IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2025

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THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

Arb.Appln.No. 455 of 2025

M/s.Cholamandalam Investment and
Finance Company Limited,
'Chola Crest', C 54 & 5, Super B-4,
Thiru Vi Ka Industrial Estate,
Guindy, Chennai – 600032.
Rep. By its Authorised Signatory ... Applicant

Vs.

1.M/s.M R Parakh Electronics,
Rep. By its Proprietor, Mrs.Pooja Mayur Parakh,
Shop No.1/2, Stadium Complex,
Building No.5, M.G.Road,
Nashik, Maharashtra – 422013.

2.Mrs.Pooja Mayur Parakh,
Suvarnraj Bungalow, Plot No.27, Bungalow 9,
Swami Vivekanand Marg, Opp. Mai Lele School,
Gokulwadi, Shrirang Nagar, Gangapur Road,
Nashik, Maharashtra – 422013.

3.Mr.Mayur Rajendra Parakh,
Suvarnraj Bungalow, Plot No.27, Bungalow 9,
Swami Vivekanand Marg, Opp. Mai Lele School,
Gokulwadi, Shrirang Nagar, Gangapur Road,
Nashik, Maharashtra – 422013. ... Respondents

4.Bank of India,
Indrakund Branch,
H No 4615, A/B/E-2,
Shran Shruti, Indrakunda Area,
Nashik, Maharashtra – 422002. ... Garnishee

Prayer:- Application filed under Order XIV Rule 8 of Original Side Rules r/w. Sec 9(1)(ii)(a)(b)(d) & (e) of the Arbitration and Conciliation Act, 1996, seeking to pass an order prohibiting the Garnishee from making payment of a sum of Rs.40,56,730.08/- or any amount to the respondents or to their men, agents, representatives or to anyone claiming on respondents behalf and restrain the respondents or their men, agents, representatives or anyone claiming on respondents behalf from receiving a sum of Rs.40,56,730.08/- or any amount from the Garnishee and further direct the Garnishee to deposit the sum of Rs.40,56,730.08/- or any amount to the credit of the above application.

For Applicant : Mr.D.Pradeep Kumar

ORDER

As directed by this Court on 07.04.2025, the applicant effect substituted service by effecting paper publication on respondents 1 to 3. The paper publication has been enclosed along with the affidavit of service. Names of the respondents 1 to 3 are also printed in the cause list today. Despite effecting paper publication, the respondents 1 to 3 have chosen not to enter appearance in this application. The 4th respondent has already been set exparte by this Court on 07.04.2025 as they have failed to enter appearance, despite service of notice in this application.

2. As seen from the affidavit filed in support of this application as well as the documents filed, the respondents 1 to 3 are defaulters in the repayment of the loan to the applicant. As on date of the filing of the application, a sum of Rs.40,56,730.08/- is due and payable by the respondents 1 to 3 jointly and severally to the applicant as seen from the statement of account filed along with this application. The applicant has expressed its willingness to go for arbitration in accordance with the Arbitration clause. Now, they seek for interim protection by seeking for a prohibitory order to restrain the 4th respondent Bank from making any surplus payment to the respondents 1 to 3.

3. According to the applicant, the respondents 1 to 3 had mortgaged the property with the 4th respondent and the 4th respondent is attempting to take legal action for recovery of their dues from the respondents 1 to 3 by selling the mortgaged property. The learned counsel for the applicant would submit that the applicant will be protected, if the 4th respondent is

restrained from refunding the surplus funds, if any, available with the 4th respondent, after the 4th respondent sells the mortgaged property and appropriates the sale proceeds towards their dues.

4. This Court is satisfied that a *prima facie* case has been made out by the applicant for the grant of a prohibitory order to restrain the 4th respondent from refunding the surplus funds available with them subsequent to the sale of the mortgaged property and subsequent to the appropriation of the sale proceeds towards their dues. Accordingly, this application is disposed of by granting a prohibitory order restraining the 4th respondent from refunding the surplus money, if any, available with the 4th respondent after the sale of mortgaged property and appropriate the same towards the 4th respondent dues. The applicant has also sought for a consequential prayer and this Court grants liberty for the applicant to file a fresh application for the same once it is ascertained from the 4th respondent as to how much money is the surplus available with them after appropriating the sale proceeds towards the fourth respondent dues.

05.06.2025

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To:-

1.Bank of India,
Indrakund Branch,
H No 4615, A/B/E-2,
Shran Shruti, Indrakunda Area,
Nashik, Maharashtra – 422002.

ABDUL QUDDHOSE, J.

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