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Arb Appln No. 848 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 848 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

Vs

Mr.Mohammed Ajnas
S/o Ahammed B
Kuniya Periya, Periyar, Kasaragod
Kasaragod, Near Masjid
Kerala 671 316

Respondent

PRAYER

To appoint an Advocate Commissioner to seize and deliver the vehicle to applicant which is morefully 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.

For Applicant: Mr.D.Pradeep Kumar

For Respondent: Ms.A.Ponni
Advocate Commissioner

ORDER

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 for appointment of an Advocate Commissioner for



seizing the vehicle in the custody of the respondent, if necessary, with police protection and by breaking open the premises.

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2. When this application came up for hearing on 01.07.2025, this Court passed the following order:-

“This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996, seeking for appointment of an Advocate Commissioner to seize and take possession of the vehicle morefully described in the schedule to the Judges Summons from the respondent or wherever it is available.

2. The applicant is a Non Banking Financial Institution. The applicant has lent money to the respondent under the Loan Agreement, dated 26.08.2023. The respondent had availed loan from the applicant for the purchase of vehicle morefully described in the schedule to the Judges Summons.

3. The respondent is a defaulter in the repayment of the loan to the applicant. Supporting documents have been filed by the applicant to substantiate the same. As on date, the respondent is in arrears of five (5) installments, which works out to Rs.1,60,435/-. The applicant has also recalled the loan granted to the respondent through their loan recall notice dated 19.10.2024. As seen from the Statement of Account, a sum of Rs.11,92,828.44 is due and payable by the respondent to the applicant which includes future installments, arrears of installments, penal interest and other charges payable as per the terms and conditions of the contract. The applicant is empowered to repossess the vehicle from the respondent, as per the terms of the said loan agreement, in case, he commits default in the repayment of the loan. The applicant claims that they are having difficulty in repossessing the vehicle on their own. Only under those circumstances, they have filed this application seeking for appointment of an Advocate Commissioner to repossess the vehicle from the respondent or wherever available. The Loan Agreement, dated



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26.08.2023 contains an arbitration clause. The applicant has already initiated arbitration in accordance with the arbitration clause.

4.This Court 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 vehicle is repossessed by the Advocate Commissioner, to enable the respondent to use the vehicle once again, he must be put on terms for getting back the vehicle from the applicant after re-possession. In order to strike a balance, the following order is passed by this Court:

a) Mr.M.Naresh Babu, Advocate, having office at New No.319, Old No.155, Linghi Chetty Street, 2nd Floor, George Town, Chennai 600 001, (Mobile No.8148685302) is appointed as the Advocate Commissioner to re-posses the vehicle morefully described in the schedule to the Judges Summons from the respondent or wherever it is available;

b)The Advocate Commissioner is permitted to obtain the police aid whenever required and she is also permitted to break open the premises in case the vehicle is kept in a locked premises in the presence of the police after taking proper inventory.

c) On repossession of the subject vehicle, the Advocate Commissioner shall send a Communication to the respondent intimating that a sum of Rs.1,60,435/- is due and payable by the respondent to the applicant in respect of the aforesaid loan agreement.

d) On receipt of such intimation, the respondent shall pay the aforesaid amount within a period of three days from the date of receipt of the communication from the Advocate Commissioner and on payment of such sum, the applicant shall hand over the vehicle back to the respondent and the Advocate Commissioner shall co-operate with the applicant for the same.

e) The Advocate Commissioner shall be paid an initial remuneration of Rs.25,000/- by the applicant, within a period of one week from the date of receipt of a copy of



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this order. All the boarding, lodging and travelling expenses for the Advocate Commissioner shall be borne by the applicant.

5. Notice to the respondent, returnable by 05.08.2025. Private notice is also permitted.

Post the matter on 05.08.2025.”

3. Notice has been served on the respondent and affidavit of service has also been filed. Even though the name of the respondent is printed in the cause list, there is no appearance either in person or through counsel.

4. The learned counsel for applicant submitted that the remuneration has already been paid to the learned Advocate Commissioner.

5. In view of the above, in the place of the Advocate Commissioner, Ms.Anupama Balakrishnan, Senior Manager-Legal is appointed as Receiver for seizing the subject vehicle from the respondent or wherever it is found and by breaking open the premises, if required, with police aid.

6. This application stands disposed of in the above terms.

08-10-2025

SS

To

Mr.Mohammed Ajnas



Arb Appln No. 848 of 2025



S/o Ahammed B
Kuniya Periya, Periye, Kasaragod
Kasaragod, Near Masjid
Kerala 671 316

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**N.ANAND
VENKATESH J.**

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