



Arbitration Application No.1038 to 1040 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2025

CORAM

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

**Arbitration Application Nos.1038 to 1040 of 2025**

M/s.Cholamandalam Investment and Finance  
Company Limited

'Chola Crest', C 54 & 55, Super B-4

Thiru.Vi.Ka Industrial Estate

Guindy, Chennai.

Represented by its Authorised Signatory

..... Applicant in all cases

Vs

Mr.Jigarbhai Daoodbhai Sama

S/o.Daoodbhai

Ajanta Complex, Palod Kim Char Rasta

Palod, Mangrol, Near Kim Charrasta

Surat, Gujarat – 394 110.

.... Respondent in all cases

Common Prayer : Application filed under Order XIV Rule 8 of O.S.Rules read with Section 9(1)(ii)(a)(b)(d)&(e) of Arbitration and Conciliation Act, 1996, praying 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 and pass orders.



WEB COPY



Arbitration Application No.1038 to 1040 of 2025

For Applicant : Mr.D.Pradeep Kumar

### **COMMON 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 01.08.2025, this Court passed the following order:-

*“These applications have been filed under Section 9 of the Arbitration and Conciliation Act, seeking for the appointment of an Advocate Commissioner to repossess the respective vehicles more fully described in the respective schedule to the respective Judges Summons from the respondent or wherever available.*

*2.The respondent is a defaulter in the repayment of the loan to the applicant. He availed loan for the purchase of vehicles. The vehicles hypothecated to the applicant are more fully described in the respective schedule to the respective Judges Summons in these applications. Under the respective loan agreements, the applicant is empowered to repossess the vehicles from the respondent, in case he commits default in the repayment*



*of the loan to the applicant. There exists an arbitration clause in the loan contracts, which are the subject matter of these applications. The applicant has expressed its willingness to go for arbitration in accordance with the arbitration clause contained in the respective agreements. The applicant has already recalled the loan from the respondent through its loan recall notices.*

*3.Since the applicant has been unable to re-possess the vehicles on their own, they have filed these applications seeking for the appointment of an Advocate Commissioner by this Court to repossess the vehicles from the respondent or wherever available. The details of the amounts due and payable by the respondent to the applicant are furnished below:*

| <i>Arb. Appln. Nos.</i> | <i>No. of installments due</i> | <i>Arrears of Installments (in Rs.)</i> | <i>Total outstanding amount (in Rs.)</i> |
|-------------------------|--------------------------------|-----------------------------------------|------------------------------------------|
| 1038 of 2025            | 6                              | 5,42,220                                | 27,91,336.46                             |
| 1039 of 2025            | 6                              | 5,39,190                                | 27,84,635.12                             |
| 1040 of 2025            | 5.87                           | 8,29,830                                | 13,44,664.17                             |

*4.This Court, after giving due consideration to the contents of the affidavit filed in support of these applications as well as the documents filed along with these applications, is of the considered view that a prima facie case has been made out by the applicant for the appointment of an Advocate Commissioner by this Court to re-possess the vehicles from the respondent or wherever available. However, in order to strike a balance to enable the respondent to get back possession of the vehicles, once they are re-possessed by the Advocate*



*Commissioner, this Court deems it fit to put the respondent on terms by directing the respondent to pay the arrears of installments due as on date under the respective contracts within a period of three days from the date when the Advocate Commissioner re-possess the vehicles from the respondent or wherever available.*

*5.The details of the amounts payable by the respondent within a period of three days from the date of the respective communication from the Advocate Commissioner under each of the loan agreements to enable them to get back the vehicles from the applicant after they are re-possessed by the Advocate Commissioner are as follows:*

| <i>Arb. Appln. No.</i> | <i>Arrears of Installments (in Rs.)</i> |
|------------------------|-----------------------------------------|
| <i>1038 of 2025</i>    | <i>5,42,220</i>                         |
| <i>1039 of 2025</i>    | <i>5,39,190</i>                         |
| <i>1040 of 2025</i>    | <i>8,29,830</i>                         |

*6. Accordingly, the following directions are issued by this Court:*

*a)Ms.A.S.Neela Narayani, Advocate, having address at No.336, Thambu Chetty Street, Chennai - 600 001 (Mob. No.94456 53854) is appointed as the Advocate Commissioner to re-posses the vehicles morefully described in the respective schedule to the respective Judges Summons from the respondent or from his premises or wherever available;*

*b)The Advocate Commissioner, after re-possessing the respective vehicles, shall handover interim custody of the same to the applicant, who*



WEB COPY



Arbitration Application No.1038 to 1040 of 2025

*shall keep it in their safe custody;*

*c)The Advocate Commissioner, immediately after re-possessing the respective vehicle, shall intimate the respondent either through Registered Post with Acknowledgment Due (RPAD) or by hand delivery through a written communication, that he is in arrears of installments payable to the applicant;*

*d)The respondent, on payment of the respective arrears of installments, as disclosed in paragraph No.5 of this order to the applicant within a period of three days from the date when the respective vehicles were re-possessed, is entitled for return of the seized respective vehicles, 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 arrears of installments within the stipulated time as stated supra, the applicant shall re-deliver the respective vehicles back to the respondent with proper acknowledgment and the Advocate Commissioner shall also render proper assistance for the same;*

*e)The applicant shall initiate arbitration in accordance with the arbitration agreement contained in the respective contracts 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 vehicles 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 respective vehicles, 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 respective vehicles are 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 respective vehicles;*

*g)The Advocate Commissioner shall be paid an initial remuneration of Rs.50,000/-, which is payable by the applicant, who shall pay the same before the execution of the warrant of commission 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 08.09.2025. Private Notice is also permitted.”*

3. The private notices sent to the respondent has been returned with an endorsement “refused” and affidavits of service have also been filed. Hence the apprehension raised on the side of the applicant that the respondent is trying to secret the equipments 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 equipments from the respondent or wherever it is found and by breaking open the premises, if required, with police aid.



Arbitration Application No.1038 to 1040 of 2025

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

WEB COPY

14-10-2025

ds



WEB COPY



Arbitration Application No.1038 to 1040 of 2025

N. ANAND VENKATESH., J

ds

Arbitration Application No.1038 to 1040 of 2025

14.10.2025