



Arb.Appln.No.818 of 2024

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P.B.BALAJI, J.

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 seeking for appointment of an Advocate Commissioner to seize and deliver the possession of the Machineries more fully described in the Schedule to the Judge's Summons available at the respondents or wherever found and with whomsoever it is found and entrust the custody of the same to the applicant and permit the Advocate Commissioner to obtain police aid to break open the premises.

2. Heard Mr.R.Prakash, learned counsel for the applicant.

3.The learned counsel for the applicant took me through the typed set of papers, sanction letters as well as the nature of default committed by the respondents. The first respondent is the borrower and the respondents 2 and 3 are guarantors. He would also invite my attention to the loan recall notices issued way back in 22.03.2022 and again in 22.02.2024. In terms of the statement of account, as on 02.09.2024, the respondents are due and payable a sum of Rs.39,20,875/-. Despite the said notices, the respondents have neither chosen to making any payment



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nor have they come forward to reply to the recall notices. The learned counsel for the applicant further submits that the applicant would initiate arbitration proceedings shortly.

4.Considering the above, this Court is inclined to appoint an Advocate Commissioner. Accordingly, this Application is ordered with the following directions:

a) **Ms.P.Hemavathy, Advocate, Enrollment No.5033/2023, having office at No.27-R, 3rd Floor, Thambu Chetty Street, Pandu Klix Plaza, Chennai – 600 001, Ph.No.9566492123,** is appointed as an Advocate Commissioner to repossess the asset, which is more fully described in the schedule to the Judges Summons from the respondents or wherever it is available and handover the same to the applicant by way of interim custody;

b) The Advocate Commissioner is permitted to obtain police aid and break open of the premises in case the seized asset is kept in a locked premises in the presence of the Police, after taking proper inventory;

c) If break open of lock is required, the Advocate Commissioner shall do so in the presence of the police personnel who will counter sign the record of the same by the learned Advocate Commissioner, evidencing the break open of the lock and to re-lock the premises.



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d) If the Advocate Commissioner finds any difficulty with the jurisdictional police, she is at liberty to approach Superintendent of Police, who shall provide all necessary assistance to him at the time of seizure of the asset.

e) Considering the fact that the respondents had taken a loan for the purchase of aforesaid asset, the applicant shall grant the respondents a minimum period of four (4) weeks time to regularise the loan by payment of the defaulted amounts and if the respondents regularise the loan within the said period, then the applicant shall return the seized asset to the respondents. This direction is issued considering equity.

f) The Advocate Commissioner shall be paid his initial remuneration of Rs.30,000/- within a period of six weeks from the date of receipt of a copy of this order or before the Advocate Commissioner executes the Warrant of Commission in accordance with the directions given by this Court. The Boarding, lodging and travel expenses shall be paid by the applicant to the Advocate Commissioner for executing the warrant of Commission.

6. Notice to the respondents returnable by 08.01.2025. Private

Notice is also permitted.



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7. Post the matter on 08.01.2025 under the caption 'for reporting compliance'.

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