

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2021

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

A.No.2926 of 2020

M/s. Cholamandalam Investment
and Finance Company Limited,
No.45, Justice Basheer Ahmed Sayeed Building,
II Floor, 2nd Line Beach, Moore Street,
Parrys, Chennai - 600001,
Represented by its Authorised Signatory.

... Applicant

Vs

Mr. P.K. Mujeeb, Manager Mappila UP School
Orkkattery P.O.,
Orkkattery, Kozhikode,
Kerala - 673501.

... Respondent

Prayer :Application is filed under Order XIV Rule 8 of Original Side
Ruyles r/w Section 9 (ii) (a)(b) (d) & (e) of the Arbitration and
Conciliation Act, 1996 to appoint employee of the applicant viz. Mr.
Sudheer P.T., Junior Manager - Legal, as Receiver to seize and take
possessionof the Vehicle which is more fully described in the schedule
to the judges summons.

For Applicant : Mr. 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 19.03.2016, the respondent had availed a sum of Rs.8,63,685/- as loan in respect of the Vehicle. 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.

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3. When the matter came up before this Court the Court had suggested that the parties should attempt to resolve the issue however the respondent has not come forward with a viable solution. Therefore this Court is proceeding to pass orders.

4. Taking into consideration the fact that the respondent has been in continuous default, 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. Sudheer P.T., Junior Manager- Legal of the applicant's Company 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.

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 proceedings within a period of 90 days from the date of this Order.

9. The Application is accordingly closed. No costs.

सत्यमेव जयते

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Index : Yes/No

Speaking order/non-speaking order

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P.T.ASHA, J.

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