



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 31st DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

Arb. A.No.106 of 2021

In the matter of Arbitration &
Conciliation Act, 1996

And

In the matter of Disputes between
M/s Cholamandalam Investment
and Finance Company Ltd. and
Mr. Mahesh Dayaram Kumbhare
& others Arising under Loan
Agreement No.
XTRABRM00002862910 Dated
19.03.2019.

M/s. Cholamandalam Investment and Finance Company Limited,
No.45, Justice Basheer Ahmed sayeed Building,
IInd Floor, 2nd Line Beach, Moore Street,
Parrys, Chennai – 60 001.
Represented by its Authorised Signatory

...Applicant

Vs.

1. Mr. Mahesh Dayaram Kumbhare
S/o. Dayaram Pandurang Kumbhare,
No.18, At Post Bikli,
Chandrapur, Thnagbhid, Near Z.P.School,
Maharashtra – 441 205

...Respondents

2. Maharashtra State Road Transport Corporation,
Gadchi Roli State Department,
Gadchi District, Roli,
Maharashtra – 442 605.



...Garnishee

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Arbitration Application praying that this Hon'ble Court be pleased to pass an order prohibiting the Garnishee from making payment upto a limit of Rs.2,07,369/- to the Respondent by withholding the salary of respondent every month to the extent as contemplated in Section 60 of C.P.C. Viz. After deducting the first Rs.1,000/- of the salary of the respondent and withholding $\frac{1}{3}$ rd of the remainder salary and restrain the respondent from receiving the salary amount so withheld from the Garnishee and further direct the Garnishee to deposit the amount of salary so withheld every month to the credit of the above application pending initiation and disposal of arbitration proceedings between the Applicant and the Respondent and till enforcement of the award that may be ultimately passed in the arbitration proceedings.

This Arbitration Application coming on this day before this court for hearing in the presence of Mr.D.Pradeep Kumar, advocates for the applicant herein and the respondents herein, not appearing in person or by advocate and upon reading the judge's summon and the affidavit of S.Sivasubramanian filed herein and

it is ordered as follows:-

That Maharashtra State Road Transport Corporation, Gadchi Roli

State Department, the Garnishee herein be and is hereby prohibited from



making payment upto a limit of Rs.2,07,369/-(Rupees Two Lakhs Seven Thousand Three Hundred and Sixty Nine) to Mahesh Dayaram Kumbhare, the respondent herein every month to the extent as contemplated in section 60 of C.P.C. Viz. and after deducting the first Rs.1,000/- of the salary of the respondent and withholding 1/3rd of the remainder salary and restrain the respondent herein, be and is hereby restrained from receiving the salary amount so withheld from the Garnishee.

2) That the Garnishee herein be and is hereby directed to deposit the amount of salary so withheld every month to the credit of the application till the disposal of arbitration proceedings.

3) That the event of appointment of an Arbitrator the applicant herein shall be at liberty to seek interim relief before the Arbitrator.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
31st DAY OF AUGUST 2021.

Sd./-

ASSISTANT REGISTRAR (Comm. Cases)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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Arb. A. No.106 of 2021

ORDER

DATED: 31.08.2021

THE HON'BLE MR.JUSTICE
V.PARTHIBAN

FOR APPROVAL:17.09.2021

APPROVED ON:20.09.2021

Copy to:-

1. The Registrar General,
High Court, Madras.
2. Accounts section.



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...Applicant

Vs.

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Arbitration Application praying that this Hon'ble Court be pleased to pass an order prohibiting the Garnishee from making payment upto a limit of Rs.2,07,369/- to the Respondent by withholding the salary of respondent every month to the extent as contemplated in Section 60 of C.P.C. Viz. After deducting the first Rs.1,000/- of the salary of the respondent and withholding 1/3rd of the remainder salary and restrain the respondent from receiving the salary amount so withheld from the Garnishee and further direct the Garnishee to deposit the amount of salary so withheld every month to the credit of the above application pending initiation and disposal of arbitration proceedings between the Applicant and the Respondent and till enforcement of the award that may be ultimately passed in the arbitration proceedings.

This Applications coming on this day before this court for hearing the court made the following orders:

This Application is filed to pass an order prohibiting the Garnishee from making payment upto a limit of Rs.2,07,369/- to the first respondent by withholding the salary of respondent every month to the extent as contemplated in Section 60 of C.P.C, viz after deducting the first Rs.1,000/-



salary and restrain the first respondent from receiving the salary amount so withheld from the garnishee and further direct the garnishee to deposit the amount of salary so withheld every month to the credit of the above application, pending initiation and disposal of arbitration proceedings between the applicant and the respondents and till enforcement of the award that may be ultimately passed in the arbitration proceedings.

2. The case of the applicant is that the first respondent has availed loan of Rs.6,23,972/- along with interest under Loan Agreement No.XTRABRM00002862910 dated 19.03.2019 in respect of Vehicle John Deree 5105. The loan was to be repaid in 47 monthly installments. The date of first installment was on 20.04.2019 and the installments were to run till 20.02.2023. The first respondent has paid initial few installments and thereafter, the first respondent has become a chronic defaulter. It is further submitted that the vehicle was re-possessed and sold on 27.07.2020 for a sum of Rs.3,28,000/- and the sale proceeds were duly adjusted and even after several requests, the first respondent has not paid the balance amount outstanding under the loan agreement.

3. The learned counsel for the applicant submitted that if the amount due to the applicant is not secured by issuance of garnishee order, the applicant will be greatly prejudiced and will not be able to recover the



amount due from the first respondent.

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4.This Court finds that the first respondent and the garnishee have been served and their names have also been printed in the cause list. But, there is no representation on behalf of them.

5.This Court is satisfied with the submissions made by the learned counsel for the applicant and also with the reasons stated in the affidavit filed in support of the Application. Accordingly, this Application stands allowed.

Sd./-N.S.K.J.,
30.07.2021

// Certified to be true copy//
Dated at Madras this day of 2021.

Court Officer(O.S.)
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