

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 17TH DAY OF SEPTEMBER 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

Arb.Appln. No.103 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.Sirajbhai Yunishbhai Varaiya
Arising under loan Agreement
No.XSHUSNR00002658659
Dated 16.11.2018.

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.

Represented by its Authorised Signatory

. . . Applicant

Vs.

Mr. Sirajbhai Yunishbhai Varaiya,
S/o. Yunishbhai,
At Sudvel Society, Swagar,
Surendra Nagar,
Gujarat – 363020.

... Respondent

Application praying that this Hon'ble Court be pleased to appoint
the employee of the Applicant viz. Mr.Makwana Mehulkumar Hasubhai,

Branch Receivable 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.

This application coming on this day before this court for hearing through video conferencing in the presence of Mr.D. Pradeep Kumar, Advocate for the Applicant herein, and upon reading the Judge's Summons and the affidavit of S.Sivasubramanian filed herein, it is ordered as follows:-

That Mr.Makwana Mehulkumar Hasubhai, Branch Receivable Manager, of the applicant's company be and is hereby appointed as the receiver to seize the vehicle covered under the contract and this order shall operate only for a period of six (6) weeks from the date of receipt of a copy of this Order and thereafter, this Order shall stand automatically cancelled.

2. That the receiver appointed herein shall be entitled to seize and take possession of the vehicle from the respondent or his agents or any one in possession thereof.

3. That if necessary the Receiver appointed herein, shall get police assistance and the Station House Officer of the Police Station concerned,

within whose jurisdiction the vehicle is found, shall render requisite assistance for this purpose.

4. That the order appointing the Receiver shall be served on the respondent by the applicant before the Receiver takes any action on the basis of this order.

5. That the Arb.Appln. No.103 of 2021 do stand closed.

SCHEDULE

Eicher 11.10, bearing Engine No. C139341, Chassis No. C011374 and Registration No. GJ-16-X-6080.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS
THE 17TH DAY OF SEPTEMBER 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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EVK
22/09/2021

Arb.Appln. No.103 of 2021

ORDER

DATED : 17.09.2021

THE HON'BLE MR. JUSTICE
V.PARTHIBAN

FOR APPROVAL: 23/09/2021

APPROVED ON: 23/09/2021

Copy to:-

Mr.Makwana Mehulkumar Hasubhai,
Branch Receivable Manager
Receiver,
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.

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Vs.

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S/o. Yunishbhai,
At Sudvel Society, Swagar,
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... Respondent

Application praying that this Hon'ble Court be pleased to appoint

the employee of the Applicant viz. Mr.Makwana Mehulkumar Hasubhai, Branch Receivable 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.

This Application coming on this day before this court for hearing, the court made the following order:-

This application has been filed for an interim measure of appointing a receiver to seize the vehicle.

2. The respondent availed a vehicle loan from the Applicant-company and executed a loan agreement No.XSHUSNR00002658659 dated 16.11.2018, for a sum of Rs.3,89,887/- to be paid in 34 instalments and the first instalment commenced from 20.12.2018 and the repayments were to run till 20.09.2021. It is stated that as on 24.07.2021, a sum of Rs.2,58,540.66/- is outstanding. In terms of the loan agreement executed by the respondent, the applicant/Finance company is entitled to re-possess the vehicle in the event of default committed by the respondent. It is also submitted that the continued use of the vehicle by the respondent would depreciate its value.

3. The learned counsel for the applicant submitted that service has been completed on the respondent. From the court records, it is seen that the respondent has been served notice and despite his name appeared in the cause list today, there is no appearance by her or anyone on her behalf.

4. In the above circumstances, in consideration of the pleadings and the materials placed on record, this Court is convinced that the applicant has made out a prima facie case and balance of convenience is in favour of the applicant. Therefore, the named receiver in the application Mr.Makwana Mehulkumar Hasubhai, Branch Receivable Manager of the applicant company is appointed as a receiver to seize the vehicle covered under the contract. This Order shall operate only for a period of six weeks from the date of receipt of a copy of this Order and thereafter, this Order shall stand automatically cancelled.

5. The receiver will be entitled to seize and 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 Police Station concerned, within whose

jurisdiction the vehicle is found, will render requisite assistance for this purpose.

6. This Order of appointment shall be served on the respondent by the applicant before the receiver takes any action on the basis of this Order.

7. Accordingly, this application is closed.

Sd./-V.P.N.J.
17.09.2021

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

COURT OFFICER(O.S.)
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