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Arb Appln. No.205 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb Appln. No.205 of 2021

Cholamandalam Investment and Finance Company Limited,
No.45, Justice Basheer Ahmed Sayeed Building,
II nd Floor, 2nd Line Beach, Moore Street,
Parrys, Chennai – 600 001.

Represented by its Authorised signatory

... Applicant

Vs.

Kalappa

... Respondent

Application filed under Order XIV Rule 8 of Original Side Rules r/w
Sec 9 (ii) (a) (b) (d) & (e) of the Arbitration and Conciliation Act, 1996
to appoint employee of the Applicant viz. Mr.Basavaraj, Area Receivable
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. N. Santhosh Nagarajan



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ORDER

This application has been filed for appointment of a receiver to repossess the vehicle which is the subject matter of the loan agreement entered into between the applicant and the respondent.

2. Under the loan agreement, the respondent has availed loan for the purchase of vehicle from the applicant and he is a defaulter.

3. The learned counsel for the applicant submits that the respondent is dead and he seeks time to take steps to bring on record the legal heirs of the deceased respondent. Admittedly, till date notice has not been served on the respondent or his legal heirs. In such circumstances, this Court is of the considered view that the applicant after initiating Arbitration as per the Arbitration agreement can seek the very same relief as sought for in this Application under Section 17 of the Arbitration and Conciliation Act, 1996 before the Arbitral Tribunal. No useful purpose will be served, if this application is kept pending. Accordingly, liberty is granted to the applicant to initiate Arbitration and



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file an Application under Section 17 of the Arbitration and Conciliation Act, 1996 before the Arbitral Tribunal for the same relief as sought for in this Application.

4. With the aforesaid direction, this Application is disposed of. No costs.

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ab/vsi2

Index: Yes/No

Internet: Yes/No

Speaking Order/Non-Speaking Order



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ABDUL QUDDHOSE, J.

vsi2

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