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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 11th DAY OF APRIL 2022

THE HON'BLE MR. JUSTICE M.SUNDAR

Arb.Appln.No.81 of 2022

in

A. No.5133 of 2015

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.Natarajan R. & another arising
under Loan Agreement
No.XTRAKBF00000907045 dated
15.02.2013.

M/s.Cholamandalam Investment and
Finance Company Limited,
'Dare House', No.2, N.S.C.Bose Road,
Parrys, Chennai-600 001.
rep. by its Authorised Signatory

... Applicant

-Versus-

1. Mr.Natarajan R.
S/o.Ramadass,

2. Mr.Ramadoss R.
S/o.Rajamanickam,
Both are residing at Old No.3/97, New No.3/126,
Thenalakudi, Manalmedu, Karaimedu,
Sirkazhi, Nagapattinam,
Tamil Nadu-609 109.

... Respondents

**Arb.Appln.No.81 of 2022**

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rep. by its Authorised Signatory

...Respondent

Application praying that this Hon'ble Court be pleased to raise the order attachment dated 06.06.2016 passed in A.No.5133 of 2015.

This Application coming on this day before this Court for hearing in the presence of Ms.D.Anitha for M/s.R.Iyappan, advocates for the applicant herein and the respondent herein not appearing in person or by advocate and upon reading the Judges Summons and the affidavit of R.Nataraja filed herein and the order dated 06.06.2016 made in A.No.5133 of 2015, It is ordered as follows:-

That the order of attachment granted in pursuance of the order dated 06.06.2016 made in A.No.5133 of 2015 attaching the immovable property morefully setout in the schedule hereunder, be and is hereby raised.

**SCHEDULE PROPERTY****Item No.1**

Land situated in Karaimeadu Village bearing Nanjai Survey No.202/2 measuring Acre 0.96 Cents equivalent 0.39.0 Ares fully.

Within the SRO Sirkazhi.

Item No.2

Land situated in Karaimeadu Village bearing Nanjai Survey No.203/3B measuring Acre 0.45 Cents equivalent 0.18.0 Ares fully.

Within the SRO Sirkazhi.

Item No.3

Land situated in Karaimeadu Village bearing Nanjai Survey No.244/3 measuring Acre 0.07 Cents equivalent 0.03.0 Ares fully.

Within the SRO Sirkazhi.

Item No.4

Land situated in Karaimeadu Village bearing Nanjai Survey No.202/3 measuring Acre 0.81 Cents equivalent 0.33.0 Ares.

Within the SRO Sirkazhi.

WITNESS THE HON'BLE MR.JUSTICE MUNISHWAR NATH BHANDARI CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 11th DAY OF APRIL 2022.

Sd./-

ASSISTANT REGISTRAR(Comm.Cases)

//Certified to be true copy//

Dated at Madras this the day of 2022.



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KY

28.04.2022

4

Arb.Appln.No.81 of 2022
in
A. No.5133 of 2015

ORDER

DATED: 11.04.2022

THE HON'BLE MR. JUSTICE
M.SUNDAR

FOR APPROVAL:29.4.2022

APPROVED ON: 04.05.2022

Copy to:

1. The Sub Registrar,
The Sub Registrar Office,
Sirkazhi.

2. The District Court,
Nagapattinam.



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...Applicants

-VS-

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Parrys, Chennai-600 001.
rep. by its Authorised Signatory

...Respondent

Application praying that this Hon'ble Court be pleased to raise
the order attachment dated 06.06.2016 passed in A.No.5133 of 2015.

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

Captioned application has been taken out with a prayer to raise the order of
attachment dated 06.06.2016 made in A.No.5133 of 2015 by this Court vide
four items of immovable properties, all situated within the territorial
jurisdiction of Sub Registrar's Office (SRO), Sirkazhi.

<https://hcservices.ecourts.gov.in/hcservices/> 2 Ms.D.Anitha, learned counsel representing Mr.R.Iyappan,

learned counsel on record for applicants in the captioned application who is



before this Court, adverting to support affidavit submits that the matter has been settled, the applicants have paid out the entire loan amount and therefore they are entitled to have the order of attachment raised. To be noted, when the captioned application was listed before this Court on 21.03.2022, the following proceedings were made.

*'Notice to respondent returnable in three weeks i.e.,
returnable by 11.04.2022. Private notice permitted.*

2.List on 11.04.2022.'

3.Pursuant to the aforementioned proceedings, notice has been duly served on the lone respondent and Affidavit of Service has been filed vide Diary No.10517, dated 05.04.2022. The name of the lone respondent is shown in the cause list but none appeared. This is rather unfortunate. This Court is constrained to make this observation as the respondent which this Court is informed is a Non-Banking Financial Company (NBFC) having got the immovable properties of the applicants attached by approaching this Court have a duty to come before this Court and set out their stated position when the loanee/borrower seeks raising of attachment, particularly on the ground that the entire loan amount has since been settled.

4.Be that as it may, the positive averment/assertion of the

applicants that the entire loan amount has since been settled has not been



disputed.

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5.Learned counsel for the applicants submit that the entire loan amount has since been settled way back in the year 2018 and in support of this submission learned counsel draws the attention of this Court to a letter dated 31.05.2018 from the respondent a scanned reproduction of which is as follows:



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9

Chola
Reference No: FF/MAY/18/98

29 OCT 2018
RECEIVED
ORIGINAL SIDE, ALWAYS

May 31, 2018

To,
Mr. NATARAJAN R,
OLD NO 3/97 NEW NO 3/126,
MANALMEDU,
KARAIMEDU,
SIRKALI - 609109.

Sub: Settlement letter- Agreement No: XTRAKBF00000907045

Dear Sir,

We hereby acknowledge receipt of Rs.65000/- (Rupees Sixty Five Thousand Only) paid cash vide receipt no. mentioned below towards full and final settlement of your dues under the said Agreement.

Receipt No.	Receipt Date	Receipt Amount
T11141650096	26.02.18	2000/-
T11141650120	25.04.18	1000/-
B10127250272	24.05.18	62000/-

In view of the aforementioned settlement made by you, both of us do not have any claim against each other under the said agreement and shall withdraw the legal proceedings, if any pending against each other.

Kindly acknowledge receipt of a copy of this letter confirming the above terms.

Thanking you,
Yours truly,
For Cholamandalam Investment and Finance Company Limited

A. Liman
Authorized Signatory

I acknowledge & assure your company that I do not have any claims, complaints/grievance against your company or against your officers.

R. Natarajan
(NATARAJAN R)

Cholamandalam Investment and Finance Company Ltd.
Dare House, 2, N.S.C. Bose Road, Parrys, Chennai 600001, India.
Tel : 91.44.30007172 / Fax : 91.44.25346464
Website : www.cholamandalam.com
CIN = 165993TN1978PLC007576

6. In the light of the above, the prayer of the applicants cannot but be answered in the affirmative.

<https://hcservices.ecourts.gov.in/hcservices/>

7. For the sake of specificity, it is made clear that the order of



attachment dated 06.06.2016 made by this Court in A.No.5133 of 2015 now stands raised.

8.For further specificity, it is made clear that this order is akin to an order under Order 38 Rule 9 of The Code of Civil Procedure, 1908 [CPC] and therefore, on presentation of this order, the jurisdictional SRO shall ensure that necessary entries/deletions are made in all the registers and reflected in the encumbrance certificate.

9.A copy of this order shall also be communicated to the jurisdictional Civil Court. Registry shall communicate a copy of this order to the jurisdictional SRO also forthwith.

10.Captioned application is ordered on above terms. No costs.

Sd./- M.S.J.,
11.04.2022

//Certified to be true copy//
Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.