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Arb. Appln.No.1003 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2025

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THE HON'BLE Mr. JUSTICE N. ANAND VENKATESH

Arb. Appln.No.1003 of 2025

M/s.Cholamandalam Investment and
Finance Company Limited

.. Applicant

VS

Rajesh K.V.

.. Respondent

Prayer: To appoint an Advocate Commissioner to seize and deliver the Construction equipment to applicant which is more fully described in the schedule to the Judges Summons which is lying in the custody of respondent or respondent 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

ORDER

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 for appointment of an Advocate Commissioner to seize and deliver the vehicle to the applicant.

2.When the matter came up for hearing on 25.07.2025, this Court



passed the following order:

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'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 vehicle from the respondent or wherever available.

2.The applicant is a Non-banking Financial Institution. They have entered into a Loan Agreement dated 14.06.2023 with the respondent. Under the said loan agreement, the respondent has availed loan from the applicant for the purchase of the vehicle, morefully described in the schedule to the judges summons. According to the applicant, the respondent has committed default in re-payment of the loan. The applicant has recalled the loan granted to the respondent through their loan recall notice dated 11.01.2025. No reply has been received to the same. The agreement dated 14.06.2023 contains an arbitration clause. The applicant has already initiated arbitration in accordance with the arbitration clause and the arbitration is pending.

3.According to them, the respondent has paid only 20 installments out of the total 61 installments payable by them. As on date, the respondent is in arrears of 1.99 installments. The arrears of installments alone work out to a total sum of Rs.85,890/-. The applicant has also filed statement of account dated 02.07.2025 along with this application, which reveals



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that a sum of Rs.15,13,699.13 is due and payable by the respondent to the applicant. The applicant is empowered to repossess the vehicle from the respondent, as per the terms of the loan agreement, in case, the respondent commits default in repayment of the loan. The applicant claims that they are having difficulties in re-possessing the vehicle on their own. Only under those circumstances, they have filed this application seeking for the appointment of an Advocate Commissioner to re-possess the vehicle from the respondent or wherever available.

4.This Court is of the considered view that a prima facie case has been made out by the applicant for the appointment of an Advocate Commissioner. Once the vehicle is re-possessed by the Advocate Commissioner, to enable the respondent to use the vehicle once again, they 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.Balaji C., Advocate, having office at No.5, Baker Street, (Room No.31), Chennai - 600 001 (Mob. No.94457 55888) is appointed as the Advocate Commissioner to re-posses the vehicle morefully described in the schedule to the Judges Summons from the respondent's premises or wherever available;



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b)The Advocate Commissioner after re-possessing the vehicle, 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 vehicle, 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 works out to Rs.85,890/-;

d)The respondent, on payment of Rs.85,890/- to the applicant within a period of three days from the date when the subject vehicle was re-possessed, is entitled for return of the seized vehicle. On receipt of the sum of Rs.85,890/- within the stipulated time as stated supra, the applicant shall re-deliver the subject vehicle back to the respondent with proper acknowledgment and the advocate commissioner shall also render proper assistance for the same;

e)In case, the Advocate Commissioner requires Police assistance due to any law and order problem or due to any obstruction caused by the respondent or by any third party, while re-possessing the vehicle, 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 vehicle is located, is required, the Advocate Commissioner



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shall break open the premises in the presence of the police and take an inventory and thereafter re-posses the vehicle;

f)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.

Notice to the respondent returnable by 26.08.2025.

Private Notice is also permitted.'

4.Pursuant to the above order, the vehicle has been seized and handed over to the applicant. When the matter came up for hearing on 09.09.2025, this Court recorded the fact that the vehicle has been seized and handed over to the representative of the applicant and directed the applicant to pay an additional remuneration of Rs.15,000/- to the learned Advocate Commissioner.

5.It is reported that the additional remuneration has been paid to the Advocate Commissioner. The respondent has been served with notice and affidavit of service has also been filed and there is no representation either in person or through counsel.



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6.In view of the above, considering the earlier order passed by this Court on 25.07.2025 and also taking note of the fact that the vehicle has been seized and handed over to the representative of the applicant, no further orders are required to be passed in this application.

7.This application is disposed of in the above terms.

23.09.2025

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