis No.MALFE81CLKM015793 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

For Respondent: Mr.G.Tamilselvan
Advocate Commissioner



ORDER

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This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 for appointment of an Advocate Commissioner to seize the subject vehicle which is in the custody of the respondent or wherever found, if necessary, with police protection and by breaking open the premises and deliver the same to the applicant.

2. When this 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 17.04.2023 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 06.05.2025. No reply has been received to the same. The agreement dated 17.04.2023 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 22



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installments out of the total 62 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.2,46,490/-. The applicant has also filed statement of account dated 07.08.2025 along with this application, which reveals that a sum of Rs.15,92,597/- 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 repossessing the vehicle on their own. Only under those circumstances, they have filed this application seeking for the appointment of an Advocate Commissioner to repossess 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 repossessed 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.G.Tamilselvan, Advocate, having office at MHAA, 2nd Floor, High Court, Chennai - 600 104 (Mob. No.98415 66778) is appointed as the Advocate Commissioner to reposses 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



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installments works out to Rs.2,46,490/-;

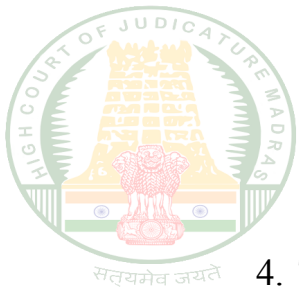
d)The respondent, on payment of Rs.2,46,490/- to the applicant within a period of three days from the date when the subject vehicle was re-possessed, is entitled for return of the seized vehicle. On receipt of the sum of Rs.2,46,490/- within the stipulated time as stated supra, the applicant shall re-deliver 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. The private notice sent to the respondent has been duly served and affidavit of service has also been filed. Though the name of the respondent is printed in the cause list, there is no appearance either in person or through counsel.



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4. The learned Advocate Commissioner has filed the report along with the relevant documents. It is seen from the report that the vehicle has been seized at Kerala and it has been handed over to the official of the applicant company. The learned Advocate Commissioner has also sought for additional remuneration.

5. In the light of the above development, since the learned Advocate Commissioner has already seized the vehicle and handed over the same to the official of the applicant company, no further orders are required to be passed in this application.

6. There shall be a direction to the applicant to pay a sum of Rs.15,000/- towards additional remuneration to the learned Advocate Commissioner.

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

08-10-2025

SS

To

Abdul Azees MP
144 Kodatharanilam House Chevayoor



Near RTO Ground Chevayoor
Kozhikode RTO Ground
Kozhikode 673 017-Kerala

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**N.ANAND
VENKATESH J.**

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