

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 5.8.2020

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

Application No.1319 of 2020

M/s. Cholamandalam Investment and Finance Co. Ltd.
Rep. by its Authorised Signatory,
'Dare House', No.2, N.S.C. Bose Road,
Parrys, Chennai - 600 001.

... Applicant

Vs.

Nikhil M.

... Respondent

PRAYER : Application filed under Order XIV Rule 8 of O.S.Rules R/W Section 9 (ii) (a) (b) (d) & (e) of the Arbitration and Conciliation Act, 1996 to to appoint employee of the applicant viz., Mr.Sabu K., Sr. Legal Executive, as receiver to seize and take possession of the vehicle which is morefully 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.

For Applicant : Mr.D.Pradeep Kumar

ORDER

This application has been filed seeking a direction to appoint the employee of the applicant viz. Mr.Sabu K., Sr. Legal Executive, as receiver to seize and take possession of the vehicle which is morefully 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.

2. The respondent availed of loan from the applicant for purchase of vehicle and executed a loan agreement No.XVFPPER00001649016 dated 07.04.2016, for a sum of Rs.2,85,000/- to be paid in 59 monthly installments and the first installment commenced from 05.05.2016 and the re-payments were to run till 05.03.2021. As on 10.03.2020, a sum of Rs.1,26,985.68 is due and payable by the respondent. In terms of the loan agreement executed by the respondent, the applicant is entitled to re-possess the vehicle in the event of default committed by the

respondent. It is submitted that the continued use of the vehicle by the respondent would depreciate its value.

3. Notice sent to the respondent has been returned with an endorsement "insufficient address" and affidavit of service is also filed to that effect. Though the name of the respondent is printed in the cause list, there is no representation for him either in person or through counsel.

4. Upon considering the facts and circumstances of the case, this Court is satisfied that the applicant has made out a *prima facie* case in its favour and accordingly, to appoint employee of the applicant viz. Mr. Mr.Sabu K., Sr. Legal Executive, 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 the premises, if necessary of the applicant is appointed as Receiver to take custody of the vehicle. The receiver will be entitled to take possession of the vehicle from the respondent or its agent or any one in

possession thereof. If necessary, the Receiver shall get police assistance and the Station House Officer of the concerned Police Station, within whose jurisdiction the vehicle is found, will render requisite assistance for this purpose. This Order shall operate only for a period of six weeks from the date of receipt of a copy of this Order.

5. The agreement entered into between the applicant and the respondent provides for arbitration in the event of disputes and differences between the parties. It is submitted by the learned counsel for the applicant that proceedings for arbitration have been initiated and are pending in Arbitration case. The Receiver shall preserve the vehicle without alienating or encumbering thereof till the arbitration proceedings are concluded. However, in case the respondent makes payment of the outstanding installments, the Receiver shall release the vehicle to the respondent. It is open to the applicant to work out his remedy by enforcing the award as per law.

6. With the above direction, this application is closed.

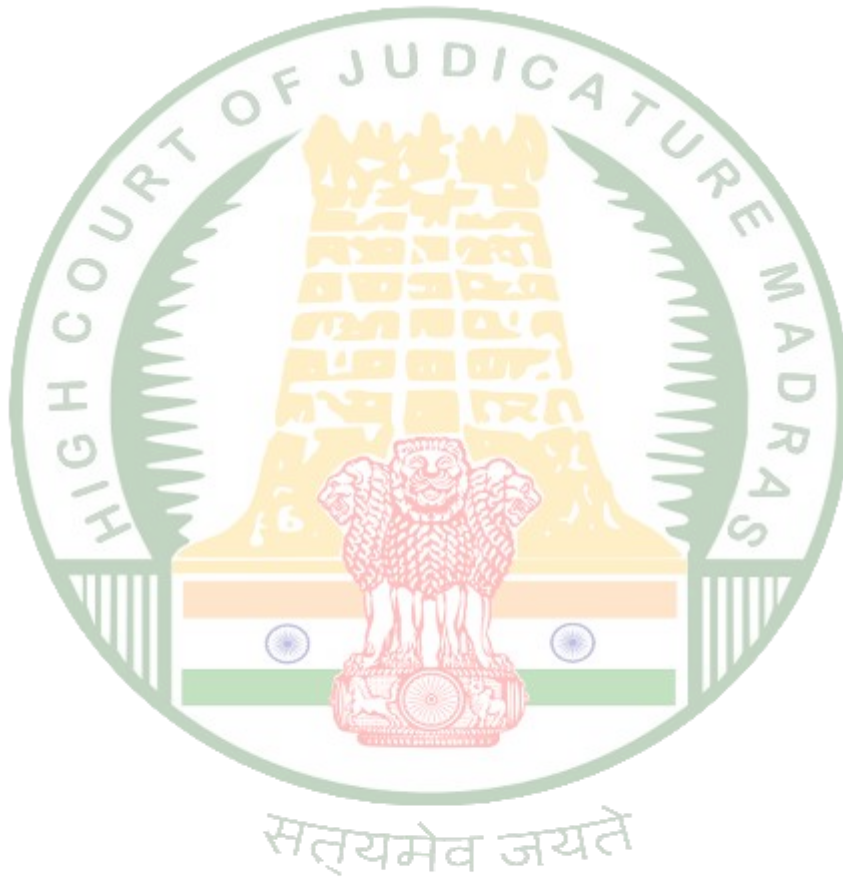
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Index : Yes/ No

Internet : Yes

Speaking/Non-speaking Order



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N.SATHISH KUMAR, J.

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A.No.1319 of 2020

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