



Arb Appln No. 1236 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 08-10-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 1236 of 2025

M/s 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

1. Kuchipudi Sesharao
S/o.Kuchipudi Paparao,
Dr.No.1-141/1 Asrmamu Street
Undrajavaram Velivenu,
Tadepalligudem 534 329
Andhra Pradesh

2.Kuchipudi Seeta Subbalakshmi
W/o.Kuchipudi Sesharao
Dr.No.1-141/1, Asrmamu Street,
Undrajavaram Velivenu
Tadepalligudem-534329
Andhra Pradesh

Respondents



PRAYER

To appoint an Advocate Commissioner to seize and deliver the Asset TATA HITACHI EX200 SUPER PLUS HD Construction Equipment bearing Machine Sl.No.SP20-57267 available at the Respondent's 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 Respondents: Mr.M.Nawaz Ibrahim
Advocate Commissioner

ORDER

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 for appointment of an Advocate Commissioner for seizing the construction equipment in the custody of the respondents, if necessary, with police protection and by breaking open the premises.

2. When this application came up for hearing on 26.08.2025, this Court passed the following order:-

“This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996, seeking for appointment of an Advocate Commissioner to repossess the vehicle morefully described in the schedule to the Judges Summons.

2. The applicant is a non-banking financial institute and they have lent money to the respondents for the purpose of purchasing a vehicle under the Agreement for Loan and Guarantee dated 17.07.2023. The respondents have



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committed default in the repayment of the loan as per the terms and conditions of the Agreement for Loan and Guarantee. The applicant has also recalled the loan through its loan recall notice dated 13.05.2024. As seen from the statement of account dated 30.07.2025 filed by the applicant, 5 installments are in arrears, which the respondents have not paid to the applicant. The total value of the 5 installments works to Rs.5,00,170/-.

3. Under the Agreement for Loan and Guarantee dated 17.07.2023, the applicant is empowered to repossess the vehicle in case the respondents commit default in the repayment of the loan. There exists an arbitration clause in the said agreement dated 17.07.2023. The applicant has already initiated arbitration in accordance with the said arbitration clause. The applicant has expressed its difficulty to repossess the vehicle on its own. Since the applicant has made out a prima-facie case for appointment of an Advocate Commissioner, this Court is inclined to appoint an Advocate Commissioner for the purpose of repossessing the vehicle from the respondents or wherever it is found. Eventhough this Court is inclined to appoint an Advocate Commissioner to repossess the vehicle morefully described in the schedule to the Judges Summons, an opportunity must be given to the respondents to take back the vehicle from the applicant once a sum of Rs.5,00,170/- is paid within a period of three days from the date of seizure of the said vehicle from the respondents.

4. For the foregoing reasons, this Court is issuing the following directions:-

(a) Mr.M.Nawaz Ibrahim, Advocate, having office at No.191/73, Habbibullah Road, T.Nagar, Chennai – 600



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017, Mobile No.75502 82588, is appointed as Advocate Commissioner to repossess the vehicle morefully described in the schedule to the Judges Summons from the respondents or wherever it is available.

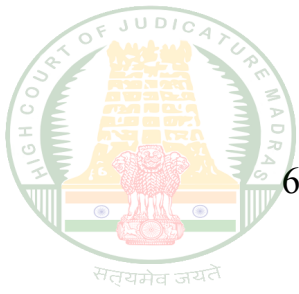
(b) The Advocate Commissioner is permitted to obtain the police aid whenever required and he is also permitted to break open the premises in case the vehicle is kept in a locked premises in the presence of the police after taking proper inventory.

(c) On repossession of the subject vehicle, the Advocate Commissioner shall send a communication to the respondents intimating that a sum of Rs.5,00,170/- is due and payable towards the arrears of installment by the respondents to the applicant, in respect of the aforesaid Agreement for Loan and Guarantee.

(d) On receipt of such intimation, the respondents shall pay the aforesaid amount within a period of three days from the date of receipt of a communication from the Advocate Commissioner and on payment of such sum, the applicant shall handover the vehicle back to the respondents and the Advocate Commissioner shall cooperate with the applicant for the same.

(e) The Advocate Commissioner shall be paid an initial remuneration of Rs.25,000/- by the applicant within a period of one week from the date of receipt of a copy of this order. All the boarding and lodging expenses shall be borne by the applicant.

5. Notice to the respondents, returnable by 07.10.2025. Private Notice is also permitted.



6. Post the matter on 07.10.2025. ”

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3. Notices sent to the respondents have been served and their names are also printed in the cause list. Even though notices had been served on the respondents, there is no appearance either in person or through counsel.

4. The learned counsel for applicant submitted that the initial remuneration has already been paid to the learned Advocate Commissioner.

5. In view of the above, in the place of the Advocate Commissioner, Mr.Malla Chandrasekar, Area Collection Manager 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.

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

08-10-2025

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**N.ANAND
VENKATESH J.**

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