

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-10-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 630 of 2025

1. Cholamandalam Investment
And Finance Co Ltd
Chola Crest, C 54 and 55, Super
B-4, Thiru Vi Ka Industrial
Estate, Guindy, Chennai

Applicant(s)

Vs

1. Anil Dhansing
Dhainje(Deceased)
S/o.Dhansing Dhainje, AP Indira
Nagar, Lonand, Tal Khandala,
Satara, Maharastra 415 521.

2.Sanjay Dhansing Dhainje
S/o. Dhansing Dhainje, Ap Indira
Nagar, Lonand, Tal Khandala,
Satara, Maharashtra 415521 (2nd
Respondent In Brought On Record
As Legal Heir Of The Deceased
Sole Respondent As Per Order Dt
16.09.2025 In A.no.4596/2025

Respondent(s)

PRAYER

To appoint an Advocate Commissioner to seize and deliver the equipment to applicant which is morefully described in the Schedule



to the judges summons which is lying in the custody of respondent or respondents men, agents, servants from respondent premises or wherever found with Police aid and break open of premises if necessary.

For Appellant(s): Mr.D.Pradeep Kumar
For Ms. S. Janani, Advocate
Respondent(s): Commissioner
Court Notice Await Services
P/n-aos.D.No. 20830, Dt.
12/06/2025 (Sole Respt-
Returned Cover - Deceased)

ORDER

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 (for brevity hereinafter referred to as the “Act”) for appointment of an Advocate Commissioner to seize and deliver the vehicle which is in possession of the respondent to the applicant.

2. This application came up for hearing on 23.04.2025 and this Court passed the following order:-

This application has been filed under Section 9 of the Arbitration and Conciliation Act, seeking for appointment of an advocate commissioner to repossess the vehicle from the respondent or wherever available.

2. The applicant is a non banking financial institution. They lent money to the respondent under the agreement for loan dated 25.03.2023. The respondent has committed default in the repayment of the loan as per the said agreement. The applicant has also recalled the loan through their loan recall notice dated 22.02.2023.



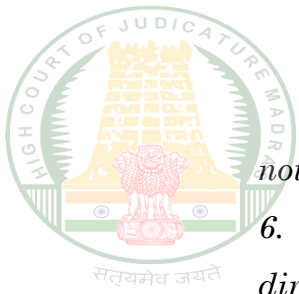
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They have also filed a statement of account dated 05.04.2025. As seen from the same, Rs.4,53,624.61 is due and payable by the respondent to the applicant. The said amount includes the future installments, penal interest and other incidental charges. However, as on date, the respondent is in arrears of installments, which amounts to Rs.2,97,856/-.

3. Learned counsel for the applicant would submit that the applicant has already initiated arbitration by issuing notice to the respondent to comply with the requirements of Section 21 of the Arbitration and Conciliation Act and subsequently the arbitrator has also been appointed, who has acted upon the reference and commenced arbitration.

4. Under the agreement for loan dated 25.03.2023, the applicant is empowered to repossess the vehicle from the respondent in case they commit default in the repayment of the loan. The applicant has expressed its difficulties to repossess the vehicle on their own. Under those circumstances, they have filed this application, seeking for appointment of an advocate commissioner to repossess the vehicle. The applicant has also undertaken to initiate arbitration in accordance with clause 28 of the agreement for loan dated 25.03.2023.

5. This Court, after giving due consideration to the averments contained in the affidavit filed in support of this application and after giving due consideration to the documents filed along with this application, is of the considered view that since the respondent is a defaulter in the repayment of loan, this Court is inclined to appoint an advocate commissioner as prayed for in this application. However, in order to enable the respondent to run the vehicle even after repossession by the advocate commissioner, this Court is putting the respondent on terms. According to the applicant, a sum of Rs.2,97,856/- is due and payable by the respondent to the applicant towards arrears of installments i.e., 16 installments have



not been paid by the respondent to the applicant till date.

6. For the foregoing reasons, this Court issues the following directions:

- a) Ms. S. Janani, Advocate having office at No.1-H, Leelavathi Towers, II floor, West wing, No.69/7, Armenian Street, Parrys, Chennai - 600 001 (Mob. No.78118 70173) is appointed as the advocate commissioner to re-posses the vehicle morefully described in the schedule to the Judges Summons from the respondent from their premises or wherever available;*
- b) The advocate commissioner after re-possessing the vehicle, shall handover interim custody of the same to the applicant, who shall keep it in their safe custody;*
- c) The advocate commissioner, immediately after re-possessing the subject vehicle, shall intimate the respondent either through Registered Post with Acknowledgment Due (RPAD) or by hand delivery through a written communication, that the arrears of installments works out to Rs.2,97,856/-;*
- d) The respondent on payment of Rs.2,97,856/- to the applicant within a period of one week from the date when the subject vehicle was repossessed, is entitled for return of the seized vehicle, provided an undertaking is given by the respondent that they shall pay the future installments on the due dates, without any default. On receipt of the sum of Rs.2,97,856/- within the stipulated time as stated supra, the applicant shall redeliver the subject vehicle back to the respondent with proper acknowledgement and the advocate commissioner shall also render proper assistance for the same;*
- e) The applicant shall initiate arbitration in accordance with the arbitration agreement contained in the contract within a period of 90 days from today. In case, the applicant fails to initiate arbitration within the stipulated time, the order passed by this Court today shall stand automatically vacated and the re-possessed vehicle shall also be redelivered back to the respondent by the*



applicant unconditionally;

f) In case, the advocate commissioner requires Police assistance due to any law and order problem or due to any obstruction caused by the respondent or by any third party, while re-possessing the vehicle, the advocate commissioner is at liberty to seek police assistance from the concerned police station and the police department shall grant police protection accordingly. In case, break open of the premises, where the vehicle is located, is required, the advocate commissioner shall break open the premises in the presence of the police and take an inventory and thereafter re-posses the vehicle;

g) The advocate commissioner shall be paid an initial remuneration of Rs.25,000/- and on receipt of the same, the advocate commissioner shall proceed to execute this order. All the boarding, lodging and travelling expenses for the advocate commissioner shall be borne by the applicant.

7. Notice to the respondent, returnable by 16.06.2025. Private Notice is also permitted.

3. The matter was again listed for hearing on 16.07.2025 and the following order came to be passed by this Court:-

The Advocate Commissioner appointed by this Court has re-possessed the vehicle from the third party. Pursuant to the direction issued by this Court on 23.04.2025, a report to that effect has also been filed by the Advocate Commissioner. It is also brought to the notice of this Court by the Advocate Commissioner that the respondent is dead. Since the respondent is dead, the applicant will have to take steps to bring the legal heirs of the deceased respondent. To enable the applicant to take steps to bring the legal heirs of the deceased respondent, this Court is adjourning the matter on 06.08.2025.

2. Since the Advocate Commissioner has already re-possessed the vehicle and handed over the custody of the same to the applicant, the



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applicant is directed to pay the additional remuneration of Rs.25,000/- to the Advocate Commissioner within a period of two weeks from the date of receipt of a copy of this order. 3. Post the matter on 06.08.2025.

4. Pursuant to the above order, the additional remuneration was also paid to the Advocate Commissioner. However, the sole respondent died and hence, steps were taken to implead the legal heir of the deceased sole respondent. Accordingly, A No.4596 of 2025 was filed before this Court and the said application was ordered on 16.09.2025 and this Court directed the learned counsel for applicant to take private notice to the impleaded 2nd respondent.

5. When the matter was taken up for hearing today, an affidavit of service has been filed and it is seen that the notice has been served on the impleaded 2nd respondent. There is no representation for the impleaded 2nd respondent either in person or through counsel.

6. Considering the fact that the vehicle has already been repossessed by the applicant, no further orders are required to be passed in this application and this application is disposed of in the above terms. No costs.

07-10-2025

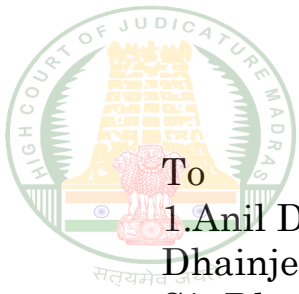
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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No



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To

1. Anil Dhansing
Dhainje (Deceased)

S/o. Dhansing Dhainje, AP Indira
Nagar, Lonand, Tal Khandala,
Satara, Maharashtra 415 521.

2. Sanjay Dhansing Dhainje
S/o. Dhansing Dhainje, Ap Indira
Nagar, Lonand, Tal Khandala,
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N.ANAND VENKATESH J.
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