



2026:KER:1090

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE S.MANU

THURSDAY, THE 8TH DAY OF JANUARY 2026 / 18TH Pousha, 1947

ARB.A NO. 23 OF 2025

ORDER DATED 21.06.2025 IN MA (ARB.) NO.20 OF 2025 OF
ADDITIONAL DISTRICT COURT & IST ADDITIONAL MOTOR ACCIDENT
CLAIMS TRIBUNAL/RENT CONTROL APPELLATE AUTHORITY,
ALAPPUZHA.

APPELLANT/1ST RESPONDENT:

ATHIRA K S
AGED 34 YEARS
D/O.MADHU P V, KANNANTHARA HOUSE, ITC ,
AIYYANKALI ROAD, MANNANCHERRY, ALAPPUZHA,
PIN - 688538

BY ADVS.
SRI.C.R.SANISH
SRI.KARTHIK S. ACHARYA
SMT.ANJANA K.P.
SHRI.ARJUN SASI

RESPONDENT(S)/PETITIONER AND 2ND RESPONDENT:

- 1 KOTAK MAHINDRA PRIME LIMITED
HAVING ITS REGISTERED OFFICE AT 27BKC, G BLOCK,
BANDRA KURLA COMPLEX, BANDRA EAST, MUMBAI-
400051 AND HAVING ITS BRANCH OFFICE AT 15TH
FLOOR, NIPPON Q1 MALL, NH 66, BY PASS,
PALARIVATTOM, ERNAKULAM, REPRESENTED BY ITS
MANAGER AND AUTHORIZED SIGNATORY PRATHUSH
THOMAS, AGED 33 YEARS, S/O THOMAS P MATHEW.,
PIN - 682028



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2 VIJAYAMMA.V.P
W/O.MANIYAPPAN, MANI BHAVANAM, KARUMADI.P.O,
KANJIPADAM, AMBALAPPUZHA, ALAPPUZHA,
PIN - 688005

BY ADVS.
SRI.B.S.SURESH KUMAR
SRI.ASHLEY JOHN
SMT.RANJANA V.
SMT.ANUSREE C.S.
SHRI.JAISON MATHEW

THIS ARBITRATION APPEALS HAVING COME UP FOR
ADMISSION ON 08.01.2026, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



J U D G M E N T

This arbitration appeal is filed aggrieved by the order dated 21.06.2025 in M.A(Arb.)No.20 of 2025 of the Additional District Court, Alappuzha. The impugned order was passed in an application filed under Section 9(ii) of the Arbitration and Conciliation Act, 1996 to repossess the hypothicated vehicle through an Advocate Commissioner. The appellant had availed finance facility from the 1st respondent for purchasing a vehicle. Repayment was defaulted and the 1st respondent invoked the arbitration clause in the hypothication agreement.

2. The learned Additional District Judge, after hearing the parties, passed the impugned order by appointing an Advocate Commissioner to repossess the vehicle. It was further directed that the vehicle so repossessed shall be handed over to the 1st respondent and the 1st respondent shall preserve and maintain the vehicle until further orders. The 1st respondent was also directed to initiate arbitration proceedings. Regarding the custody of the vehicle, the learned Additional District Judge directed that further custody of the



vehicle after a period of three months shall be subject to the orders of the Arbitrator.

3. Learned counsel for the appellant submitted that the vehicle was repossessed pursuant to the impugned order. He further submitted that an Arbitrator was appointed and at present the arbitral proceedings are pending. He further submitted that the appointment of the Arbitrator was unilateral and therefore illegal. He hence prayed that this appeal be allowed and the vehicle be released to the appellant.

4. Learned counsel for the 1st respondent on the other hand submitted that the vehicle was repossessed several months ago and in view of the specific direction issued by the learned Additional District Judge in the impugned order, it is for the appellant to raise all contentions regarding custody of the vehicle before the learned Arbitrator.

5. Competency of the Arbitral Tribunal is a matter to be raised before the Tribunal by the party having a contention that the Arbitrator is incompetent. Such a contention cannot



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be considered in this arbitration appeal. While passing the impugned order, learned Additional District Judge has clarified that after a period of three months, custody of the vehicle shall be subject to the orders to be passed by the Arbitrator. Impugned order was passed on 21.06.2025. Possession of the vehicle was taken pursuant to the impugned order several months ago. Therefore as clarified by the learned Additional District Judge, it is open to the appellant to seek appropriate orders regarding custody of the vehicle by approaching the Arbitral Tribunal. If there is serious dispute regarding the propriety of engagement of the Arbitrator, the same shall also be raised before the Arbitral Tribunal.

In view of the above, I find no reason to interfere with the impugned order. Hence the appeal is dismissed without prejudice to the right of the appellant to approach the Arbitrator seeking appropriate orders regarding the custody of the vehicle.

Sd/-

**S.MANU
JUDGE**

PV



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APPENDIX OF ARB.A NO. 23 OF 2025

PETITIONER ANNEXURES

- Annexure A1** THE TRUE COPY OF THE SECTION 9 APPLICATION FILED BY THE 1ST RESPONDENT/PETITIONER BEFORE THE ADDITIONAL DISTRICT COURT -I, ALAPPUZHA (MA (ARB) NO.20/2025) DATED 28.03.2025
- Annexure A2** THE TRUE COPY OF THE ALLEGED AGREEMENT ENTERED BETWEEN THE PARTIES PRODUCED BY THE 1ST RESPONDENT/PETITIONER BEFORE THE ADDITIONAL DISTRICT COURT - I, ALAPPUZHA (MA (ARB) NO.20/2025) DATED 31.03.2019
- Annexure A3** THE CERTIFIED COPY OF THE ORDER DATED 04/04/2025 IN IA NO.01/2025 IN MA (ARB) NO.20/2025
- Annexure A4** THE TRUE COPY OF THE COMMISSION REPORT IN IA NO.01/2025 IN MA (ARB) NO.20/2025 DATED 28.04.2025
- Annexure A5** THE CERTIFIED COPY OF THE ORDER DATED 21/06/2025 IN MA (ARB) NO.20/2025 DATED 21.06.2025