



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-09-2025

WEB COPY

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 1253 of 2025

1. M/s IndusInd Bank Ltd
M/s. IndusInd Bank Ltd., Rep. by
its Assistant Vice President,
A. Ganesh Kumar,
Consumer Finance Division,
No. 34, G N Chetty Road, T
Nagar, Chennai - 600017.

Applicant(s)

Vs

1. Shree Luxmi Stone Crusher
Company
Rep.by its Partner Mr.Satender
Kumar, Khewat No.398, Kheri
Battar, Charkhi Dadri, Bhiwani,
Haryana 127 306.

Respondent(s)

PRAYER

to pass an order of appointment of an Advocate Commissioner to seize and deliver the Vehicle/Machine JCB India Ltd 3DX CEV IV/1.1/0.26/4WD/HOT/LL/2YRPT WRN bearing Vehicle Registration No.HR19T8143 Vehicle Engine No.H00420756 and Chassis No.HAR3DXS4K03387036 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



WEB COPY

Arb Appln No. 1253 of 2025



aid and to break open the premises.

For Applicant(s): M/s.Meera Gnanasekar
For Respondent:

ORDER

This application has been filed for appointment of Advocate Commissioner to seize and deliver the equipment to the applicant lying in the custody of the respondent, their men, agents, servants etc., with police aid and break open premises if necessary.

2. Heard the learned counsel for the Applicant and carefully perused the materials available on record.

3. The specific case of the applicant is that the respondent has not paid more than eight installments and notice was issued to the respondent in this regard on 11.07.2025. Even thereafter, one instalment was paid. The applicant has also given an undertaking that they will initiate arbitration proceedings.

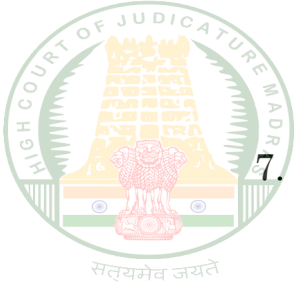
4. In the considered view of this Court, to invoke Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the “Act”), there must be a manifest intention to arbitrate. The law



on this issue was spelt out by the Apex Court in ***[Firm Ashok Traders and another Vs. Gurumukh Das Saluja and others]*** reported in ***2004 3 SCC 155***. The law was again reiterated by this Court in ***[M/s. Cholamandalam Investment and Finance company Ltd. Vs. Harkhabhai Amarshibhai Vaghadiya]*** in ***Arb. Appln. No. 40 etc., of 2022***.

5. It is true that trigger notice under Section 21 of the Act is not imperative. However, there must be a manifest intention to arbitrate the moment dues become payable. In this case, totally eight instalments have not been paid and the notice has been issued to the respondent as early as in July 2025. In view of the same, this Court finds that there is lack of intention to arbitrate.

6. In the light of the above discussion, it is made clear that the right of the applicant is left open to agitate the same before the Arbitral Tribunal and similar prayer can be made under Section 17(1) (ii) (d) of the Act. If such a course is adopted by the applicant, it is left open to the Arbitral Tribunal to decide the same on its own merits and in accordance with law.



7.

This Application is disposed of in the above terms.

WEB COPY

01-09-2025

rka

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

To

1.Shree Luxmi Stone Crusher
Company

Rep.by its Partner Mr.Satender
Kumar, Khewat No.398, Kheri
Battar, Charkhi Dadri, Bhiwani,
Haryana 127 306.



WEB COPY

Arb Appln No. 1253 of 2025



N.ANAND VENKATESH J.
rka

Arb Appln No. 1253 of 2025

01-09-2025