

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2020

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

A.No.3165 of 2020

M/s.Cholamandalam Investment and
Finance Company Limited,
No.45, Justice Basheer Ahmed Sayeed Building,
II Floor, 2nd Line Beach, Moore Street,
Parrys, Chennai – 600 001,
rep. By its Authorised Signatory ... Applicant

M/s.Royal Logistic
Prop.Mr.Satish Punabhai Vala,
Yamuna Market, Shop No.10,
By Pass, Near Gate,
Veraval, Gujarat – 362 150. ... Respondent

Prayer: Judges summons filed under Order XIV Rule 8 of the Original Side Rules read with Section 9 (ii) (a) (b) (d) & (e) of the Arbitration and Conciliation Act, 1996 to appoint employee of the applicant, viz., Mr.Dharmendrasinh Hadeja, Branch 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.

For Applicant : Mr.D. Pradeep Kumar

ORDER

This application is filed for appointing a 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.

2.The applicant would submit that under Loan Agreement dated 28.02.2019, the respondent had availed a sum of Rs.27,00,000/- as loan in respect of the Vehicle. The respondent had committed default in repayment of the dues and it is the contention of the applicant that unless a Receiver is appointed to take charge of the vehicle, there is every likelihood of the respondent disposing of the Vehicle, and in that event, the applicant would be left with no recourse to recover the outstanding.

The Vehicle is now hypothecated in favour of the applicant.

3. When the matter came up before this Court the Court had suggested that the parties should attempt to resolve the issue however the respondent has not come forward with a viable solution. Therefore, this Court is proceeding to pass orders.

4. Taking into consideration the above, this Court is of the view that the applicant has made out a prima facie case and the balance of convenience is also in their favour. Accordingly, Mr. Dharmendrasinh Jadeja, Branch Legal Manager, is appointed as Receiver to seize the vehicle covered under the Contract. This order shall operate for a period of four (4) weeks from the date of receipt of a copy of this order.

5. The Receiver shall take possession of the Vehicle from the respondent or their agents or any person claiming under him or in whose possession the Vehicle is.

6. The Receiver shall also be provided Police assistance if requested by him, by the Station House Officer of the jurisdictional Police Station in which the vehicle is found.

7. It is made clear that the order of appointing the Receiver shall be served on the respondent by the applicant before the Receiver takes any action on the basis of this order. The vehicle shall not be sold without obtaining orders of this Court till the disposal of the Arbitral proceedings.

8. The applicant shall take steps to initiate arbitration proceeding within a period of 90 days from the date of receipt of a copy of this order.

The Application is ordered accordingly. No costs.

21.12.2020

Internet : Yes/No

Index : Yes/No

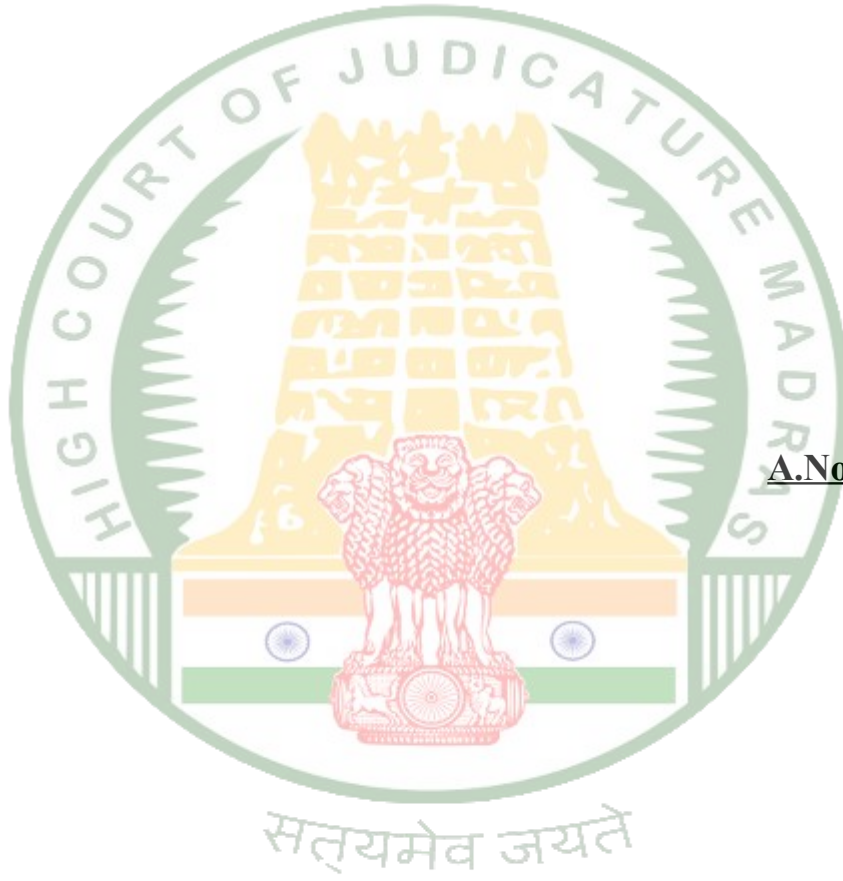
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P.T. ASHA. J,

mps



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