

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 29TH DAY OF OCTOBER 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

Arb.Appln.No.219 of 2021

In the matter of Arbitration &
Conciliation Act, 1996

And

In the matter of Disputes between
M/s. Cholanmandalam Investment
and Finance Company Ltd. and
Mr. Sureshbhai Damubhai Gamta
Arising under Loan Agreement
No.XSHUVAL00002162677
Dated 04.11.2017

M/s. Cholanmandalam Investment
and Finance Company Limited,
No.45, Justice Basheer Ahmed Sayeed Building,
IInd Floor, 2nd Line Beach, Moore Street,
Parrys, Chennai – 600 001.
Represented by its Authorised Signatory

... Applicant

-Vs-

Mr. Sureshbhai Damubhai Gamta
S/o. Damubhai Gamta,
No.827, Dunagri Faliya,
Kakadkuva, Valsad,
Dharmapur, Near Swamynarayan Mandir,
Gujarat – 396 065.

... Respondent

Application praying that this Hon'ble Court be pleased to appoint employee of the Applicant viz. Mr.Hiren B Chauhan, 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.

This application coming on this day before this court for hearing in the presence of Mr.D.Pradeep Kumar Advocate for the Applicant herein, and the Respondent herein not appearing in person or by Advocate and upon reading the Judge's Summons and the affidavit of S.Sivasubramanian, filed herein, and **it is ordered as follows:-**

That Mr.Hiren B Chauhan, Area Receivable Manager of the applicant company be and is hereby appointed as the receiver to seize the vehicle morefully setout in the schedule hereunder, 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 their agents or any one in possession thereof.

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

SCHEDULE

Eicher Truck 10.90 HSD, bearing Engine No.E483007L177265, Chassis No.17F07L162545 and Registrtion No.GJ-15-UU-0471 lying at respondent premises or wherever found.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS
THE 29TH DAY OF OCTOBER 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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ED
09/11/2021

Arb. Appln. No.219 of 2021

ORDER

DATED : 29.10.2021

THE HON'BLE MR. JUSTICE
V. PARTHIBAN

FOR APPROVAL: 10.11.2021

APPROVED ON: 15.11.2021

Copy to:-

Mr.Hiren B Chauhan,
Area Receivable Manager
Receiver,
M/s. Chola mandalam Investment
and Finance Company Limited,
No.45, Justice Basheer Ahmed Sayeed
Building, IInd Floor, 2nd Line Beach,
Moore Street, Parrys,
Chennai – 600 001.

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and Finance Company Limited,
No.45, Justice Basheer Ahmed Sayeed Building,
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... Applicant

-Vs-

Mr. Sureshbhai Damubhai Gamta
S/o. Damubhai Gamta,
No.827, Dunagri Faliya,
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Dharmapur, Near Swamynarayan Mandir,
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... Respondent

Application praying that this Hon'ble Court be pleased to appoint employee of the Applicant viz. Mr.Hiren B Chauhan, 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.

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 of a vehicle loan from the Applicant-company and executed a loan agreement No.XSHUVAL00002162677 dated 04.11.2017, for a total sum of Rs.5,89,885/- along with interest to be paid in 44 installments and the first installment commenced from 05.12.2017 and the re-payments were to run till 05.07.2021. It is stated that as on 30.08.2021, a sum of Rs.1,58,758.52 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 him or anyone on his 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.Hiren B Chauhan, Area 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 their 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 ordered.

Sd./-V.P.N.J.
29.10.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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