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Arb Appln No. 1014 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-09-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 1014 of 2025

Cholamandalam Investment And
Finance Co Ltd
Chola Crest, C 54 and 55, Super B-4,
Thiru Vi Ka Industrial Estate, Guindy,
Chennai

Appellant(s)

Vs

Badruddeen M
S/o.Hassainar, Karingadukkam House,
Adhur, Adur, Kasaragod, Near Masjid,
Kerala 671 543.

Respondent(s)

PRAYER

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 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 respondents, men, agents, servants from respondent premises or wherever found with Police aid and to break open of premises if necessary.



For Applicant (s): Mr.D.Pradeep Kumar

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ORDER

This application has been filed for appointment of an Advocate
Commissioner to seize and deliver the vehicle to the applicant.

2.This Court passed the following order on 29.07.2025.

This application has been filed under Section 9 of the Arbitration and Conciliation Act, seeking for appointment of an advocate commissioner to repossess the vehicle from the respondent or wherever available.

2. The applicant is a non banking financial institution. They lent money to the respondent under the agreement for loan dated 25.10.2023. The respondent has committed default in the repayment of the loan as per the said agreement. The applicant has also recalled the loan through their loan recall notice dated 12.06.2025. They have also filed the statement of account dated 02.07.2025. As seen from the same, Rs.6,57,179.22 is due and payable by the respondent to the applicant. The said amount includes the future installments, penal interest and other incidental charges. However, as on date, the respondent is in arrears of installments, which amounts to Rs.52,789/-.

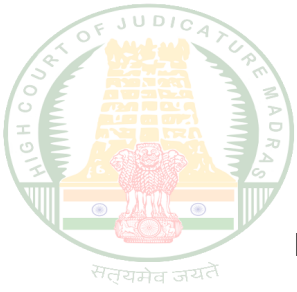


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3. Under the agreement for loan dated 25.10.2023, the applicant is empowered to repossess the vehicle from the respondent in case they commit default in the repayment of the loan. The applicant has expressed its difficulties to repossess the vehicle on their own. Under those circumstances, they have filed this application, seeking for appointment of an advocate commissioner to repossess the vehicle. The applicant has also undertaken to initiate arbitration in accordance with clause 29 of the agreement for loan dated 25.10.2023.

4. This Court, after giving due consideration to the averments contained in the affidavit filed in support of this application and after giving due consideration to the documents filed along with this application, is of the considered view that since the respondent is a defaulter in the repayment of loan, this Court is inclined to appoint an advocate commissioner as prayed for in this application. However, in order to enable the respondent to run the vehicle even after repossession by the advocate commissioner, this Court is putting the respondent on terms. According to the applicant, a sum of Rs.52,789/- is due and payable by the respondent to the applicant towards arrears of installments i.e., 2.99 installments have not been paid by the respondent to the applicant till date.

5. For the foregoing reasons, this Court issues the following directions:



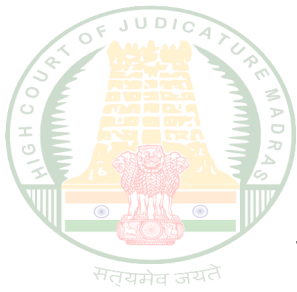
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a) E. Gnanasekar, Advocate having address at No.5, Bakers Street, Parrys, Chennai - 600 001 (Mob. No.90805 96631) is appointed as the advocate commissioner to re-posses the vehicle morefully described in the schedule to the Judges Summons from the respondent from their 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.52,789/-;

d) The respondent on payment of Rs.52,789/- to the applicant within a period of three days from the date when the subject vehicle was repossessed, is entitled for return of the seized vehicle, provided an undertaking is given by the respondent that the respondent shall pay the future installments on the due dates, without any default. On receipt of the sum of Rs.52,789/- within the stipulated time as stated supra, the applicant shall redeliver the subject vehicle back to the respondent with proper acknowledgement and the advocate commissioner shall also render proper assistance for the same;



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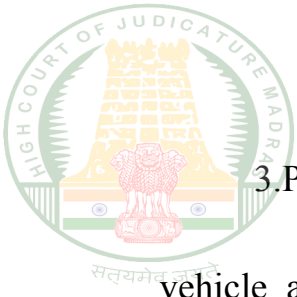


e) The applicant shall initiate arbitration in accordance with the arbitration agreement contained in the contract within a period of 90 days from today. In case, the applicant fails to initiate arbitration within the stipulated time, the order passed by this Court today shall stand automatically vacated and the re-possessed vehicle 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 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, if 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;

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.

6. Notice to the respondent, returnable by 28.08.2025.
Private Notice is also permitted.



3. Pursuant to the above order, the Advocate Commissioner has seized the vehicle and handed over the custody to the representative of the applicant Company.

4. The private notice sent to the respondent has been served and affidavit of service has also been filed. There is no appearance either in person or through counsel for the respondent.

5. In the light of the earlier order passed by this Court on 29.07.2025 and also of the fact that already vehicle has been seized and handed over to the applicant, no further orders are required in this application.

6. This application is disposed of in the above terms. No costs.

09-09-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

KP



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1. Badruddeen M
S/o. Hassainar, Karingadukkam House,
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N.ANAND VENKATESH J.

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