



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 877 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.Nilesh Jagannath Kanoje
S/o Jagannath Kanoje
At-Kurankhed Tq Akola
Akola, Near Navin Vasti
Maharashtra 444 102

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.M.Porkodi
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.

2. When this application came up for hearing on 04.07.2025, 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/asset 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 28.08.2023. The respondent had availed loan from the applicant for the purchase of vehicle/asset 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 sixteen (16) installments and thereby the total amount due works out to Rs.13,42,883.71. The applicant has also recalled the loan granted to the respondent through their loan recall notice dated 12.02.2025. As seen from the Statement of Account, the total sum amount, referred to supra 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.

4. The applicant is empowered to repossess the vehicle/asset from the respondent, as per the terms of the said loan agreement, in case, he commits default in the



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repayment of the loan. The Loan Agreement, dated 28.08.2023 contains an arbitration clause. The applicant had already initiated arbitration in accordance with the arbitration clause contained in the Loan Agreement. The Arbitrator appointed by the applicant had acted upon the reference and has now passed an Arbitral Award on 30.05.2025 in favour of the applicant against the respondent. During the pendency of the arbitration, the applicant could not repossess the vehicle/asset. Therefore, the applicant has now approached this Court by filing this application seeking for appointment of an Advocate Commissioner by this Court to repossess the vehicle/asset from the respondent or wherever available.

5. Since the applicant is having the benefit of an Arbitral Award and since the applicant is empowered to repossess the vehicle/asset as per the contract, this Court is inclined to appoint an Advocate Commissioner to repossess the vehicle/asset from the respondent or wherever available. The applicant has made out a prima facie case, balance of convenience and irreparable hardship have also been established. In order to strike a balance, the following order is passed by this Court:

a) Ms. M.Porkodi, Advocate, who is having office at No.24, Sundaram Main Street, Vyasarpadi, Chennai – 600 039 (Mobile No.9551071129) is appointed as the Advocate Commissioner to reposses the vehicle/asset morefully described in the schedule to the Judges Summons from the respondent or wherever it is available;

b)The Advocate Commissioner after re-possessing the vehicle/asset, shall handover interim custody of the same to the applicant, who shall keep it in their safe custody;

c)In case, the Advocate Commissioner requires Police assistance due to any law and order problem or due to any obstruction caused by the respondents or by any third party, while re-possessing the vehicle/asset, 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



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open of the premises, where the vehicle/asset 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/asset;

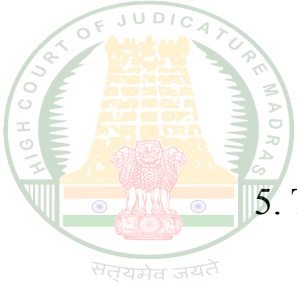
d)The Advocate Commissioner shall be paid an initial remuneration of Rs.25,000/- and on receipt of the same, the Advocate Commissioner shall proceed to execute this order. All the boarding, lodging and travelling expenses for the Advocate Commissioner shall be borne by the applicant.

6. Notice to the respondent, returnable by 11.08.2025. Private notice is also permitted.

Post the matter on 11.08.2025.”

3. The private notice sent to the respondent has been returned with an endorsement “refused” and affidavit of service has also been filed. Hence there is a deemed service on the respondent and the respondent is neither present nor represented through counsel. Hence the apprehension raised on the side of the applicant that the respondent is trying to secret the vehicle is prima facie established.

4. In view of the above, in the place of the Advocate Commissioner, Mr.Vivek Vilas Aushal, Area Legal and Recovery Manager 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.



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

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To

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**N.ANAND
VENKATESH J.**

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