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Arb.Appln.No.151 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.01.2025**

CORAM

THE HONOURABLE **MR.JUSTICE P.B.BALAJI**

Arb. Appln. No.151 of 2025

M/s. Cholamandalam Investment and
Finance Company Limited, 'Chola Crest',
C 54 & 55, Super B-4,
Thiru Vi Ka Industrial Estate,
Guindy, Chennai – 600 032
Represented by its Authorised Signatory

... Applicant

vs.

The Headmaster,
MUP School Mattul,
Mattul PO, Kannur,
Mattul Central,
Kerala – 670 302.

... Respondent

PRAYER: This Arbitration Application filed under ORDER XIV RULE 8 OF O.S. RULES READ WITH SEC 9 (1) (ii) (c) & (e) OF ARBITRATION ACT 1996, the Applicant prays to appoint employee of the Applicant viz., Ms. ATHIRA MS, Legal Executive as Receiver to seize and take possession of the vehicle which is more fully described in the schedule to the Judges Summons which is lying in the custody of respondent or respondent's men, agents, servants from respondent premises or wherever found with Police aid and break open of premises if necessary.



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For Applicant : Mr.D.Pradeep Kumar

ORDER

This application has been filed to appoint employee of the Applicant viz., Ms. ATHIRA MS, Legal Executive, as Receiver to seize and take possession of the vehicle which is more fully described in the schedule to the Judges Summons which is lying in the custody of respondent or respondent's men, agents, servants from respondent premises or wherever found with Police aid and break open of premises if necessary.

2. Heard Mr.D.Pradeep Kumar, learned counsel for the Applicant.

3. The learned counsel appearing for the applicant would submit that the applicant had provided a loan to the respondent for purchase of the Tata Ultra Star Bus, bearing Engine No.497TC41NPY834743, Chassis No. MAT751120KFN14927 and Registration No.KL-13-AQ-9905 and a Loan Agreement had also been entered by the respondent with the applicant on 07.03.2022. Earlier Section 9 Application has been

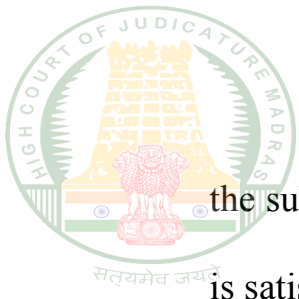


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filed against the respondent and by order of this Court, the Applicant has seized the vehicle thereafter. On payment of money, the vehicle was released and handed over to the respondent. However, subsequently, again the respondent had committed default of making payments which has necessitated the Applicant to move the present Application. He would contend that the respondent was irregular in making the payment of instalments and that inspite of repeated demand, the respondent had failed to regularize the default and had continued not to pay the EMIs. There is an Arbitration Clause available in the loan agreement, which is the subject matter of dispute. The applicant has expressed its willingness to go for Arbitration and also undertaken to initiate Arbitration proceedings in accordance with the Arbitration Clause.

4. He would further submit that considering the value of the amount to be recovered from the respondent, the applicant had sought for an appointment of a Party Receiver which would minimize the expenditure to the applicant and the respondent would also be benefited.

5. Upon considering the facts and circumstances of the case and



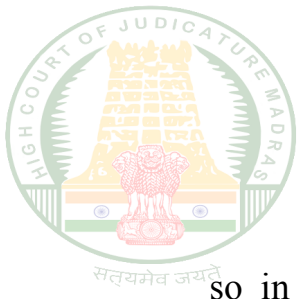
the submissions made by the learned counsel for the applicant, this Court is satisfied with the prayer sought for in this Application.

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6. Accordingly, this Application is **ordered** with the following directions:

(i) **Ms. ATHIRA MS, Legal Executive**, is appointed as Receiver to seize and take possession of the asset viz., Tata Ultra Star Bus, bearing Engine No.497TC41NPY834743, Chassis No. MAT751120KFN14927 and Registration No.KL-13-AQ-9905 with all accessories fitted to the asset from the respondent, or any place belonging to the respondent, or wherever found and with whomsoever it is found. Registry is directed to hand over the order to the learned counsel for the Applicant.

(ii) It is also made clear that if any police help is required, the Party Receiver shall make a request to the local police station within whose jurisdiction the asset is found and on such request being made, the Station House Officer shall send the Police Personnel along with the Party Receiver to seize the asset.



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(iii) If break open of a lock is required the Party Receiver shall do so in the presence of the police personnel who will counter sign the record evidencing the break open of the lock and to re-lock the premises.

(iv) If the Party Receiver finds any difficulty with the jurisdictional police, he is at liberty to approach Superintendent of Police, who shall provide all necessary assistance to him at the time of seizure of the said asset.

7. Notice to the respondent returnable by 17.03.2025. Private Notice is also permitted.

8. Post the matter on 17.03.2025 for filing report of the Party Receiver.

28.01.2025

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Index : Yes / No
Internet : Yes / No



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