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Arb Appln Nos. 798 & 799
of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln Nos. 798 & 799 of 2025

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

Applicant in both Arb Applns

Vs

Mr.Ramesh Kumar
S/o Jaspal
Patti Road, Patti, Harike
Harike, Tarn Taran, Near Bank
Amristar, Punjab 143 412

Respondent in both Arb Applns

Arb Appln No. 798 of 2025

PRAYER

To Appoint an Advocate Commissioner to seize and deliver the vehicle to Applicant 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.

Arb Appln No. 799 of 2025

PRAYER

To appoint an Advocate Commissioner to seize and deliver the vehicle to applicant 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

For Respondent: Mr.K.H.M.Afzal
Advocate Commissioner

COMMON ORDER

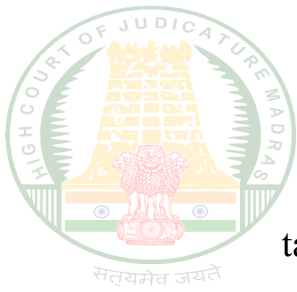
These applications have been filed under Section 9 of the Arbitration and Conciliation Act, 1996 for appointment of Advocate Commissioner for seizing the vehicle(s) in the custody of the respondent, if necessary, with police protection and by breaking open the premises.

2. When these applications came up for hearing on 24.06.2025, this Court passed the following order:-

“These applications have been filed under Section 9 of the Arbitration and Conciliation Act, seeking for appointment of an Advocate Commissioner by this Court to repossess the vehicles, morefully described in the schedule to the judges summons.

2.Since the respondent is one and the same in both the applications, this Court is appointing a single Advocate Commissioner to re-possess the vehicles from the respondent or wherever available.

3.As seen from the affidavits filed in support of these applications as well as the documents filed along with these applications, the respondent is a defaulter in repayment of the loan to the applicant under the loan agreements entered into between the applicant and the respondent with respect to each vehicle, which are the subject matters of these applications. The details of the dues payable by the respondent to the applicant as well as the number of installments are disclosed in the following



tabular column:

<i>Appln Nos.</i>	<i>Party Names</i>	<i>No.of installments fall due</i>	<i>No.of installments paid</i>	<i>No.of installments unpaid</i>	<i>Installme nts overdue Rs.</i>	<i>Total amount due Rs.</i>
<i>Arb.Appln. 798/2025</i>	<i>Ramesh Kumar</i>	<i>28</i>	<i>19</i>	<i>9</i>	<i>3,29,724/-</i>	<i>10,80,045.33</i>
<i>Arb.Appln. 799/2025</i>	<i>Ramesh Kumar</i>	<i>28</i>	<i>19</i>	<i>9</i>	<i>3,29,724/-</i>	<i>10,78,532.67</i>

4.The applicant has already recalled the loan through their loan recall notices sent to the respondent. The applicant is empowered to repossess the vehicles from the respondent, as per the terms of the loan agreements, in case, the respondent commits default in the repayment of the loan. The applicant claims that they are having difficulties in repossessing the vehicles on their own. Only under those circumstances, they have filed these applications seeking for appointment of an Advocate Commissioner to repossess the vehicles from the respondent or wherever available. The applicant has expressed its willingness to go for arbitration in accordance with the arbitration clauses contained in the respective loan agreements.

5.This Court, after giving due consideration to the contents of the affidavits as well as the documents filed along with these applications, is of the considered view that a prima facie case has been made out by the applicant for appointment of an Advocate Commissioner. Once the vehicles are repossessed by the Advocate Commissioner, to enable the respondent to use the vehicles once again, they must be put on terms for getting back the vehicles from the applicant after re-possession. In order to strike a balance, the following order is passed by this Court:

a)Mr.K.H.M.Afzal, Advocate, having office at No.68, Law Chambers, High Court Buildings, Chennai 600 104 (Mob. Nos.98400 78666 & 98415 83583) is appointed as the Advocate Commissioner to re-posses the vehicles morefully described in the schedule to the Judges



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Summons from the respondent from his premises or wherever available;

b)The Advocate Commissioner after re-possessing the vehicles, 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 vehicles, 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 work out to Rs.3,29,724/- and Rs.3,29,724/-;

d)The respondent, on payment of Rs.3,29,724/- and Rs.3,29,724/- to the applicant within a period of three days from the date when the subject vehicles are re-possessed, is entitled for return of the seized vehicles. On receipt of the sum of Rs.3,29,724/- and Rs.3,29,724/- within the stipulated time as stated supra, the applicant shall re-deliver the subject vehicles back to the respondent with proper acknowledgment 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 vehicles 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 vehicles, 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 vehicles are located, is



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required, the Advocate Commissioner shall break open the premises in the presence of the police and take the vehicles and thereafter re-posses the vehicles;

g)The Advocate Commissioner shall be paid an initial remuneration of Rs.40,000/- 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.

Notice to the respondent returnable by 30.07.2025. Private Notice is also permitted ”

3. Even though notice has been sent to the respondent in both these applications during July, 2025, till date, the acknowledgment card has not been received. It is clear from the above that the respondent is evading service. Hence, the apprehension of the applicant that the respondent is trying to secret the vehicle(s) is prima facie established.

4. In view of the above, in the place of the Advocate Commissioner, Mr.Davinder Singh, Area Receivables Manager is appointed as Receiver for seizing the subject vehicle(s) from the respondent or wherever it is found and by breaking open the premises, if required, with police aid.

5. These applications are disposed of in the above terms.

08-10-2025

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To

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S/o Jaspal
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**N.ANAND
VENKATESH J.**

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