

ORDER

OCD-16

AP-COM/486/2025
IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

M/S. CHOLAMANDALAM INVESTMENT AND
FINANCE COMPANY LIMITED
VS
SAIF AHMED AND ANR.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date: 23rd July, 2025.

Appearance:

Ms. Shrayashee Das, Adv.
Mr. Rohan Kumar Thakur, Adv.
Mr. Tridibesh Dasgupta, Adv.
. . .for the petitioner.

1. Affidavit of service is taken on record. The respondents have been served.
2. On the earlier occasion, the affidavit of service also indicated that the the respondents had been served. By way of abundant caution, fresh service was directed and accordingly, the affidavit of service records that the respondents were duly informed about the pendency of the application. Despite such service, none appears on behalf of the respondents. The matter proceeds ex-parte.
3. This is an application for appointment of a learned Arbitrator for adjudication of the dispute arising out of loan agreement - vehicle/equipment finance. The arbitration clause reads as follows:

“29. Arbitration: All disputes, differences and/or claims arising out of this Agreement whether during its subsistence or thereafter shall be settled by arbitration in accordance with the provision of Arbitration and Conciliation Act, 1996 or any statutory amendments thereof and shall be referred to the Sole Arbitration of an Arbitrator nominated by the Company. The Award given by such Arbitrator shall be final and binding on all parties to this Agreement. In the event, of an appointed Arbitrator dying or being unable or unwilling to act as Arbitrator for any reason, the Company, on such death of the Arbitrator or his inability or unwillingness to act as Arbitrator, shall appoint another person to act as Arbitrator. Such person shall be entitled to proceed with the reference from the same stage left by his predecessor. The venue of the arbitration shall be at Chennai or such other place/location/city which the Company at its discretion may decide from time to time.”

4. The schedule of the agreement provides Kolkata as the seat and venue.
5. The petitioner is a non-banking financial institution and is engaged in the business of providing various financial assistances to its customers and business entities. The petitioner and the respondents entered into an agreement at the branch office of the petitioner situated at Chowringhee Court. Under the said agreement dated June 22, 2023, the petitioner granted a loan of Rs.32 lakh to the respondent. The respondents were required to pay back the same in 59 equal monthly instalments of Rs.81,775/- each. According to the petitioner, the respondents only made payment of the first instalment and thereafter neglected to adhere to the repayment schedule. On March 26, 2024, the petitioner referred the dispute to an online dispute resolution forum, seeking appointment of an arbitrator.

By a letter dated April 8, 2024, a sole arbitrator was appointed to adjudicate the dispute. The respondents objected to such appointment, by a letter dated June 20, 2024. On June 29, 2024, the arbitrator released the matter on personal ground thereby recusing therefrom. Under such circumstances, this application has been filed in accordance with law for appointment of an arbitrator upon recording recusal of the erstwhile arbitrator.

6. It appears that on July 5, 2024, a loan recall notice was issued by the petitioner and the loan agreement was terminated. The respondents were called upon to make payment of Rs.38,71,482.98, which was the due as on July 4, 2024. An application under Section 9 of the Arbitration and Conciliation Act, 1996 was also filed for urgent interim reliefs. Necessary orders were passed by appointing a learned receiver.
7. Under such circumstances, this Court finds that this is a fit case for referring the dispute to arbitration in view of the existence of the arbitration clause. The issues with regard to arbitrability, jurisdiction of the learned arbitrator, limitation, admissibility of the claim of the petitioner etc. are to be decided by the learned arbitrator as and when raised by the respondents. This application is allowed keeping all questions to be adjudicated by the learned arbitrator.
8. This Court appoints Mr. Satyaki Mukherjee, Advocate (Mobile No. 9874273478), as an arbitrator, to arbitrate upon the disputes between the parties. This appointment is subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996. The learned Arbitrator shall fix his

remuneration as per the Schedule of the Arbitration and Conciliation Act, 1996.

9. Accordingly, the application is disposed of.

(SHAMPA SARKAR, J.)