

ORDER SHEET
AP-COM/830/2025
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

CHOLAMANDALAM INVESTMENT AND FINANCE
COMPANY LIMITED
VS
BINAY HALDER AND ANR.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date: 18th November, 2025.

Appearance:
Ms. Shrayashee Das, Adv.
Mr. Shuvayan Chakraborty, Adv.
...for the petitioner

Mr. Dyutimoy Paul, Adv.
Mr. Abhishek Kabir, Adv.
...for the respondents

The Court:

1. The petitioner is a non-banking financial institution. The respondents availed of loan facility from the petitioner. A loan-cum-hypothecation agreement was entered into between the parties on December 29, 2017. A total sum of Rs.22,42,721/- was sanctioned and released. The respondents were entitled to the Emergency Credit Line Guarantee Scheme which was introduced during the Covid-19 Pandemic. Accordingly, such agreement was entered into between the parties on

October 29, 2020. An additional loan amount of Rs.9,63,605/- was released.

2. The respondents defaulted in making payments of the monthly instalments against the principal agreement as also against the supplemental agreement. The agreement dated December 29, 2017 was restructured and another agreement dated November 27, 2021 was entered into between the parties. The payment made under the agreement dated December 29, 2017 was adjusted and the balance amount was considered as the loan agreement amount of Rs.14,42,000/-. The said amount was to be repaid in 35 monthly instalments, commencing from December 28, 2021 and ending on October 28, 2024.
3. The agreement dated November 27, 2021 contains an arbitration clause. Clause 29 provides that all disputes, differences and/or claims arising out of the agreement whether during its subsistence or thereafter shall be settled by arbitration in accordance with the provision of the Arbitration and Conciliation Act, 1996 and the sole arbitrator shall be nominated by the company.
4. It is submitted by Ms. Das that after the 8th instalment, payments were not made. Hence, a loan recall notice was issued and finally, the notice invoking arbitration was issued upon termination of the said agreement. She refers to the jurisdiction clause in the restructure agreement and submits that the venue of arbitration shall be at Chennai or such other place/location/city which the company at its discretion would decide from time to time. The jurisdiction clause provides that subject to the

choice of the lender with regard to the venue, courts in Chennai shall have jurisdiction. Thus, it is submitted that the entire cause of action arose within the jurisdiction of this court. The respondents also reside within the jurisdiction of this Court. The lender has already exercised its discretion by issuing the notice invoking arbitration and by specifically mentioning that they choose Kolkata as the place of the arbitration. Under such circumstances, it is prayed that the dispute be referred to arbitration for adjudication of the claim of the petitioner, which is beyond more than Rs.35 lakhs.

5. Mr. Paul learned advocate for the respondent submits that the clauses are arbitrary. If the borrower chooses to invoke the arbitration clause, the borrower is required to go to Chennai. On the other hand, the lender has the discretion to choose a city and they have chosen Kolkata. He also submits that the overall jurisdiction clause also governs the supervisory jurisdiction of the Court.
6. Ms. Das refers to a Division Bench decision of this Court in the matter of Cholamandalam Investment And Finance Company Ltd. vs. Uma Earth Movers and Anr. passed in AO-COM/11/2024 with AP/691/2023, where similar clauses were considered in another arbitral proceeding. The Division Bench referred the matter to arbitration, keeping the question of jurisdiction open.
7. Mr. Paul further submits that the claim is barred by limitation, inasmuch as, the last payment was made sometime in July, 2022 and arbitration was invoked sometime in August, 2025. On this issue, I prima facie, find that the last date of repayment of the loan was

sometime in December, 2024. The cause of action continued as there was non-payment of the instalments on and from the 9th instalment. Interest also accrued month to month on account of such failure.

8. Thus, in this case, even if part of the claim may be barred as submitted by Mr. Paul, the issue of limitation is triable and has to be determined on the basis of the evidence to be led by parties.
9. Under such circumstances, whether the dispute is arbitrable or whether the learned arbitrator has the jurisdiction to decide the dispute, whether the claims are admissible or whether they are barred by limitation etc. are matters which fall within the domain of the learned arbitrator and the learned arbitrator shall decide all such issues in the proceedings.
10. Under such circumstances, the Court appoints Mr. Raj Ratna Sen, Advocate, a member of the Bar Library Club, as the learned 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 own remuneration as per the Schedule of the Act.
11. AP-COM/830/2025 is, accordingly, disposed of.

(SHAMPA SARKAR, J.)