



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 953 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.Jigarbhai Daoodbhai Sama
S/o Daoodbhai Sama
Ajanta Complex, Palod Kim Char Rasta
Palod, Mangrol, Near Kim Charrasta
Surat, Gujarat 394 110

Respondent

PRAYER

To appoint an Advocate Commissioner to seize and deliver the construction 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.

For Applicant: Mr.D.Pradeep Kumar

For Respondent: Ms.K.Annamma
Advocate Commissioner

ORDER

This application has been filed under Section 9 of the Arbitration and



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Conciliation Act, 1996 for appointment of an Advocate Commissioner for seizing the construction 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 16.07.2025, 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 asset/equipment 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 08.11.2023. The respondent is a defaulter in the repayment of the loan to the applicant. The Loan Agreement, dated 08.11.2023 contains an arbitration clause. In case of default, the applicant is empowered to repossess the asset/equipment from the respondent or wherever available. As on date, the respondent is in arrears of six (6) installments, which works out to Rs.4,83,600/-. The applicant has also recalled the loan granted to the respondent through their loan recall notice, dated 27.05.2025. The statement of account has also been filed along with this application, which discloses that a sum of Rs.26,24,488.90/- 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 08.11.2023. The applicant claims that they are having difficulty in repossessing the asset/equipment on their own. Only under those circumstances, they have filed this application seeking for appointment of an Advocate Commissioner to repossess the asset/equipment from the respondent or wherever available. The applicant has also expressed its willingness to go for



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arbitration in accordance with the arbitration clause contained in the contract, which is the subject matter of the dispute between the parties.

3. The applicant has made out a prima facie case for the appointment of an Advocate Commissioner by this Court to repossess the asset/equipment from the respondent or wherever available. The balance of convenience and irreparable hardship have also been established. Once the asset/equipment is repossessed by the Advocate Commissioner, to enable the respondent to use the asset/equipment once again, he 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:

a) Ms.K. Annamma, Advocate, who is having office at Catholic Centre, Room No.10, 3 rd Floor, Armenian Street, Chennai – 600 104, (Mobile No.9840580131) is appointed as the Advocate Commissioner to re-posses the asset/equipment morefully described in the schedule to the Judges Summons from the respondent or wherever 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 respondent intimating that a sum of Rs.4,83,600/- 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 a communication from the Advocate Commissioner and on payment of such sum, the applicant shall handover the asset/equipment back to the respondent and the Advocate Commissioner shall co-operate with the applicant for the same.



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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 respondent by the applicant unconditionally;

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

4. 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 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 construction equipment is prima facie established.

4. In view of the above, in the place of the Advocate Commissioner, Mr.Dhiren Mahendrabhai Patel, Regional Receivables Manager is appointed as Receiver for seizing the subject construction equipment 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.

08-10-2025

SS

To

Mr.Jigarbhai Daoodbhai Sama
S/o Daoodbhai Sama
Ajanta Complex, Palod Kim Char Rasta
Palod, Mangrol, Near Kim Charrasta
Surat, Gujarat 394 110



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**N.ANAND
VENKATESH J.**

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