

IN THE COURT OF ADDITIONAL DISTRICT JUDGE – I, ALAPPUZHA

Present: Sri. P.N.Vinod, (Addl. District Judge – I)

Wednesday the 17th day of June 2026

I.A.No.02/2026 in MA(Arb)No.33/2026

Filed on :03-06-2026

Petitioner:- M/s. Sundaram Finance Ltd., having its registered Office at No.21, Patullos Road, Chennai-840002, represented by its authorised representative , (Assistant Manager Legal)

By Adv.Stephen J Daniel

Respondents:-

1. M.Sajid, S/o Maideen Kunju,
Thekkeputhanparambu, Punnapra,
Alappuzha-688004.
2. M.Muneera, W/o M.Sajid,
Thekkeputhanparambu, Punnapra,
Alappuzha-688004.

This petition having been heard on 17-06-2026 and the court on the same day passed the following:-

ORDER

This is an application filed by the applicant under Order 38 Rule 5 of the Code of Civil Procedure and Section 72 of the Arbitration and Conciliation Act, 1996 to attach a movable property in the form of a vehicle through an Advocate Commissioner to be deputed for the purpose.

2. The applicant has produced interim order passed by the sole arbitrator.
3. When the application was moved, the learned counsel for the petitioner contended that interim order of taking possession of the vehicle has to be granted and if

notice is issued, the vehicle may be alienated.

4. The learned counsel relied upon the following decisions. In ***HDFC Bank Ltd. v. Manaf (2018 (4) KHC 84)***, the Hon'ble High Court of Kerala in the context of Section 17(2) of the Act held that issuance of notice prior to taking possession could often entail in vanishing of the only security available and it cannot be said that there is requirement of sending notice to the respondents. In ***Sundaram Finance Limited v. B. Vijayan (2021 SCC Online Kerala 16091)***, the Hon'ble High Court of Kerala by following the decision in *HDFC Bank Limited v. Manaf* referred to above dispensed with notice to the respondents.

5. In the above context, I rely upon the decision of the Hon'ble High Court of Kerala in ***Hedge Finance Pvt. Ltd. v. Bijish Joseph (2022 KHC 591)***. Therein, the Hon'ble High Court of Kerala held that notice is to be served on the opposite party under Section 17 of the Act for securing an interim order and opposite party is also entitled to notice in an application filed under Section 17(2) of the Act. It was further held that dispensation of notice may be relevant in an application filed under Sec.9 for interim measure.

6. Here, the applicants seeks to take possession of a vehicle by enforcement of the order passed by the arbitrator.

7. In the light of the decision of the Hon'ble High Court of Kerala in ***Hedge Finance Pvt. Ltd.*** referred to above, the opposite party is entitled to notice.

8. Further, I am not satisfied from the available materials that the

respondent will alienate or transfer possession of the vehicle, in case urgent notice is issued.

9. I am not satisfied from the available materials that there is any immediate prospect of the respondents alienating or removing the vehicle. It is my further view that sufficient ground has not been made out to take possession of the vehicle without notice to the respondents.

10. In the facts and circumstances of the case, it is my view that the respondents are entitled to notice and an exparte order of taking possession of vehicle is not liable to be granted.

11. Therefore, it is ordered that urgent notice will be issued to the respondents returnable by 26.06.2026.

(Dictated to the Confidential Assistant, transcribed and typed by him, corrected by me and pronounced in the open Court on this, the 17th day of June, 2026).

Appendix:- Nil

Sd/-
P.N.Vinod
Additional District Judge-I

Id/-
Additional District Judge-I