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Arb Appln No. 1234 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 1234 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. AL Tousiff Minerals

Rep.by its Proprietor

D.No.19-3-48/2, Islampet, Bapatla

Guntur, Andhra Pradesh 522 101.

2.Shaik Tousiff Hussain

S/o. Shaik Asiff Hussain,

D No. 16-2-21, Eidgah Road,

Islampeta, Bapatla, Guntur,

Andhra Pradesh 522101.

3.Shaik Asiff Hussain

S/o. Chanda Khadar Basha Shaik,

D No.16-2-21, Eidgah Road /Islampeta

Bapatla, Guntur,

Andhra Pradesh 522101

Respondents



PRAYER

WEB CHITACHI ZX 370 LCH Construction Equipment bearing Machine
Sl.No.THEDD1L0P00001554 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: Ms.M.Benasir Banu
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:-

“Earlier, the applicant had filed an application under Section 9 of the Arbitration and Conciliation Act, 1996, through Arb.Appln.No.530 of 2024, seeking for appointment of an Advocate Commissioner by this Court. This Court had appointed an Advocate Commissioner in that application to repossess the equipment from the respondents or wherever it is available. However, since the respondents have regularised the loan contract, the applicant had withdrawn the said application. Therefore,



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the applicant has once again filed this application under Section 9 of the Arbitration and Conciliation Act, 1996, seeking for appointment of an Advocate Commissioner to repossess the equipment morefully described in the schedule to the Judges Summons.

2. The applicant has also recalled the loan through its 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 out to Rs.9,37,900/-. Under the loan agreement dated 12.10.2023, the applicant is empowered to repossess the equipment in case the respondents commit default in the repayment of the loan.

3. This Court, after giving due consideration to the contents of the affidavit filed in support of this application as well as the documents filed in support of this application, is of the considered view that the applicant has made out a prima-facie case for appointment of an Advocate Commissioner as prayed for in this application. Eventhough this Court is inclined to appoint an Advocate Commissioner to repossess the equipment morefully described in the schedule to the Judges Summons, an opportunity must be given to the respondents to take back the equipment from the applicant once a sum of Rs.9,37,900/- is paid within a period of three days from the date of seizure of the said equipment from the respondents.

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

(a) Ms.M.Benasir Banu, Advocate, having office at



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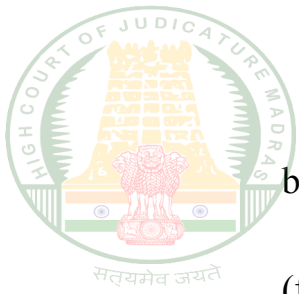
No.243, New Addl. Law Chambers, High Court Building, Chennai-104, Mobile No.7358352282 is appointed as Advocate Commissioner to repossess the equipment morefully described in the schedule to the Judges Summons from the respondents or wherever it is available.

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

(c) On repossession of the subject equipment, the Advocate Commissioner shall send a communication to the respondents intimating that a sum of Rs.9,37,900/- is due and payable towards the arrears of installment by the respondents to the applicant, in respect of the aforesaid loan agreement.

(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 equipment back to the respondents and the Advocate Commissioner shall cooperate with the applicant for the same.

(e) The applicant shall initiate arbitration in accordance with the arbitration clause contained in the contract within a period of 90 days from the date of receipt of a copy of this order. 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 repossessed equipment shall also be redelivered back to the respondents



by the applicant unconditionally.

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(f) 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.

(g) Notice to the respondents through Court as well as privately returnable by 07.10.2025 ”

3. Notices sent to the respondents 1 & 2 have been returned as “no such persons” and the notice sent to the third respondent has been served and his name has also been printed in the cause list. Even though notice has been served on the third respondent, there is no appearance either in person or through counsel.

4. The report filed by the learned Advocate Commissioner reveals that certain important components in the equipment were missing and hence the equipment could not be moved from the spot. The learned Advocate Commissioner has also sought for additional remuneration.

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

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

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To

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**N.ANAND
VENKATESH J.**

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