

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 28TH DAY OF JANUARY 2019

THE HON'BLE MR. JUSTICE M.GOVINDARAJ

A. No.2774 of 2018

In the matter of
Arbitration and
Conciliation Act, 1996

And
In the matter of Disputes
between M/s.Cholamandalam
Investment and Finance
Company Ltd. And
Mr.Suthanthira
kumar K Arising under Loan
Agreement
No.XTRAPRM00001871770
Dated :31.12.2016.

M/s.Cholamandalam Investment and
Finance Company Limited
"Dare House", No.2, N.S.C.Bose Road
Parrys, Chennai - 600 001.
Represented by its Authorised Signatory

...Applicant

-Versus-

1.Mr.Suthanthirakumar K
S/o.Sakthivel
12A, A Mathavi Santhu, Poolambadi
Veppanthattai, Perambalur
Tamil Nadu - 621 110.

...Respondent

Application praying that this Hon'ble Court be
pleased to appoint employee of the Applicant viz.
Mr.Muthusamy R., Dy.Legal Manager, as Receiver to seize
and take possession of the vehicle which is more fully
described in the schedule to the Judges Summons which is
lying in the custody of respondent or respondent's men,

agents, servants from respondent premises or wherever found with Police aid and break open of premises if necessary.

This Application coming on this day before this court for hearing the court made the following order:

The applicant / finance company filed the above application under Section 9 of the Arbitration and Conciliation Act, 1996, for seizing the vehicle through receiver and deliver possession to them. This Court, by order dated 19.06.2018, appointed a Receiver and the vehicle was also seized and handed over to the applicant.

2. The respondent entered appearance and filed a counter affidavit stating that the proceedings initiated by the applicant is irregular and under Section 9 of the Arbitration and Conciliation Act, 1996, the applicant can only seek for interim measure for local investigation, scientific investigation, performance of ministerial act and to sell the movable property, which is in the custody of the Court and the relief seeking repossession of the vehicle is not contemplated under law. Therefore, he would seek for redelivery of the seized vehicle and appointment of a Arbitral Tribunal.

3. Admittedly, the application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996, and the vehicle was also seized and handed over to the applicant. While passing orders, this Court has protected the interest of the respondent by laying down restriction on the applicant not to sell the vehicle till the disposal of the arbitral proceedings. Now it is submitted that the arbitration proceedings have already been initiated and pending.

4. In such circumstances, it is open to the respondent to raise appropriate objections and applications before the Arbitrator. In so far as the validity of the appointment of Arbitrator and violation of procedures are concerned, it cannot be dealt with by this Court at this juncture. It is open to the respondent to raise all his objections before the Arbitrator, on merits. Since the vehicle has already been seized, nothing survives for further adjudication in this application and accordingly, the same stands closed.

Sd/- M.G.R.J.

28.01.2019

//Certified to be a true copy//
Dated this the day of 2019.

DL:13.02.2019

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

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