

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.03.2021

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

A.No.606 of 2021

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

Vs.

Mr. Gabhubhai Rupabhai Jograna ... respondent

Prayer: Judges summons 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 appoint employee of the applicant viz., Mr.Makwana Mehulkumar
Hasubhai, Branch receivables Manager, as Receiver to seize and take
possession of the vehicle which is morefully described in the schedule to
the Judges summon which is lying in the custody of the respondent or
respondent's men, agents, servants from respondent premises or wherever
found with police aid and break open the premises if necessary.

For Applicant : Mr.D. Pradeep Kumar

ORDER

This application is filed for appointing a Receiver to seize the vehicle as an interim measure.

2.The applicant would submit that under Loan Agreement dated 24.04.2018, the respondent had availed a sum of Rs.2,57,387/- as loan in respect of the Vehicle Mahindra Bolero SLX, bearing Engine No.GAA4J98820 and Chassis No.A2J80820 and Registration No.GJ-13-N-3961. 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.A perusal of the papers would indicate that the respondent has been in default right from the beginning. As on 08.02.2021, a sum of Rs.2,05,807.99 remains due. The applicant has further stated that they had

attempted to repossess the assets but invain and therefore, they have invoked Section 9 of the arbitral proceedings for necessary 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.Makwana Mehulkumar Hasubhai, Branch receivables 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.

P.T. ASHA. J.

mps

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 this order.

The Application is ordered accordingly. No costs.

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Internet : Yes/No
Index : Yes/No
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