

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 25.08.2020

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

A.No.5550 of 2019

M/s Cholamandalam Investment and
Finance Company Limite, Dare House,
No.2, NSC Bose Road, Parrys, Chennai 600 001.
Represented by its Authorised Signatory ... Applicant

Vs.

Mr. Uttam Kaniram Pawar,
s/o Kaniram Pawar, No.123, Malegaon PO,
Jaypur, Mantha, Jalna, Near Maruti Mandir,
Maharashtra 431 501. Respondent

Prayer: Application filed under Order XIV Rule 8 of Original
Side Rules r/w Section 9(ii) (a) (b) (c) (d) and (e) of the Arbitration and
Conciliation Act, 1996 to appoint employee of the applicant viz.
Mr.Harish Sitaram Choudhari, ABM Jalna 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 the respondent or
his men, agents, servants from his premises or wherever found with police
aid and break open of premises if necessary.

For Petitioner : Mr. N.Santhosh Nagarajan

For Respondent : No appearance

ORDER

This application has been filed for interim measures for appointing a receiver to seize the vehicle.

2. It is the case of the applicant that as per the loan agreement dated 31.03.2015, the respondent has availed a sum of Rs.3,90,000/-. As there was a default as per the contract, the matter was referred to arbitration and award has been passed on 18.05.2017. Hence, it is his contention that unless a receiver is appointed to take charge of the vehicle, there will be irreparable injury and the vehicle will be sold by the other side. Hence, it is prayed for appointment of a receiver.

3. Admittedly, an Award has been passed. Even before enforcement of the Award, the Court, in a fit case can grant interim Order. Admittedly, the dispute already culminated to an Award. In such view of the matter, if the vehicle is allowed to be sold by the respondent, the very right of the applicant will be defeated.

4. Taking into consideration that the applicant has made out a prima facie case and balance of convenience is in favour of the applicant and if an interim Order is not passed, the applicant will be put to irreparable injury, Mr.Harish Sitaram Choudhari, ABM of the applicant company is appointed as a receiver to seize the vehicle covered under the contract which has culminated into the Award dated 18.05.2017. This Order shall operate only for a period of three weeks from the date of receipt of a copy of this Order.

5. The receiver will be entitled to take possession of the vehicle from the respondent or his agents 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.

6. The learned counsel for the applicant would submit that an award of arbitration between the applicant and the respondents has been passed on 18.05.2017 in Arbitration Case. Such being the matter, in the event of seizure of vehicle and sale of the same by the receiver, amount

N.SATHISH KUMAR, J.

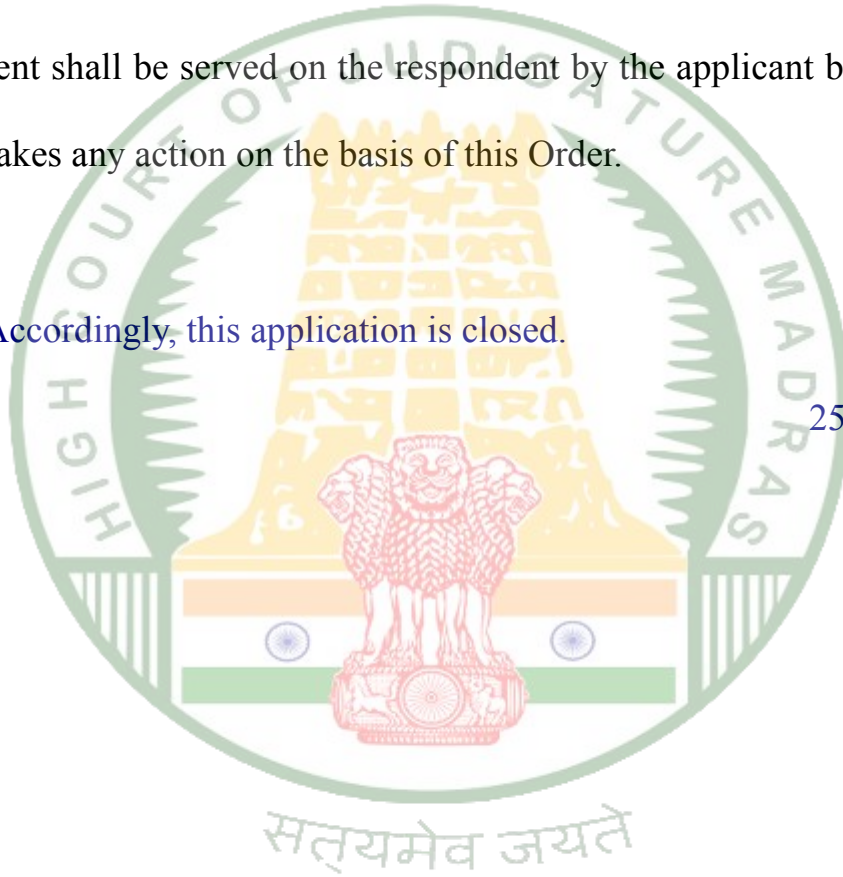
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realised shall be adjusted towards the award amount. This Order of appointment shall be served on the respondent by the applicant before the receives takes any action on the basis of this Order.

7. Accordingly, this application is closed.

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