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Arbitration Application No.1072 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2026

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Arbitration Application No.1072 of 2025

M/s.Mishri Finserve
No.39, Kalathi Pillai Street,
Sowcarpet, Chennai – 600 079.
represented by its Partner,
P.Ankit Jain

.... Applicant

Vs.

S.Saravanan

.... Respondent

Arbitration Application under Order XIV Rule 8 of Original Side Rules r/w Section 9(1)(ii)(a) & (e) of the Arbitration and Conciliation Act, 1996, praying to appoint an Advocate Commissioner to seize and deliver the care more fully detailed in the schedule hereunder available at the respondent's premises or wherever found and permit the Advocate Commissioner to obtain police aid and to break open the premises, if necessary.

For Applicant : Mr.O.Padmaprakash

For Respondent : Mr.Saravanakumaran



ORDER

When this application came up for hearing on 11.08.2025, 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 respondent for the purpose of purchasing a vehicle under the loan agreement dated 10.10.2023. The respondent has committed default in the repayment of the loan as per the terms and conditions of the loan agreement. The applicant has also recalled the loan through its loan recall notices dated 12.01.2024, 25.10.2024, 17.02.2025 and 26.03.2025. As seen from the statement of account filed by the applicant, 14 installments are in arrears, which the respondent has not paid to the applicant. The total value of the 14 installments works to Rs.5,50,900/-.

3. Under the loan agreement dated 10.10.2023, the applicant is empowered to repossess the vehicle in case the respondent commits default in the repayment of the loan. There exists an arbitration clause in the loan agreement dated 10.10.2023. The applicant has expressed its willingness to go for 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 respondent 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 respondent to take back the vehicle from the applicant once a sum of Rs.5,50,900/- is paid within a period of three days from the date of seizure of the said vehicle from the respondent.

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

(a) Ms.A.Saranya, Advocate, having office at No.66,



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Additional Law Chambers, High Court, Chennai – 104, Mobile No.94446 24968, 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, the Advocate Commissioner shall send a communication to the respondent intimating that a sum of Rs.5,50,900/- is due and payable towards the arrears of installment by the respondent to the applicant, in respect of the aforesaid loan agreement.

(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 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.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 respondent, returnable by 15.09.2025. Private Notice is also permitted.

6. Post the matter on 15.09.2025.”

2. After service of notice, the parties were referred to the Mediation Centre. During mediation, the applicant agreed to receive a sum of Rs.12,50,000/- towards full and final settlement.



3. When the matter was taken up for hearing today, learned counsel for applicant submitted that only Rs.1,80,000/- has been settled by the respondent till date.

4. Learned counsel for respondent submitted that he has persuaded the respondent to settle the dispute and that the applicant is not willing to bring down the settlement amount.

5. In the considered view of this Court, sufficient time has been granted to the respondent to settle the dispute. The total claim made by the applicant has been scaled down from Rs.17,00,000/- to Rs.12,50,000/-, out of the said sum, only a sum of Rs.1,80,000/- has been paid by the respondent till 17.12.2025. Thereafter, no payments have been made.

6. The respondent is not willing to settle the dispute and at the same time, the vehicle is also in the possession of the respondent. A case has been made out by the applicant for seizure of the vehicle to be handed over to the applicant and it shall be retained till the completion of the arbitration proceedings.



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4. In view of the above, Ms.A.Saranya, Advocate Commissioner appointed by this Court, is substituted by Court receiver Mr.Ankit Jain, and the Court receiver is permitted to seize the vehicle from the respondent or wherever it is found and by breaking open the premises, if required with police assistance.

This application stands disposed of in the above terms.

23.02.2026

Index:yes/no
Speaking order/Non-speaking order
NCC:yes/no
gm



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N.ANAND VENKATESH, J.

gm

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