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Arbitration Application No.920 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2025

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THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

Arbitration Application No.920 of 2025

M/s.Cholamandalam Investment and Finance
Company Limited

'Chola Crest', C 54 & 55, Super B-4

Thiru.Vi.Ka Industrial Estate

Guindy, Chennai – 600 032.

Represented by its Authorised Signatory

..... Applicant

Vs

M/s.V.R.Tooling

Prop. Mr.Vikas Rathod

Gate No.153, Krushna Housing Society

Triveninagar, Talwade PCMC, Pune

Maharashtra – 411 062.

.... Respondent

Prayer : Application filed under Order XIV Rule 8 of O.S.Rules read with Section 9(1)(ii)(a)(b)(d)&(e) of Arbitration and Conciliation Act, 1996, praying 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 respondent's men, agents, servants from respondent premises or wherever found with police aid and break open of premises if necessary and pass orders.



Arbitration Application No.920 of 2025

For Applicant : Mr.D.Pradeep Kumar

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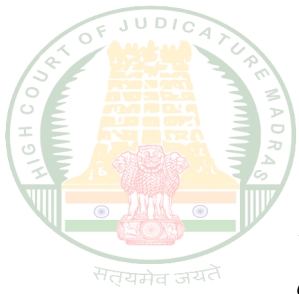
ORDER

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 for appointment of an Advocate Commissioner for seizing the equipment 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 15.07.2025, this Court passed the following order:-

“This application has been filed under Section 9 of the Arbitration and Conciliation Act, seeking for the appointment of an Advocate Commissioner by this Court to re-possess the equipment, morefully described in the schedule to the judges summons from the respondent or wherever available.

2.The respondent is a defaulter in re-payment of the loan to the applicant. The respondent had availed loan for the purchase of equipment. The respondent has paid only 19 installments. As on date, 4 installments are in arrears, which amounts to Rs.3,57,312/-. The applicant has already recalled the loan by issuing notice to the respondent. Under the loan agreement, the applicant is empowered to re-possess the equipment from the respondent in case the respondent commits default.



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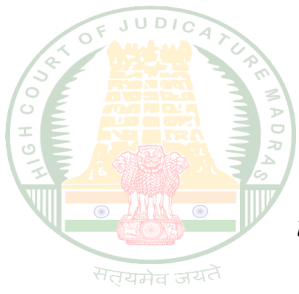
The applicant has expressed its difficulty in re-possessing the equipment on their own. Only under the said circumstances, the applicant has filed this application seeking for appointment of an Advocate Commissioner by this Court. In the loan agreement, there exists an arbitration clause. The applicant has expressed its willingness to go for arbitration in accordance with the arbitration clause.

3.Supporting documents have been filed by the applicant in support of this application. Since a prima facie case has been made out by the applicant for appointment of an Advocate Commissioner, this Court is inclined to appoint an Advocate Commissioner as prayed for in this application. To enable the respondent to take back possession of the equipment from the Advocate Commissioner, they must be put on terms for getting back the equipment from the applicant after re-possession. In order to strike a balance, the following order is passed by this Court:

a)Mr.P.Bharath, Advocate, having office at Plot No.52, Door 2A, Pallavan Nagar, 1st Street, Maduravoyal, Chennai - 600 095 (Mob. No.91506 77737) is appointed as the Advocate Commissioner to re-posses the equipment, morefully described in the schedule to the Judges Summons from the respondent's premises or wherever available;

b)The Advocate Commissioner, after re-possessing the equipment, 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 equipment, 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



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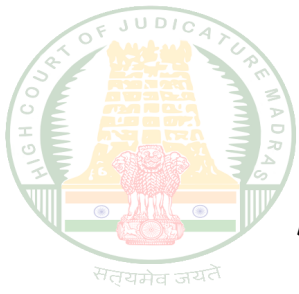
to Rs.3,57,312/-;

d)The respondent, on payment of Rs.3,57,312/- to the applicant within a period of three days from the date when the subject equipment was re-possessed, is entitled for return of the seized equipment. On receipt of the sum of Rs.3,57,312/- within the stipulated time as stated supra, the applicant shall re-deliver the subject equipment 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 equipment 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 respondents or by any third party, while re-possessing the equipment, 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 equipment 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 equipment;

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.

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Notice to the respondent returnable by 19.08.2025. Private Notice is also permitted.”

3. The private notice sent to the respondent has been served and affidavit of service has also been filed enclosing the proof of service. However, there was no representation for the respondent either in person or through counsel even today. It was also brought to the notice of the Court by the Advocate Commissioner that he was not able to trace the equipment.

4. In view of the same, it is quite apparent that the respondent is attempting to secret the equipment and that is the reason why the respondent is neither appearing before the Court nor the equipment could be traced till date.

5. In view of the above, in the place of the Advocate Commissioner, Mr.Bhagwat Madhukar Shelke, Branch Receivables Manager is appointed as Court Receiver for seizing the subject equipment from the respondent or wherever it is found and by breaking open the premises, if required, with police aid.



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

14-10-2025

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N. ANAND VENKATESH., J

ds

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