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Arb Appln Nos. 949 & 950
of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln Nos. 949 & 950 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

M/s Aston Dietech
rep.by its Partner
No.221/2 & 221/2B2
Thirumudivakkam Village, Main Road
Chennai 600 044

Respondent in both Arb Applns

PRAYER

To appoint an Advocate Commissioner to seize and deliver the equipments to applicant which is morefully described in the Schedules to the Judges Summons which are 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.V.Vanitha
Advocate Commissioner



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ORDER

These applications have been filed under Section 9 of the Arbitration and Conciliation Act, 1996 for appointment of an Advocate Commissioner for seizing the equipments 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 16.07.2025, this Court passed the following order:-

“These applications have been filed under Section 9 of the Arbitration and Conciliation Act, 1996, seeking for appointment of an Advocate Commissioner to seize the asset/equipment morefully described in the schedule to the respective Judges Summons from the respondent or wherever it is available.

2. The applicant is a Non Banking Financial Institution. The applicant and the respondent are one and the same in both these applications. The respondent has availed loan from the applicant under separate Loan Agreements, they are dated 30.03.2024 and 30.09.2023 for the purchase of respective asset/equipment and the respective Loan Agreements contain an arbitration clause. According to the applicant, the respondent has committed default in repayment of the loan and the applicant is empowered to repossess the asset/equipment from the respondent or wherever available.

3. According to the applicant, insofar as Arb. Appln. No.949 of 2025 is concerned, as on date, the respondent is in arrears of three (3) installments, which works out to Rs.4,13,702/-. The applicant has also recalled the loan granted to the respondent through their loan recall notice,



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dated 17.04.2025. The statement of account has also been filed along with this application, which discloses that a sum of Rs.54,94,721/- is due and payable by the respondent, which includes the arrears of installments, future installments payable by the respondent, penal interest and other charges as per the terms and conditions of the Loan Agreement, dated 30.03.2024.

4. According to the applicant, insofar as Arb. Appln. No.950 of 2025 is concerned, as on date, the respondent is in arrears of three (3) installments, which works out to Rs.3,29,307/-. The applicant has also recalled the loan granted to the respondent through their loan recall notice, dated 17.04.2025. The statement of account has also been filed along with this application, which discloses that a sum of Rs.30,46,291/- is due and payable by the respondent, which includes the arrears of installments, future installments payable by the respondent, penal interest and other charges as per the terms and conditions of the Loan Agreement, dated 30.09.2023.

5. The applicant is empowered to repossess respective asset/equipment from the respondent, as per the terms of the respective loan agreements, in case, they commit default in the repayment of the loan. The applicant claims that they are having difficulties in repossessing the respective asset/equipment on their own. Only under those circumstances, they have filed these applications seeking for appointment of an Advocate Commissioner to repossess the respective asset/equipment from the respondents or wherever it is available. The applicant has expressed its willingness to go for arbitration in accordance with the arbitration clause.

6. 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 asset/equipment are repossessed by the Advocate Commissioner, to enable the respondent to use the asset/equipment once again, they must be put on terms for getting back the asset/equipment from the applicant after re-possession. In order to strike a



balance, the following order is passed by this Court:

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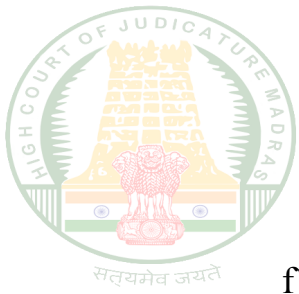
a) Ms.V. Vanitha, Advocate having office at No.28, Law Chambers, High Court Building Campus, Parrys, Chennai – 600 104 (Mobile No.7904188624) is appointed as the Advocate Commissioner to re-posses the asset/equipment morefully described in the schedule to the respective Judges Summons from the respondent 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 asset/equipment is kept in a locked premises in the presence of the police after taking proper inventory.

c) On repossession of the subject asset/equipment, the Advocate Commissioner shall send a Communication to the respondents intimating that insofar as Arb. Appln. No.949 of 2025 is concerned, a sum of Rs.4,13,702/- is due and payable by the respondent to the applicant and insofar as Arb. Appln. No.950 of 2025 is concerned, a sum of Rs.3,29,307/- is due and payable by the respondent to the applicant in respect of the aforesaid loan agreements.

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 a communication from the Advocate Commissioner and on payment of such sum, the applicant shall handover the respective asset/equipment back to the respondent and the Advocate Commissioner shall co-operate with the applicant 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 the date of receipt of a copy of this order. 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 asset/equipment shall also be redelivered back to the respondents by the applicant unconditionally;



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f) The Advocate Commissioner shall be paid an initial remuneration of Rs.30,000/- (Rs.15,000/- for each application) by the applicant, within a period of one week from the date of receipt of a copy of this order. All the boarding, lodging and travelling expenses for the Advocate Commissioner shall be borne by the applicant.

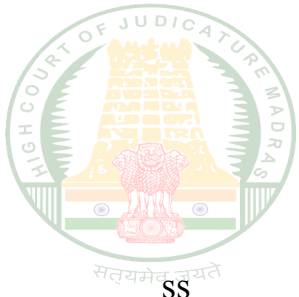
7. Notice to the respondent, returnable by 20.08.2025. Private Notice is also permitted.

Post the matter on 20.08.2025. ”

3. The private notice sent to the respondent has been duly served and affidavit of service has also been filed. Though the name of the respondent has been printed in the cause list, there is no appearance either in person or through counsel. Hence the apprehension raised on the side of the applicant that the respondent is attempting to secret the equipments is prima facie established.

4. In view of the above, in the place of the Advocate Commissioner, Mr.Murali Mohan, Senior Regional Receivables Manager is appointed as Receiver for seizing the subject equipments from the respondent or wherever they are found and by breaking open the premises, if required, with police aid.

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



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**N.ANAND
VENKATESH J.**

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