



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 1204 of 2025

M/s HDB Financial Services Limited
Having one of its branch office at:
4th Floor, Loyal Towers,
No.68/2, Greaves Road, Chennai 600 006
rep.by its Authorised Signatory
Mr.P.Saravanan

Applicant

Vs

1. Mr.Orsu Ravi
H No.3-60 Wardhamankota Nagaram
Suryapet, Nalgonda 508 279
Telangana

2. Orsu Anusha
H No.3-60 Wardhamankota Nagaram
Suryapet, Nalgonda 508 279
Telangana

3. Orsu Pandu
H No.3-60 Wardhamankota Nagaram
Suryapet, Nalgonda 508 279
Telangana

Respondents

PRAYER

To pass an order of appointment of an Advocate Commissioner to seize and deliver the asset “JCB 3D X BACKHOE LOADER” Construction Equipment bearing Registration No.TS-27-E-4284, Engine No.H00297610 and Chassis No.RAJ3DXSSH02968708 available at the respondent's premises or wherever found and permit the Advocate Commissioner to obtain police aid and to break open the premises.



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For Applicant: Mr.M.Arunachalam

For Respondents: Mr.M.Rajesh
Advocate Commissioner

ORDER

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 for appointment of an Advocate Commissioner to seize the construction equipment which is in the custody of the respondents 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 repossess the equipment from the respondents or wherever available.

2.The applicant is a Non-banking Financial Institution. They have entered into an agreement for Loan and Guarantee dated 20.01.2024 with the respondents. Under the said loan agreement, the respondents have availed loan from the applicant for the purchase of the equipment, morefully described in the schedule to the judges summons. According to the applicant, the respondents have committed default in re-payment of the loan. The applicant has also recalled the loan granted to the respondents through their loan recall notice dated 19.05.2025. No reply has been received to the same. The agreement dated 20.01.2024 contains an arbitration clause. The applicant has expressed its willingness to go for arbitration in accordance with the arbitration clause.



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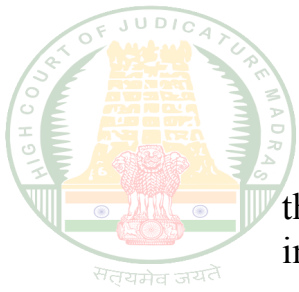
3. According to them, the respondents have paid only 14 installments out of the total 35 installments payable by them. As on date, they are in arrears of 5 installments. The arrears of installments alone works out to a total sum of Rs.4,04,300/-. The applicant has also filed statement of account dated 30.07.2025 along with this application, which reveals that a sum of Rs.16,33,198.16 is due and payable by the respondents to the applicant. The applicant is empowered to repossess the equipment from the respondents, as per the terms of the loan agreements, in case, they commit default in the repayment of the loans. The applicant claims that they are having difficulties in repossessing the equipment on their own. Only under those circumstances, they have filed this application seeking for the appointment of an Advocate Commissioner to repossess the equipment from the respondents or wherever available.

4. This Court is of the considered view that a prima face case has been made out by the applicant for the appointment of an Advocate Commissioner. Once the equipment is repossessed by the Advocate Commissioner, to enable the respondents to use the equipment once again, 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) Mr. M. Rajesh, Advocate, having office at No.103, Law Chambers, High Court Building, Chennai - 600 104 (Mob. No.98401 21088) is appointed as the Advocate Commissioner to re-posses the equipment morefully described in the schedule to the Judges Summons from the respondents from their 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.4,04,300/-;

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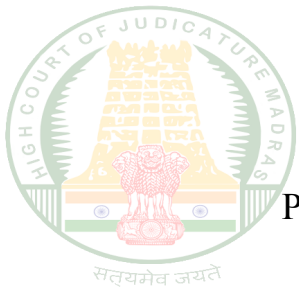
d)The respondents, on payment of Rs.4,04,300/- to the applicant within a period of three days from the date when the subject equipment were re-possessed, are entitled for return of the seized equipment. On receipt of the sum of Rs.4,04,300/- within the stipulated time as stated supra, the applicant shall 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)The applicant shall initiate arbitration in accordance with the arbitration agreement contained in the contract within a period of 90 days from today. 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 re-possessed equipment shall also be redelivered back to the respondents by the applicant unconditionally;

f)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 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;

g)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 06.10.2025.



Private Notice is also permitted. ”

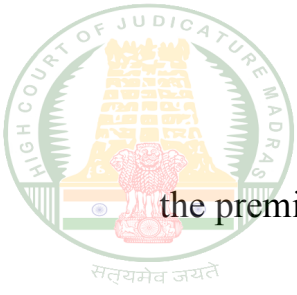
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3. The private notice sent to the respondents 1 & 2 has been returned with an endorsement “addressee left without instructions” and the private notice sent to the 3rd respondent has been duly served and affidavit of service has also been filed. Though the 3rd respondent has been duly served with notice, there is no appearance either in person or through counsel.

4. It is brought to the notice of this Court that till date the Advocate Commissioner is not able to seize the equipment and the applicant is in the process of finding out the whereabouts of the vehicle.

5. It is clear from the above that the respondents have not chosen to appear before the Court and the whereabouts of the equipment is also not able to be ascertained. Hence the apprehension raised on the side of the applicant that the respondents are trying to secret the equipment is prima facie established.

6. In view of the above, in the place of the Advocate Commissioner, Mr.Malla Chandrasekar is appointed as Receiver for seizing the subject equipment from the respondents or wherever it is found and by breaking open



the premises, if required, with police aid.

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

08-10-2025

SS

To

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**N.ANAND
VENKATESH J.**

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