



Arb.Appln.No.25 of 2025

Arbitration Application No.25 of 2025

ABDUL QUDDHOSE, J.

WEB COPY

TATA Capital Ltd.,
Chennai.

... Applicant

Vs

D Babu Rao,

... Respondent

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996, seeking for appointment of its employee as a receiver to repossess the vehicle morefully described in the schedule to the Judges Summons.

2. The learned counsel for the applicant on instructions would submit that though a prayer has been sought for to appoint the applicant's own employee as a party receiver, the applicant is now willing for appointment of an Advocate Commissioner by this Court instead of appointment of a party receiver. He has also made an endorsement to that effect in the court bundle.



Arb.Appln.No.25 of 2025

3. The applicant is a non-banking financial institution. The respondent has availed a loan from the applicant under the loan-cum-hypothecation agreement dated 22.12.2020 for the purchase of a vehicle morefully described in the schedule to the Judges Summons. According to the applicant, the respondent committed default in the repayment of the loan as per the terms and conditions of the loan contract dated 22.12.2020. According to the applicant, the respondent has paid only only 37 monthly installments and he has failed to pay the balance installments. According to the applicant, the respondent is in arrears of 12 installments under the loan contract dated 22.12.2020.

4. Under the said loan contract, the applicant is empowered to repossess the vehicle from the respondent in case the respondent commits default in the repayment of the loan. The applicant has stated in their affidavit that they are unable to repossess the vehicle on their own. Only under those circumstances, they have approached this Court by filing this application.



Arb.Appln.No.25 of 2025

5. The applicant had issued a notice to the respondent on 17.12.2023 recalling the loan. A reply has also been received from the respondent on 20.03.2024. The applicant has also filed statement of accounts along with this applications, which discloses that a sum of Rs.3,24,218/- is still due and payable by the respondent. However, the arrears of installment payable by the applicant works out to Rs.2,77,596/-

6. After giving due consideration to the averments contained in the affidavit filed in support of this application and after giving due consideration to the documents filed along with this application and after hearing the submissions of the learned counsel for the applicant, this Court is inclined to appoint an Advocate Commissioner for the purpose of repossessing the subject vehicle from the respondent or wherever it is found, since the applicant has made out a prima-facie case, and the balance of convenience and irreparable hardship have also been established. 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 respondent to take back the vehicle from the applicant once a sum of



Arb.Appln.No.25 of 2025

Rs.2,77,596/- is paid within a period of three days from the date of seizure of vehicle from the respondent.

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

(a) Ms.T.Sreelekha, (Enrl.No.2053/2012)

Advocate, having office at No.256, New Additional Law Chamber , High Court building, Chennai-104, is appointed as Advocate Commissioner to repossess the vehicle morefully described in the schedule to the Judges Summons from the respondent 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 vehicle is kept in a locked premises in the presence of the police after taking proper inventory.

(c) On repossession of the subject vehicle,



WEB COPY



Arb.Appln.No.25 of 2025

the Advocate Commissioner shall send a communication to the respondent intimating that a sum of Rs.2,77,596/- is due and payable towards the arrears of installment by the respondent to the applicant.

(d) On receipt of such intimation, the respondent 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 respondent and the Advocate Commissioner shall cooperate with the applicant 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 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



WEB COPY



Arb.Appln.No.25 of 2025

today shall stand automatically vacated and the re-possessed vehicle shall also be redelivered back to the respondent by the applicant unconditionally.

(f) The Advocate Commissioner shall be paid an initial remuneration of Rs.30,000/- by the applicant within a period of one week from the date of receipt of a copy of this order

(g) Notice to the respondent through Court as well as privately returnable by 12.03.2025.

(h) If steps are not taken to serve the notice on the respondent before the next hearing date, this application shall stand automatically dismissed and the applicant shall also return the subject vehicle to the respondent.

rkm

12.02.2025



WEB COPY



Arb.Appln.No.25 of 2025

ABDUL QUDDHOSE, J.
rkm

Arbitration Application No.25 of 2025

12.02.2025