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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Arbitration Application No.1111 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.

Kanjibhai Gagjibhai Khoda
S/o.Gagjibhai
2-37, Anandpura
Dholka, Gujarat - 382265.

...Respondent

Prayer: Arbitration Application filed under Order XIV Rule 8 of O.S. Rules read with Section 9(1)(ii)(a)(b)(d) & (e) of the Arbitration Act, 1996, to appoint an Advocate Commissioner to seize and deliver the vehicle to the 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.



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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 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 13.08.2025, 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, morefully described in the schedule to the judges summons from the respondent or wherever available.

2.The respondent is a defaulter in re-payment of the loan to the applicant. The respondent had availed loan for the purchase of the vehicle. As on date, 4.87 installments are in arrears, which amounts to Rs.2,34,000/-. The applicant has already recalled the loan by issuing notice to the respondent. Under the loan agreement, the applicant is empowered to re-possess the vehicle from the respondent in case the respondent commits default. The applicant has expressed its difficulty in re-possessing the vehicle on their own. Only under the said circumstances, the applicant has filed this application seeking for appointment of an Advocate Commissioner by this Court. In the loan agreement, there exists an arbitration clause. The applicant has already initiated arbitration by issuing notice to the respondent to comply with the requirements of Section 21 of the Arbitration



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and Conciliation Act, 1996.

3.Supporting documents have been filed by the applicant in support of this application. Since a prima facie case has been made out by the applicant for appointment of an Advocate Commissioner, this Court is inclined to appoint an Advocate Commissioner as prayed for in this application. To enable the respondent to take back possession of the vehicle from the Advocate Commissioner, the respondent 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)Ms.S.Bharathi, Advocate, having office at Old No.156, New No.112, Adam Street, Royapuram, Chennai - 600 013 (Mob. No.88837 71952) 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 work out to Rs.2,34,000/-;

d)The respondent, on payment of Rs.2,34,000/- 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.2,34,000/- 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)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



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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 respondents 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;

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.

*Notice to the respondent returnable by 17.09.2025.
Private Notice is also permitted."*

3. Today, when the matter was taken up for hearing, learned counsel for the applicant submitted that notice sent to the sole respondent has been served and affidavit of service has also been filed. However, there is no representation for the respondent either in person or through counsel. 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, Mr.Narendra Baburam Gupta, Regional Receivables Manager, is appointed as Receiver for seizing the subject vehicle from the respondent or wherever



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it is found and by breaking open the premises, if required, with police aid.

5. This application stands disposed of in the above terms.

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Index: Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation Case : Yes/No



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N.ANAND VENKATESH, J.

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