

ORDER SHEET
AP-COM/465/2025
IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

CHOLAMANDALAM INVESTMENT AND FINANCE
COMPANY LIMITED
VS
MAINUL SK AND ANR.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date: 5th August, 2025.

Appearance:
Ms. Shrayshee Das, Adv.
Mr. Rohan Kumar Thakur, Adv.
Mr. Tridibesh Dasgupta, Adv.
. . .for the petitioner.

The Court:

1. The affidavit of service indicates that the respondents had been served.

It appears that one Mr. Shyamal Mukhopadhyay, learned Advocate had entered appearance on behalf of the respondents. On the last occasion, the said learned advocate was absent. Under such circumstances, the petitioner was directed to issue a notice upon Mr. Shyamal Mukhopadhyay. Notice by special messenger had been served in the office of Mr. Shyamal Mukhopadhyay and one Ms. Priyanka Chatterjee, Advocate received the said notice on July 25, 2025 on behalf of Mr. Mukhopadhyay. This matter has been running in the monthly list.

2. Under such circumstances, let this matter be taken up in the absence of the respondents.

3. This is an application for appointment of an Arbitrator. The respondents are within the jurisdiction of West Bengal. The disputes arose out of a loan agreement dated August 20, 2021. The respondents had obtained a credit facility which was repayable with interest. The amount of loan advanced to the respondents was Rs.21,32,799/-. The amount was to be paid back in 58 monthly instalments.
4. It is submitted that the respondents had made intermittent payments, but there was default in payment of the instalments. The respondents breached the repayment schedule.
5. Accordingly, on February 13, 2025 a loan recall notice was issued. An application under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the said Act) was preferred before the learned City Civil Court at Kolkata. The learned Judge, 12th Bench by order dated March 5, 2025, appointed a Receiver to take physical possession of the vehicle.
6. By a letter dated April 15, 2025, the arbitration clause was invoked and the petitioner named a learned Arbitrator. The respondents replied to the said letter on May 5, 2025, objecting to the appointment of the learned Arbitrator by the petitioner. On May 3, 2025, the petitioner again invoked arbitration. Upon receipt of the notice, the respondents gave a reply, objecting to unilateral appointment. It also appears that the respondents had objected to the calculation made by the petitioner's dues and had categorically stated that after repossession of the vehicle, the dues have come down by a considerable amount and nothing was payable.

7. According to the petitioner's calculation, an amount of Rs.14,52,174.19 is still due and payable. The correspondences between the parties clearly indicate that there is a live dispute. The existence of the arbitration clause is available from the loan agreement under Clause 29 thereof. From the letter dated May 5, 2025, it appears that the respondents had objected to the nomination of an arbitrator by the petitioner. The respondents requested that the dispute be amicably settled or two arbitrators be appointed, one by each party and that the dispute should be adjudicated within Kolkata.
8. The clause provides that the venue of the Arbitration shall be at Chennai or at any other place at the discretion of the petitioner.
9. In my opinion, the respondents objected to appointment of an Arbitration through a Centre/Institution. The respondents also wanted the arbitration to be within Kolkata. The petitioner submits that the petitioner had a choice either to go to Chennai or select a place. The petitioner selected Kolkata as the venue as per the request made by the respondents. The arbitration clause provides for a sole Arbitrator.
10. Under such circumstances, the Court appoints Mr. Rohit Das, Advocate (Mob. No. 9831916012), as the Arbitrator, to arbitrate upon the dispute between the parties. This appointment is subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996.
11. The learned Arbitrator shall fix his own remuneration as per the Schedule of the Arbitration and Conciliation Act.

12. All objections can be raised by the respondents before the learned Arbitrator. The question of limitation and arbitrability of the claim, shall also be decided by the learned Arbitrator.
13. AP-COM 465 of 2025 is, accordingly, disposed of.

(SHAMPA SARKAR, J.)