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Arb Appln No. 1007 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 1007 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.Sureshababu T
S/o Babu
Thaliyil House, Vayakkara
Peringome, Near Temple
Kannur, Kerala 670 307

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: Mr.K.Jegan
Advocate Commissioner

ORDER



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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 25.07.2025, 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 vehicle from the respondent or wherever available.

2.The applicant is a Non-banking Financial Institution. They have entered into a Loan Agreement dated 05.08.2023 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 05.08.2023 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 19.10 installments out of the total 59 installments payable by them. As on date, the respondent is in arrears of 2.89 installments. The arrears of installments alone work out to a total sum of Rs.1,13,292/-. The applicant has also filed statement of account dated 02.07.2025 along with this application, which reveals that a sum of Rs.13,90,808.59 is



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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 repossessing the vehicle on their own. Only under those circumstances, they have filed this application seeking for the appointment of an Advocate Commissioner to repossess 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.Jegan K., Advocate, having office at No.14, Ranganathan Nagar, Agaram Main Road, Selaiyur, Chennai - 600 073 (Mob. No.72001 43321) 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;
- 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.1,13,292/-;
- d)The respondent, on payment of Rs.1,13,292/- 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.1,13,292/- within the stipulated time as stated supra, the



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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 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 ”

3. The private notice sent to the respondent has been returned with an endorsement “left” and affidavit of service has also been filed. 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, Ms.Anjana, Senior Associate Manager-Legal is appointed as Receiver for seizing the subject vehicle from the respondent or wherever it is found and by



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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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SS

To

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S/o Babu
Thaliyil House, Vayakkara
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**N.ANAND
VENKATESH J.**

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